

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF :
:
BRIAN JOHN HUNTER, D.O. :

ENTRY OF ORDER

On November 19, 2004, Brian John Hunter, D.O., executed a Surrender of his Certificate to practice osteopathic medicine and surgery in the State of Ohio with a consent to revocation, which document is attached hereto and fully incorporated herein.

In consideration of the foregoing and of Dr. Hunter's express waiver of the provision of Section 4731.22(B), Ohio Revised Code, requiring that six (6) Board members vote to revoke said certificate, it is hereby ORDERED that Certificate No. 34-004610 authorizing Brian John Hunter, D.O., to practice osteopathic medicine and surgery be permanently REVOKED, effective November 23, 2004.

This Order is hereby entered upon the Journal of the State Medical Board of Ohio for the 23rd day of November 2004, and the original thereof shall be kept with said Journal.


Lance A. Talmage, M.D. /TAD
Secretary

(SEAL)

November 23, 2004
Date

**STATE OF OHIO
THE STATE MEDICAL BOARD
SURRENDER OF CERTIFICATE
TO PRACTICE OSTEOPATHIC MEDICINE AND SURGERY**

2004 NOV 22 A 10:43

I, Brian John Hunter, D.O., am aware of my rights to representation by counsel, the right of being formally charged and having a formal adjudicative hearing, and do hereby freely execute this document and choose to take the actions described herein.

I, Brian John Hunter, D.O., do hereby voluntarily, knowingly, and intelligently surrender my certificate to practice osteopathic medicine and surgery, No. 34-004610, to the State Medical Board of Ohio, thereby relinquishing all rights to practice osteopathic medicine and surgery in Ohio.

I understand that as a result of the surrender herein that I am no longer permitted to practice osteopathic medicine and surgery in any form or manner in the State of Ohio.

I agree that I shall be ineligible for, and shall not apply for, reinstatement of certificate to practice osteopathic medicine and surgery No. 34-004610, or issuance of any other certificate pursuant to Chapters 4730., 4731., 4760. or 4762., Ohio Revised Code, on or after the date of signing this Surrender of Certificate to Practice Osteopathic Medicine and Surgery. Any such attempted reapplication shall be considered null and void and shall not be processed by the Board.

I am aware of my rights and obligations under the State Medical Board Order of August 13, 2003. I stipulate and agree that I am taking the action described herein in lieu of formal disciplinary proceedings, pursuant to Sections 4731.22(B)(15) and (B)(26), Ohio Revised Code, due to noncompliance with the terms of the State Medical Board Order of August 13, 2003.

I hereby authorize the State Medical Board of Ohio to enter upon its Journal an Order permanently revoking my certificate to practice osteopathic medicine and surgery, No. 34-004610, in conjunction with which I expressly waive the provision of Section 4731.22(B), Ohio Revised Code, requiring that six (6) Board Members vote to revoke said certificate, and further expressly and forever waive all rights as set forth in Chapter 119., Ohio Revised Code, including but not limited to my right to counsel, right to a hearing, right to present evidence, right to cross-examine witnesses, and right to appeal the Order of the Board revoking my certificate to practice osteopathic medicine and surgery.

I, Brian John Hunter, D.O., hereby release the Board, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

This document shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code. Further, this information may be reported to appropriate organizations, data banks and governmental bodies. I, Brian John Hunter, D.O., acknowledge that my social security number will be used if this information is so reported and agree to provide my social security number to the Board for such purposes.

Signed this 19th day of November, 2004.

[Handwritten Signature]
Witness Signature

[Handwritten Signature]
Brian John Hunter, D.O.

DEAN R BALL, D.O.
Witness Name Printed

[Handwritten Signature]
Witness Signature

JEANETTE W. HUNTER
Witness Name Printed

Sworn to and subscribed before me this _____ day of _____, 2004.

Notary Public

SEAL (This form must be either witnessed OR notarized)

Accepted by the State Medical Board of Ohio:

[Handwritten Signature]
Lance A. Talmage, M.D.
Secretary

[Handwritten Signature]
Raymond J. Albert
Supervising Member

11-23-04
Date

11/23/04
Date



State Medical Board of Ohio

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

August 13, 2003

Brian J. Hunter, D.O.
1175 E. Calla Road
Poland, OH 44514

Dear Doctor Hunter:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Sharon W. Murphy, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on August 13, 2003, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order.

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 a Notice of Appeal with the State Medical Board of Ohio and 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. 7000 0600 0024 5150 9272
RETURN RECEIPT REQUESTED

Cc: Charles R. Saxbe and Timothy S. Horton, Esqs.
CERTIFIED MAIL NO. 7000 0600 0024 5150 9265
RETURN RECEIPT REQUESTED

Mailed 9-2-03

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Sharon W. Murphy, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on August 13, 2003, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order; constitute a true and Brian J. Hunter, D.O., 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)

August 13, 2003

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

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BRIAN J. HUNTER, D.O.

*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on August 13, 2003.

Upon the Report and Recommendation of Sharon W. Murphy, 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 modification, 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:

- A. **PERMANENT REVOCATION, STAYED; SUSPENSION:** The certificate of Brian J. Hunter, D.O., to practice osteopathic medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED. Such permanent revocation is STAYED, and Dr. Hunter's certificate shall be SUSPENDED for an indefinite period of time, but not less than eighteen months. The minimum suspension period shall be calculated from February 27, 2003, the effective date of Dr. Hunter's Interim Agreement with the Board.
- B. **INTERIM MONITORING:** During the period that Dr. Hunter's certificate to practice osteopathic medicine and surgery in Ohio is suspended, Dr. Hunter shall comply with the following terms, conditions, and limitations:
 1. **Obey the Law and Terms of Intervention in Lieu of Conviction:** Dr. Hunter shall obey all federal, state and local laws; all rules governing the practice of medicine and surgery in Ohio; and all terms imposed by the

Franklin County Court of Common Pleas in criminal case number 01CR 12-7265.

2. **Personal Appearances**: Dr. Hunter shall appear in person for quarterly interviews before the Board or its designated representative during the third month following the effective date of this Order, or as otherwise directed by the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
3. **Quarterly Declarations**: Dr. Hunter shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which this Order becomes effective. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
4. **Abstention from Drugs**: Dr. Hunter shall abstain completely from the personal use or possession of drugs, except those prescribed, administered, or dispensed to him by another so authorized by law who has full knowledge of Dr. Hunter's history of chemical dependency.
5. **Abstention from Alcohol**: Dr. Hunter shall abstain completely from the use of alcohol.
6. **Drug & Alcohol Screens; Supervising Physician**: Dr. Hunter shall submit to random urine screenings for drugs and/or alcohol on a weekly basis or as otherwise directed by the Board. Dr. Hunter shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis. The drug testing panel utilized must be acceptable to the Secretary of the Board.

Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Hunter shall submit to the Board for its prior approval the name and curriculum vitae of a supervising physician to whom Dr. Hunter shall submit the required specimens. In approving an individual to serve in this capacity, the Board will give preference to a physician who practices in the same locale as Dr. Hunter. Dr. Hunter and the supervising physician shall ensure that the urine specimens are obtained on a random basis and that the giving of the specimen is witnessed by a reliable person. In addition, the supervising physician shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

Dr. Hunter shall ensure that the supervising physician provides quarterly reports to the Board, in a format acceptable to the Board as set forth in the materials provided by the Board to the supervising physician, verifying whether all urine screens have been conducted in compliance with this Order, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his or her responsibilities.

In the event that the designated supervising physician becomes unable or unwilling to so serve, Dr. Hunter must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Dr. Hunter shall further ensure that the previously designated supervising physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

All screening reports and supervising physician reports required under this paragraph must be received in the Board's offices no later than the due date for Dr. Hunter's quarterly declaration. It is Dr. Hunter's responsibility to ensure that reports are timely submitted.

7. **Submission of Blood or Urine Specimens upon Request:** Dr. Hunter shall submit blood and urine specimens for analysis without prior notice at such times as the Board may request, at Dr. Hunter's expense.
8. **Rehabilitation Program:** Dr. Hunter shall maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., C.A., or Caduceus, no less than four times per week, unless otherwise determined by the Board. Substitution of any other specific program must receive prior Board approval. Dr. Hunter shall submit acceptable documentary evidence of continuing compliance with this program, which must be received in the Board's offices no later than the due date for Dr. Hunter's quarterly declarations.
9. **Comply with the Terms of Treatment and Aftercare Contract:** Dr. Hunter shall maintain continued compliance with the terms of the treatment and aftercare contracts entered into with his treatment provider, provided that, where terms of the treatment and aftercare contract conflict with terms of this Order, the terms of this Order shall control.
10. **Comply with OPEP Contract:** Dr. Hunter shall maintain compliance with his contract with OPEP, unless otherwise determined by the Board.
11. **Psychiatric Assessment/Treatment:** Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Hunter shall

submit to the Board for its prior approval the name and curriculum vitae of a psychiatrist of Dr. Hunter's choice.

Upon approval by the Board, Dr. Hunter shall obtain from the approved psychiatrist an assessment of Dr. Hunter's current psychiatric status. Prior to the initial assessment, Dr. Hunter shall furnish the approved psychiatrist copies of the Board's Order, including the Summary of the Evidence, Findings of Fact, and Conclusions, and any other documentation from the hearing record that the Board may deem appropriate or helpful to that psychiatrist.

Upon completion of the initial assessment, Dr. Hunter shall cause a written report to be submitted to the Board from the approved psychiatrist. The written report shall include:

- a. A detailed report of the evaluation of Dr. Hunter's current psychiatric status and condition;
- b. A detailed plan of recommended psychiatric treatment, if any, based upon the psychiatrist's informed assessment of Dr. Hunter's current needs; and
- c. Any reports upon which the treatment recommendation is based, including reports of physical examination and psychological or other testing.

Should the Board approved psychiatrist recommend psychiatric treatment, and upon approval by the Board, Dr. Hunter shall undergo and continue psychiatric treatment weekly or as otherwise directed by the Board. The sessions shall be in person and may not be conducted by telephone or other electronic means. Dr. Hunter shall comply with his psychiatric treatment plan, including taking medications as prescribed for his psychiatric disorder.

Dr. Hunter shall continue in psychiatric treatment until such time as the Board determines that no further treatment is necessary. To make this determination, the Board shall require reports from the approved treating psychiatrist. The psychiatric reports shall contain information describing Dr. Hunter's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Hunter's compliance with the treatment plan; Dr. Hunter's psychiatric status; Dr. Hunter's progress in treatment; and results of any laboratory or other studies that have been conducted since the prior report. Dr. Hunter shall ensure that the reports are forwarded to the Board on a quarterly basis and are received in the Board's offices no later than the due date for Dr. Hunter's quarterly declaration.

In addition, Dr. Hunter shall ensure that his treating psychiatrist immediately notifies the Board of Dr. Hunter's failure to comply with his psychiatric treatment plan and/or any determination that Dr. Hunter is unable to practice due to his psychiatric disorder.

In the event that the designated psychiatrist becomes unable or unwilling to serve in this capacity, Dr. Hunter must immediately so notify the Board in writing and make arrangements acceptable to the Board for another psychiatrist as soon as practicable. Dr. Hunter shall further ensure that the previously designated psychiatrist also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

C. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Hunter's certificate to practice osteopathic medicine and surgery until all of the following conditions have been met:

1. **Application for Reinstatement or Restoration:** Dr. Hunter shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
2. **Compliance with Interim Conditions:** Dr. Hunter shall have maintained compliance with all the terms and conditions set forth in Paragraph B of this Order.
3. **Demonstration of Ability to Resume Practice:** Dr. Hunter shall demonstrate to the satisfaction of the Board that he can resume practice in compliance with acceptable and prevailing standards of care under the provisions of his certificate. Such demonstration shall include but shall not be limited to the following:
 - a. Certification from a treatment provider approved under Section 4731.25 of the Revised Code that Dr. Hunter has successfully completed any required inpatient treatment.
 - b. Evidence of continuing full compliance with a post-discharge aftercare contract with a treatment provider approved under Section 4731.25 of the Revised Code. Such evidence shall include, but not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with rule 4731-16-10 of the Administrative Code.
 - c. Evidence of continuing full compliance with this Order.

- d. Two written reports indicating that Dr. Hunter's ability to practice has been evaluated for chemical dependency and/or impairment and that he has been found capable of practicing according to acceptable and prevailing standards of care. The evaluations shall have been performed by individuals or providers approved by the Board for making such evaluations. Moreover, the evaluations shall have been performed within sixty days prior to Dr. Hunter's application for restoration. The reports of evaluation shall describe with particularity the bases for the determination that Dr. Hunter has been found capable of practicing according to acceptable and prevailing standards of care and shall include any recommended limitations upon his practice.
4. **Professional Ethics Course:** At the time he submits his application for reinstatement or restoration, Dr. Hunter shall provide acceptable documentation of successful completion of a course or courses dealing with professional ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education acquisition period(s) in which they are completed.
5. **Psychiatric Report Evidencing Fitness to Practice; Recommended Limitations:** At the time Dr. Hunter submits his application for reinstatement or restoration, Dr. Hunter shall provide the Board with a written report of evaluation by a psychiatrist acceptable to the Board indicating that Dr. Hunter's ability to practice has been assessed and that he has been found capable of practicing in accordance with acceptable and prevailing standards of care. Such evaluation shall have been performed within sixty days prior to Dr. Hunter's application for reinstatement or restoration. The report of evaluation shall describe with particularity the bases for the determination that Dr. Hunter has been found capable of practicing according to acceptable and prevailing standards of care and shall include any recommended limitations upon his practice.
6. **Additional Evidence of Fitness To Resume Practice:** In the event that Dr. Hunter has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222 of the Revised Code to require additional evidence of his fitness to resume practice.

D. **PROBATION:** Upon reinstatement or restoration, Dr. Hunter's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:

1. **Terms, Conditions, and Limitations Continued from Suspension Period:** Dr. Hunter shall continue to be subject to the terms, conditions, and limitations specified in Paragraph B of this Order.
2. **Practice Plan:** Prior to Dr. Hunter's commencement of practice in Ohio, or as otherwise determined by the Board, Dr. Hunter shall submit to the Board and receive its approval for a plan of practice in Ohio. The practice plan, unless otherwise determined by the Board, shall be limited to a supervised structured environment in which Dr. Hunter's activities will be directly supervised and overseen by a monitoring physician approved by the Board. Dr. Hunter shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

At the time Dr. Hunter submits his practice plan, he shall also submit the name and curriculum vitae of a monitoring physician for prior written approval by the Secretary or Supervising Member of the Board. In approving an individual to serve in this capacity, the Secretary or Supervising Member will give preference to a physician who practices in the same locale as Dr. Hunter and who is engaged in the same or similar practice specialty.

The monitoring physician shall monitor Dr. Hunter and his practice, and shall review Dr. Hunter's patient charts. The chart review may be done on a random basis, with the frequency and number of charts reviewed to be determined by the Board.

Further, the monitoring physician shall provide the Board with reports on the monitoring of Dr. Hunter and his practice, and on the review of Dr. Hunter's patient charts. Dr. Hunter shall ensure that the reports are forwarded to the Board on a quarterly basis and are received in the Board's offices no later than the due date for Dr. Hunter's quarterly declaration.

In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Hunter must immediately so notify the Board in writing. In addition, Dr. Hunter shall make arrangements acceptable to the Board for another monitoring physician within thirty days after the previously designated monitoring physician becomes unable or unwilling to serve, unless otherwise determined by the Board. Furthermore, Dr. Hunter shall ensure that the previously designated monitoring physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

3. **Tolling of Probationary Period While Out of State:** In the event that Dr. Hunter should leave Ohio for three consecutive months, or reside or practice outside the State, Dr. Hunter must notify the Board in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of this probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that the purposes of the probationary monitoring are being fulfilled.
 4. **Violation of Terms of Probation:** If Dr. Hunter violates probation in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.
- E. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Hunter's certificate will be fully restored.
- F. **RELEASES:** Dr. Hunter shall provide continuing authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Dr. Hunter's chemical dependency, psychiatric condition, and/or related conditions, or for purposes of complying with this Order, whether such treatment or evaluations occurred before or after the effective date of this Order. The above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute.
- Dr. Hunter shall also provide the Board written consent permitting any treatment provider from whom Dr. Hunter obtains treatment to notify the Board in the event he fails to agree to or comply with any recommended treatment or with any treatment or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Order.
- G. **REQUIRED REPORTING TO EMPLOYERS AND HOSPITALS:** Within thirty days of the effective date of this Order, Dr. Hunter shall provide a copy of this Order to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Hunter shall provide a copy of this Order to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments.

H. **REQUIRED REPORTING TO OTHER STATE LICENSING**

AUTHORITIES: Within thirty days of the effective date of this Order, Dr. Hunter shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Dr. Hunter shall also provide a copy of this Order by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement or restoration of any professional license. Further, Dr. Hunter shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

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

(SEAL)



Lance A. Talmage, M.D.
Secretary

August 13, 2003

Date

**REPORT AND RECOMMENDATION
IN THE MATTER OF BRIAN J. HUNTER, D.O.**

The Matter of Brian J. Hunter, D.O., was heard by Sharon W. Murphy, Attorney Hearing Examiner for the State Medical Board of Ohio, on May 21, 2003.

INTRODUCTION

I. Basis for Hearing

- A. By letter dated August 14, 2002, the State Medical Board of Ohio [Board] notified Brian J. Hunter, D.O., that it had proposed to take disciplinary action against his certificate to practice osteopathic medicine and surgery in Ohio. The Board's action was based on allegations that Dr. Hunter had pleaded guilty to and had been found guilty of one count of Medicaid Fraud, in violation of R.C. 2913.40(B). The Board also based its action on Dr. Hunter's conduct underlying that offense. Furthermore, the Board's action was based on an allegation that the Ohio Department of Job & Family Services had issued to Dr. Hunter a Letter of Notification of Termination of Medicaid Provider Agreement based upon the guilty plea and judicial finding of guilt.

Moreover, the Board alleged that Dr. Hunter's guilty plea and the judicial finding of guilt constitute "[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony,' as that clause is used in R.C. 4731.22(B)(9)." Finally, the Board alleged that the Letter of Notification of Termination of Medicaid Provider Agreement constitutes "[t]ermination or suspension from participation in the medicare or medicaid programs by the department of health and human services or other responsible agency for any act or acts that also would constitute a violation of division (B)(2), (3), (6), (8), or (19) of this section,' as that clause is used in R. C. 4731.22(B)(25), to wit: R.C. 4731.22(B)(8)." Accordingly, the Board advised Dr. Hunter of his right to request a hearing in this matter. (State's Exhibit [St. Ex.] 1A).

On September 13, 2002, J. Gerald Ingram, Esq., submitted a written hearing request on behalf of Dr. Hunter. (St. Ex. 1B).

- B. By letter dated February 12, 2003, the Board notified Dr. Hunter that it had proposed to take a second disciplinary action against his certificate to practice osteopathic medicine and surgery in Ohio. This action was based on allegations pertaining to Dr. Hunter's impairment as a result of alcohol and cocaine dependence. The Board

alleged that Dr. Hunter's alcohol and cocaine dependence constitutes "[i]mpairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice," as that clause is used in Section 4731.22(B)(26), Ohio Revised Code." Accordingly, the Board advised Dr. Hunter of his right to request a hearing in this matter. (St. Ex. 1K).

On March 3, 2003, Charles R. Saxbe and Timothy S. Horton, Esqs., submitted a written hearing request on behalf of Dr. Hunter. (St. Ex. 1N).

- C. By Interim Agreement with the Board, effective February 27, 2003, Dr. Hunter agreed to refrain from the practice of osteopathic medicine and surgery in the State of Ohio until all allegations contained in the Board's August 14, 2002, Notice of Opportunity for Hearing have been fully resolved by the Board. (St. Ex. 1L).
- D. By Entry dated March 4, 2003, the matters set forth in the August 14, 2002, notice of opportunity for hearing and the February 12, 2003, notice of opportunity for hearing were consolidated for hearing. (St. Exs. 1M, 1U).

II. Appearances

- A. On behalf of the State of Ohio: Jim Petro, Attorney General, by Mark A. Michael, Assistant Attorney General.
- B. On behalf of the Respondent: Charles R. Saxbe and Timothy S. Horton, Esqs.

EVIDENCE EXAMINED

I. Testimony Heard

- A. Presented by the State

Brian J. Hunter, D.O., as upon cross-examination

- B. Presented by the Respondent

- 1. Brian J. Hunter, D.O.
- 2. Mark A. Dolan
- 3. The Honorable Scott Hunter

II. Exhibits Examined

A. Presented by the State

1. State's Exhibits 1A-1K and 1M-1U: Procedural exhibits.
2. State's Exhibit 1L: Copy of an Interim Agreement between Dr. Hunter and the Board.
3. State's Exhibit 2: Certified copies of documents pertaining to Dr. Hunter maintained by the Franklin County Court of Common Pleas in *State of Ohio vs. Brian J. Hunter*, Case No. 01CR 12-7265. (Note: The Attorney Hearing Examiner redacted a Social Security number from this document post-hearing.)
4. State's Exhibit 3: Certified copy of a May 15, 2002, letter to Dr. Hunter from Sheila J. Fujii, Chief, Bureau of Plan Operations, Ohio Department of Job & Family Services.
5. State's Exhibit 4: Certified copies of documents pertaining to Dr. Hunter maintained by the Board. (Note: This exhibit has been sealed to protect patient confidentiality.)

B. Presented by the Respondent

1. Respondent's Exhibit 3: Copy of a May 9, 2003, letter to Dr. Hunter's counsel from Gregory A. Kokosko, LPCC, DAPA, CCDC III-E, Program Director, Glenbeigh Hospital and Outpatient Centers [Glenbeigh], Niles, Ohio, with attached copies of records pertaining to Dr. Hunter. (Note: This exhibit has been sealed to protect patient confidentiality.)
2. Respondent's Exhibit 4: Copy of an October 29, 2002, letter to the Board from Florence J. Salkind, Ph.D., Total Care Psychological and Counseling Services, Inc., Youngstown, Ohio, with attached records pertaining to Dr. Hunter. (Note: This exhibit has been sealed to protect patient confidentiality.) (Further note: Dr. Hunter submitted original patient records as Respondent's Exhibit 4. Post-hearing, the Attorney Hearing Examiner copied the original patient records, substituted the copies for Respondent's Exhibit 4, and returned the original patient records to Dr. Hunter's counsel.)

3. Respondent's Exhibit 5: Copy of a November 2, 2002, letter to Dr. Hunter's counsel from Dean R. Ball, D.O., and attached May 19, 2003, notarized statement of the copy's authenticity.
4. Respondent's Exhibits 6 through 9, and 17: Letters of support for Dr. Hunter.
5. Respondent's Exhibit 13: Certified copies of May 15 and July 12, 2002, letters to Dr. Hunter from Ms. Fujii.
6. Respondent's Exhibit 15: Copy of a June 12, 2002, letter from Dr. Hunter to Thomas J. Hayes, Ohio Department of Job & Family Services.
7. Respondent's Exhibit 18: Respondent's Notice of Supplemental Filing, filed June 5, 2003, with the following attached documents:
 - Respondent's Exhibit 18-1: May 30, 2003, letter to the Board from Bradley S. Windle, Parole Officer, Ohio Department of Rehabilitation and Correction, Adult Parole Authority, concerning the results of Dr. Hunter's urine toxicology screens conducted by the Adult Parole Authority.
 - Respondent's Exhibit 18-2: Copy of Dr. Hunter's April 4, 2003, Advocacy Contract with the Ohio Physicians Effectiveness Program, Inc.
 - Respondent's Exhibit 18-3: May 30, 2003, letter to Dr. Hunter's Counsel from Mr. Kokosko, with attached records from Glenbeigh concerning Dr. Hunter's urine toxicology screens and continuing care progress and attendance.
 - Respondent's Exhibit 18-4: Copy of a urine toxicology screen report for a sample taken from Dr. Hunter on January 2, 2003.

PROCEDURAL MATTERS

The hearing record in this matter was held open in order to obtain additional evidence. This evidence was received in a timely manner, and copies were provided to the Assistant Attorney General. No objection have been received. Accordingly, the additional evidence was admitted to the record as Respondent's Exhibits 18, and 18-1 through 18-4. The hearing record closed on June 6, 2003.

SUMMARY OF THE EVIDENCE

All exhibits and transcripts of testimony, even if not specifically mentioned, were thoroughly reviewed and considered by the Attorney Hearing Examiner prior to preparing this Report and Recommendation.

General Background

1. Brian J. Hunter, D.O., testified that he had graduated from Youngstown State University [YSU] in 1980, having majored in “pre-med, pre-dentistry.” Dr. Hunter testified that it had taken him four years and one quarter to graduate because he had been involved in two sports, and had needed to keep his grades high enough to get into dental or medical school. (Hearing Transcript [Tr.] at 16-17, 36-37).

Following graduation, Dr. Hunter spent one year in dental school at the Ohio State University. Dr. Hunter testified that he had not liked dental school, and did not return after the first year. Dr. Hunter further testified that he then taught and played tennis professionally at Hilton Head Island for one year. (Tr. at 37-38).

Dr. Hunter testified that, in 1983, he had entered medical school at Des Moines University, formerly known as the University of Osteopathic Medicine and Health Sciences, and had obtained his Doctor of Osteopathic Medicine degree in 1987. Dr. Hunter further testified that he had participated in a one-year residency at Youngstown Osteopathic Hospital. After his residency, Dr. Hunter worked for one year with a family practitioner in Austintown, Ohio. Thereafter, Dr. Hunter acquired the practice of another physician, and began his own practice. (Tr. at 16-17).

Dr. Hunter testified that he had had two offices, one in Youngstown, and another in Campbell, Ohio, a suburb of Youngstown. Dr. Hunter testified that his practice had been “more of a lower socioeconomic practice.” Dr. Hunter noted that many of his patients had received assistance from Medicaid and/or Medicare. (Tr. at 17, 38-39).

Cocaine and Alcohol Dependence

2. Dr. Hunter testified that, in approximately March 1995, shortly after the death of his father, he had started using cocaine. Dr. Hunter testified that he had been depressed after his father’s death and the subsequent death of Dr. Hunter’s best friend. Dr. Hunter stated that, instead of grieving his loss, he had begun using cocaine. He stated that he had started using cocaine infrequently, perhaps twice per month, but that, even the infrequent use had awakened “the disease of addiction.” Dr. Hunter testified that, by 1996, his use had become a serious problem. He acknowledged that he had not realized it at the time. (Tr. at 27-28).

Dr. Hunter testified that his friends and family had attempted to intervene. Dr. Hunter stated that they had recognized that something was wrong because Dr. Hunter's personality was changing. Dr. Hunter stated that he had become "uncharacteristically short tempered" and had stopped attending family gatherings. Dr. Hunter further testified that his drug use had also affected his professional life, in that he often appeared at the office late or not at all. (Tr. at 28-29).

3. Dr. Hunter testified that, by 1996, he had been using cocaine three or four times per week. Dr. Hunter further testified that he had used cocaine at night and, to counteract the effect of the cocaine, he had often drunk a bottle of wine before going to bed. (Tr. at 29).

Dr. Hunter testified that, as the years went by, his use of cocaine had increased. Dr. Hunter further testified that, at the apex of his addiction, he had used cocaine five or six nights per week, consuming from 1½ to 2 grams of cocaine per night. Moreover, Dr. Hunter testified that he had spent approximately \$4,000.00 per month on the drug. (Tr. at 30, 74-75).

4. Dr. Hunter testified that he never used cocaine or alcohol during a workday. Dr. Hunter testified that, on the occasions when he was late for work or did not go to work, he had been "basically sleeping it off." Dr. Hunter further testified that had made a conscious decision not to use cocaine when he was working. Nevertheless, Dr. Hunter acknowledged that he had endangered his patients because he had not been operating "at 100 percent efficiency" because the drug was still in his system when he did go to work. (Tr. at 30-33).

Dr. Hunter further acknowledged that he had responded to patients' telephone calls at night while he was under the influence of cocaine and alcohol. Dr. Hunter testified that he had been a solo practitioner, and had had an answering service to take his calls when his office was closed. Dr. Hunter testified that, if a patient contacted the answering service, the answering contacted Dr. Hunter and Dr. Hunter returned the patient's call. Dr. Hunter testified that, if he had had any doubt about the patient's safety, he instructed the patient to go to the emergency room. Nevertheless, Dr. Hunter testified that he often treated patients while impaired by prescribing medications, and determining the specific drug and dosage. (Tr. at 70-72).

Criminal Conviction for Medicaid Fraud

5. On December 17, 2001, an Information was filed in the Franklin County Court of Common Pleas, Criminal Division, in *State of Ohio v. Brian J. Hunter*, Case No. 01CR 12-7265. The information charged Dr. Hunter with one count of Medicaid Fraud, in violation of Section 2913.40(B), Ohio Revised Code, a felony of the fifth degree. The information stated that Dr. Hunter had submitted "invoices to the State of Ohio for services which were not in fact provided to the Medicaid recipients for which Medicaid was billed." (State's Exhibit [St. Ex.] 2 at 2-3).

On January 16, 2002, Dr. Hunter appeared in court and pleaded guilty to the Information. The court accepted Dr. Hunter's plea of guilty, ordered a pre-sentence investigation, and scheduled the matter for sentencing. (St. Ex. 2 at 6-7, 13, 17-18, 21-34).

During the plea hearing, an Assistant Attorney General informed the court that Dr. Hunter had "submitted claims to the Medicaid program for injections, manipulations and strep tests which he had never actually performed." The Assistant Attorney General further informed the court that Dr. Hunter had paid restitution totaling \$12,500.00. Finally, the Assistant Attorney General stated that, of the \$12,500.00, \$10,000.00 was to be paid to the Ohio Department of Job and Family Services [ODJFS] and \$2,500.00 was to be paid to the Ohio Medicaid Fraud Control Unit. (St. Ex. 2 at 32).

On March 15, 2002, the court sentenced Dr. Hunter to community control for a period of two years. (St. Ex. 2 at 17-19, 35-39).

6. Regarding his conduct underlying the conviction, Dr. Hunter testified that, in 1994 and 1995, there had been "a managed care Medicaid company called Personal Physician Care[.]" Dr. Hunter testified that the company had owed him approximately \$15,000.00. Nevertheless, the company had filed for bankruptcy and had not paid him the money it owed. Dr. Hunter further testified that, from 1996 until 2000, he had billed Medicaid for services that he had not provided in an attempt to recoup some of the money owed him. Dr. Hunter testified that he had obtained approximately \$2,000.00 per year as a result of his improper billing, and that the total value of the false billings had been about \$10,000.00. Furthermore, Dr. Hunter testified that he had justified his conduct by reasoning that the money he received was money that was owed him. Nevertheless, Dr. Hunter testified that his reasoning had been flawed, and that his "entire ability to reason with logic and proper ethics and morals [had been] skewed" by cocaine and alcohol abuse. (Tr. at 15, 17-18, 20-22, 33-35, 72-73).

Dr. Hunter testified that he had not engaged in improper billing to fund his drug habit, or to make a big profit. He stated that, "It was just to get the money. In my mind I was justified to get the money back that they owed me." Dr. Hunter acknowledged that all physicians have similar problems with regard to reimbursement. (Tr. at 22-23, 34-35).

7. Dr. Hunter testified that, at some time prior to the Information being filed, he had become aware that the Ohio Attorney General was investigating his billing practices. Dr. Hunter testified that agents of the Attorney General had come to his office requesting a number of patient charts. Dr. Hunter testified that he had contacted his attorney, who had advised Dr. Hunter that he could fight the allegations. Dr. Hunter testified that he had decided instead to turn himself in and to cooperate with the investigation. (Tr. at 18-19, 40-42).

Dr. Hunter testified that his attorney had contacted the Attorney General's office and, in December 2001, members of that office had interviewed Dr. Hunter. Dr. Hunter stated that they had asked him a number of questions, and that he admitted his misconduct. (Tr. at 19).

Dr. Hunter further testified that he had cooperated fully with law enforcement authorities during the investigation. Moreover, Dr. Hunter testified that the investigation had revealed only \$4,000.00 in fraudulent billings. Dr. Hunter stated that he had self reported the remaining \$6,000.00 of fraudulent billings to the investigators. Dr. Hunter testified that it had been his decision to self-report. (Tr. at 35-36, 41-42, 73-74).

8. Dr. Hunter testified that he had decided to plead guilty to the criminal charge because he had known that he had his conduct had been wrong. Dr. Hunter stated that he had felt shame and guilt for his conduct. Dr. Hunter further testified that he had discussed his situation with his attorney and with his younger brother, who is a judge in the Mahoning County Common Pleas Court. Dr. Hunter testified that he is glad that he did the right thing by admitting his offense, regardless of the consequences. (Tr. at 41-43).

Termination of Dr. Hunter's Medicaid Provider Agreement

9. By letter dated May 15, 2002, ODJFS notified Dr. Hunter that, based upon his criminal conviction, his Medicaid Provider Agreement with ODJFS had been "terminated effective immediately." ODJFS further informed Dr. Hunter that he could request an administrative review of the action. (St. Ex. 3; Tr. at 45-46).

By letter dated June 12, 2002, Dr. Hunter requested an administrative review of the decision to terminate his Medicaid Provider Agreement. Dr. Hunter wrote, in part:

The termination of [my] Medicaid Provider Agreement is disproportionate to the conduct described in the Bill of Information to which I pled guilty. Because of the death of my father and a close personal friend, I suffered from chronic depression. From 1996 to sometime in the year 2000, I did provide false information to [ODJFS] relating to medical services provided. I felt that [ODJFS] owed me \$10,000.00 because I had not been paid that amount of money when Personal Physician Care ceased doing business. Personal Physician Care was a managed Medicaid provider and when the program was terminated, my services were not paid. I foolishly and wrongly justified my behavior by concluding I was collecting what was rightfully owed me.

After counseling, my thoughts cleared, and I realized the wrongfulness of my conduct. I fully and completely cooperated with state authorities. I

promptly made full restitution. It should also be known that I ceased my wrongful conduct well before any investigation had been initiated.

(Respondent's Exhibit [Resp. Ex.] 15).

By letter dated July 12, 2002, ODJFS responded to Dr. Hunter's request for administrative review. The letter indicated that Dr. Hunter had made full restitution, that there had been no impact on care given or services provided, and that Dr. Hunter had had no other related offenses. The letter further informed Dr. Hunter that ODJFS had proposed that Dr. Hunter's period of termination extend two and one-half years from the original date of termination. Finally, Dr. Hunter was informed that he would be eligible to apply for the reinstatement of his Medicaid Provider Agreement on September 15, 2004, "unless the United States Department of Health and Human Services has imposed an exclusion of longer duration." (St. Ex. 4 at 46-47; Resp. Exs. 13 and 15; Tr. at 46-48).

Treatment for Chemical Dependency and Recovery Program

10. Dr. Hunter testified that May 25, 2002, had been the last day that he used cocaine. Dr. Hunter further testified that he had had a dream that day in which a voice told him that, if he did not "straighten out his life," he would soon be dead. Dr. Hunter testified that he had "hit rock bottom." Therefore, on June 2, 2002, Dr. Hunter had gone to Glenbeigh Hospital and Outpatient Centers [Glenbeigh] in Niles, Ohio, for an evaluation. (Tr. at 24-26, 48).

Dr. Hunter testified that, prior to entering Glenbeigh, he had on three occasions attempted on his own to quit using cocaine. Dr. Hunter testified that the longest of these attempts had lasted thirty days. Dr. Hunter further testified that he had had numerous interventions from his brothers and friends. Moreover, Dr. Hunter testified that, because he is a bachelor and lives alone, he had been able to hide the true extent of his addiction, and had "basically [been] a closet addict." Furthermore, Dr. Hunter testified that he had had trouble admitting to himself and accepting that he was an addict. Finally, Dr. Hunter testified that he had had to realize that his "life was completely in chaos. It was totally unmanageable." (Tr. at 24-26).

Dr. Hunter testified that, at Glenbeigh, he had been evaluated and outpatient treatment was recommended to him. Dr. Hunter further testified that a counselor had advised him that, if he were to "slip[.]" he would go to inpatient treatment. Dr. Hunter testified that he had agreed to enter outpatient treatment at that time. (Tr. at 26, 49).

Dr. Hunter testified that the treatment had consisted of nineteen intensive outpatient sessions that took place four days per week. Dr. Hunter testified that, in addition, he had been required to attend a minimum of two Alcoholics Anonymous [AA] or Narcotics Anonymous [NA] meetings per week, which Dr. Hunter had attended on weekends. (Tr. at 26-27, 49). Moreover, Dr. Hunter testified that, after successfully completing the

outpatient program, he had entered aftercare. Dr. Hunter testified that aftercare had consisted of one session per week at Glenbeigh, four NA meetings per week in his community, and random Breathalyzer and/or urinalysis screening. (Tr. at 27, 49).

11. Dr. Hunter testified that he had self-reported to the Board his cocaine and alcohol dependence on September 23, 2002. Dr. Hunter further testified that he had advised the Board that he was an impaired physician; that his sobriety date was May 26, 2002; and that he had entered outpatient treatment at Glenbeigh Hospital in June 2002. (Tr. at 23).
12. On December 11, 2002, Dr. Hunter was evaluated at the Cleveland Clinic Foundation. By letter dated December 17, 2002, Joseph W. Janesz, Ph.D., PCC, CCDC III-E, CRC; and Gregory B. Collins, M.D., Department of Psychiatry and Psychology, Alcohol & Drug Recovery Center, The Cleveland Clinic Foundation, advised the Board that Dr. Hunter had requested an independent evaluation prior to his hearing with the Board. (St. Ex. 4 at 44-45).

Drs. Janesz and Collins stated that Dr. Hunter had advised them of his treatment at Glenbeigh Hospital, his diagnoses of cocaine dependency, and his participation in the intensive outpatient program and aftercare. Drs. Janesz and Collins further stated:

Dr. Hunter also self-reported his Medicaid fraud of \$10,000 to the [Board] in December 2001. He indicates that he was found guilty of a felony charge and sentenced in March 2002 to probation. As we explored the particulars of the Medicaid fraud it was apparent to the undersigns that Dr. Hunter was probably struggling with depression in combination with cocaine dependency.

Our impression suggests that Dr. Hunter meets criteria for cocaine and alcohol dependency as well as atypical depression. We also suggested the following recommendations to Dr. Hunter:

1. Participation in a board approved 28 day inpatient chemical dependency treatment facility.
2. Monthly psychotherapy with a psychiatrist and rule out need for medication to treat atypical depression.
3. Active participation within a Caduceus meeting.
4. Minimum of two random urine toxicology screens per week.
6. Active participation within a combination of NA, AA and CA meetings (documented).

It appears that Dr. Hunter has made significant strides in his initial recovery. Prognosis appears favorable.

(St. Ex. 4 at 44-45).

Dr. Hunter testified that he has complied with the list of recommendations offered by Drs. Janesz and Collins. (Tr. at 50-51).

13. Dr. Hunter testified that he had contacted Board staff around the third week of December 2002 and informed them that he was to begin a 28-day inpatient treatment at Glenbeigh on January 2, 2003. Dr. Hunter further testified that he had informed Board staff that he would discontinue practicing medicine after December 30, 2002. (Tr. at 49, 77-78).
14. Dr. Hunter was admitted to Glenbeigh for inpatient treatment on January 2, 2003, and remained there for twenty-eight days. The discharge summary states that Dr. Hunter had entered treatment pursuant to Board requirements, despite the fact that he had maintained continuous sobriety since his earlier, June 2002, intensive outpatient treatment and aftercare. Under the heading, "Comments on Dimensional Criteria," the discharge summary states, in part:

The patient appeared to be emotionally stable and accepting of the board mandate of residential treatment to get back his license to practice medicine. The patient recognized the need for treatment and was willing to follow directions. The patient was at a low level for relapse upon admission and discharge. The patient lives alone and will need a strong sober support system. The patient should have little problem returning to the community as a caregiver.

(St. Ex. 4 at 42). The discharge summary further states, under the heading, "Client's Response to Treatment":

The patient entered treatment in a very positive frame of mind and was highly motivated to work towards recovery. The patient was highly active in his treatment process. The patient completed all treatment plan assignments in a satisfactory manner and met all unit expectations. The patient participated and was present for all scheduled activities. The patient was a power of example in the recovering community.

(St. Ex. 4 at 42).

Finally, the discharge summary provides the following under the heading, "Recommendations and/or Referrals for Additional Alcohol or Drug Addiction Treatment or Other Services":

Recommended to attend Aftercare treatment at Glenbeigh of Niles one time per week; attend three AA/NA/CA meetings in seven days; attend caduceus meeting one time per week; obtain home group and sponsor; participate in the

social/recreational activities offered by the recovering community; follow up with Ohio Physicians Effectiveness Program.

(St. Ex. 4 at 43).

15. Continuing Care Progress Reports from Glenbeigh concerning Dr. Hunter reflect an assessment of “Good” for each dimension. (Resp. Exs. 3 and 18-3). All reports of Dr. Hunter’s toxicology screens since he entered Glenbeigh in June 2002 indicate negative results. (Resp. Exs. 18-1, 18-3, and 18-4).
16. Effective on or about April 4, 2003, Dr. Hunter entered into an Advocacy Contract with the Ohio Physicians Effectiveness Program [OPEP]. Under the terms of that contract, Dr. Hunter is required, among other things, to attend three AA, NA, CA, or Caduceus meetings per week, and to submit to random, weekly toxicology screens. (Resp. Ex. 18-2; Tr. at 75).

Psychiatric Status

17. Dr. Hunter noted that the Board did not allege psychiatric impairment in its August 14, 2002, or February 12, 2003, notice of opportunity for hearing. Nevertheless, at hearing, Dr. Hunter agreed to address his psychiatric status. Moreover, Dr. Hunter advised the Attorney Hearing Examiner that he would not object if the Board should decide to impose sanctions that include requirements for psychiatric evaluation and/or treatment, despite case law that may state that the Board has no authority to do so under these circumstances.¹ (St. Exs. 1A and 1K; Tr. at 51-53).
18. By letter dated October 29, 2002, Florence J. Salkind, Ph.D., addressed the Board. Dr. Salkind stated that she had known Dr. Hunter since his internship, and had provided psychological counseling to Dr. Hunter. Dr. Salkind’s records indicate that she had treated Dr. Hunter for depression and anxiety. Dr. Salkind further stated that she had been perplexed by Dr. Hunter’s conduct that had led to his criminal conviction, and indicated that such conduct had seemed out of character for him. Dr. Salkind further stated that, when she learned of Dr. Hunter’s addiction to cocaine, she had “understood immediately what had happened to him.” Moreover, Dr. Salkind stated that cocaine use can affect a person’s personality and behavior, and she attributed Dr. Hunter’s “misbehavior” to “a consequence of his use of cocaine.” Furthermore, Dr. Salkind stated that Dr. Hunter is in recovery, is

¹ In *In re Eastway* (1994), 95 Ohio App.3d 516, 642 N.E.2d 1135, cert. denied, the Franklin County Court of Appeals held that the Board could not require psychiatric treatment as a condition of probation when it had not charged a physician with being mentally impaired. Therefore, the court concluded that a Board order that includes such sanctions is not supported by reliable, probative, and substantial evidence and is not in accordance with the law. See also *Lawrence S. Krain, M.D. v. State Medical Board of Ohio* (Oct. 29, 1998), Franklin App. No. 97APE08-981, unreported.

doing well, and is remorseful concerning his conduct while addicted to cocaine. Finally, Dr. Salkind asked that the Board “recognize Dr. Hunter’s sincere remorse and genuine commitment for personal and professional change.” (Resp. Ex. 4).

Dr. Hunter testified that he had seen Dr. Salkind within the last few months, and that she had informed him that she believed that he has recovered from his depression. Dr. Hunter testified that he has gone through the grieving process for his father and his friend. That, coupled with the counseling he received at Glenbeigh, has helped him overcome his depression. (Tr. at 86-88).

Current Status

19. Dr. Hunter testified that he had voluntarily ceased the practice of osteopathic medicine and surgery after December 30, 2002. Moreover, in an Interim Agreement signed by Dr. Hunter on January 18, 2003, and effective February 27, 2003, Dr. Hunter agreed that, “until the allegations contained in the [Board’s] August 14, 2002, Notice of Opportunity for Hearing have been fully resolved by the Board, he will not practice osteopathic medicine or surgery in Ohio in any form.” (St. Ex. 1L; Tr. at 78).
20. Dr. Hunter testified that he is currently serving community control as ordered by the court, and that he is in full compliance. Dr. Hunter testified that, under the terms of community control, he meets with his probation officer once per month. Moreover, on occasion, he submits a urine sample for screening. Dr. Hunter testified that he is also required to complete fifty hours of community service. Dr. Hunter noted that the court has ordered that, if he violates community control, he could receive a prison term of up to twelve months. (St. Ex. 2 at 17-18; Tr. at 44-45, 80-81).
21. Dr. Hunter testified that he is active in the AA/NA community. He stated that, on Monday nights, he runs an AA meeting for inpatients at the Neil Kennedy Inpatient Recovery Center in Youngstown. Moreover, Dr. Hunter testified that he has spoken at a Youngstown area prison and a juvenile detention center. (Tr. at 54). Finally, Dr. Hunter added that he has a sponsor, Mark Dolan, with whom he meets at least monthly and with whom he frequently speaks by telephone. (Tr. at 55).
22. Mark A. Dolan testified at hearing on behalf of Dr. Hunter. Mr. Dolan testified that he is a business consultant, and that he lives in Youngstown. Mr. Dolan testified that he had obtained a bachelor’s degree in 1973, and a Master’s degree in Education in 1977. (Tr. at 89).

Mr. Dolan testified that he has been abstinent for twenty years, and has been an NA sponsor for nineteen years. Mr. Dolan testified that the job of a sponsor is to guide newcomers to the NA fellowship, “give them some direction and pretty much teach them a new lifestyle.” (Tr. at 90-91).

Mr. Dolan testified that, approximately one year ago, a clinical psychologist had brought Dr. Hunter to his attention. The psychologist informed Mr. Dolan that Dr. Hunter would be a good candidate “for being a sponsee in the narcotics anonymous fellowship.” Mr. Dolan further testified that, shortly thereafter, Dr. Hunter had contacted him. Mr. Dolan testified that he and Dr. Hunter “have been in constant contact ever since that time.” (Tr. at 90).

Mr. Dolan testified that he and Dr. Hunter do not have a set schedule of meetings, but that they meet or talk on the telephone weekly or every other week. Mr. Dolan testified that Dr. Hunter has unquestioningly complied with Mr. Dolan’s suggestions for his recovery program. Mr. Dolan testified that he has not observed any relapse from Dr. Hunter. (Tr. at 91-93).

23. Dr. Hunter further testified that, since entering recovery, his life has changed for the better in many ways. Dr. Hunter testified that he has significantly improved his relationship with his family. Furthermore, his self-esteem has returned and he has resumed playing tennis and exercising. Dr. Hunter testified that he now gets plenty of rest, and eats a healthy diet. Dr. Hunter testified that he is very grateful for his recovery program, and believes that he is lucky to be alive. (Tr. at 58-61).
24. Dr. Hunter testified that he has strong family support from his mother and his brothers, as well as the support of a “core group of good friends.” (Tr. at 56).
25. Dr. Hunter testified that he is remorseful for his misconduct. Dr. Hunter further testified:

I wish it was nothing but a huge terrible dream and that I would wake up and it would go away, but I realize it’s not going to go away. I can’t take back what I did. All that I can do is plead with the Medical Board to give me a second chance to prove to them that I’m worthy, and that if given a second chance, that I will do a good job. I will be morally and ethically a good physician, and I will be someone * * * that they would be proud to have in the medical community. That’s all I could ask for, that some day I might have that opportunity afforded me.

(Tr. at 62-63).

26. Dr. Hunter testified he has always tried to give good care to his patients. He stated that he had always made himself available to his patients, even making house calls, and he had provided physicians services free to the community. Dr. Hunter testified that it had been a privilege to practice medicine, and that he regrets violating that privilege. Dr. Hunter testified that, if the Board permits him to practice again, he would consider either opening his own office, or working in an urgent care center. (Tr. at 40, 69, 86).

27. Dr. Hunter testified that he has had no prior disciplinary actions. (Tr. at 40).

Testimony and Other Support

28. The Honorable Scott Hunter testified on behalf of Dr. Hunter. Judge Hunter testified that he is a judge in the Mahoning County Court of Common Pleas and the brother of Dr. Hunter. (Tr. at 95-97).

Judge Hunter testified that, since childhood, his family has been very close. Judge Hunter further testified that the death of their father in 1995 was traumatic for all members of the family, but seemed to have hit Dr. Hunter the hardest. Judge Hunter testified that, after their father's death, Dr. Hunter had begun to distance himself from the family. Moreover, Judge Hunter testified that the death of Dr. Hunter's good friend later that year had worsened Dr. Hunter's depression, and that Dr. Hunter had become even more distant from the family. (Tr. at 95-96).

Judge Hunter testified that, as time passed, he had begun to suspect that Dr. Hunter had a substance abuse problem. Judge Hunter testified that he had confronted Dr. Hunter about it, but that Dr. Hunter only denied having such a problem. Eventually, however, Dr. Hunter's problems came to light. (Tr. at 96).

Judge Hunter further testified:

Regardless of the outcome of this hearing, my family and I believe that Brian's legal problems as a result of the improper billing were a blessing. As tragic and difficult as all of this has been, Brian is now clean, sober and healthy. I have my brother back, my daughters have their uncle back, and my mother has her son back.

It is very hard to find the words that can adequately convey to all of you what that means to our family. I serve as a judge in Mahoning County. One of the courts I preside over is a drug court. In that capacity, I monitor the treatment and rehabilitation of drug-related defendants on a daily basis.

Since admitting his problem and beginning treatment, Brian has dedicated himself wholeheartedly to maintaining his sobriety. He attends meetings, he leads meetings, and he organizes meetings. He's reaching out in a positive way to other individuals who are fighting the same battle that he is. He's in my opinion a poster child for treatment. Because of his sobriety, Brian has a second chance at life. I truly believe that he deserves a second chance at a professional life as well.

(Tr. at 96-97).

29. Dr. Hunter presented several letters written on his behalf by colleagues and members of the recovering community. These letters state that Dr. Hunter is a dedicated and caring physician, and that he is an asset to the recovering community. (Resp. Exs. 5 through 9 and 17).

FINDINGS OF FACT

1. On January 16, 2002, in the Franklin County Court of Common Pleas, Criminal Division, Brian J. Hunter, D.O., pleaded guilty to, and was adjudged guilty of, one count of Medicaid Fraud, in violation of Section 2913.40(B), Ohio Revised Code, a felony of the fifth degree. Dr. Hunter made restitution totaling \$12,500.00.

The conduct underlying Dr. Hunter's plea of guilty to, and the judicial finding of guilt of, Medicaid Fraud consisted of Dr. Hunter having "submitted claims to the Medicaid program for injections, manipulations and strep tests which he had never actually performed."

2. On or about May 15, 2002, the Ohio Department of Job & Family Services [ODJFS] issued a letter notifying Dr. Hunter of the termination of his Medicaid Provider Agreement. This termination was based upon Dr. Hunter's plea of guilty, and the judicial finding of guilt, as described in Findings of Fact 1.
3. On or about September 23, 2002, Dr. Hunter reported to Board staff that he is an impaired physician as a result of alcohol and cocaine dependence. Dr. Hunter also advised that his sobriety date is May 26, 2002; that he had begun outpatient treatment at Glenbeigh Health Sources [Glenbeigh] on June 2, 2002; and that he was in aftercare. Moreover, during the third week of December 2002, Dr. Hunter reported that he would discontinue practicing medicine after December 30, 2002, and that he would enter a 28-day inpatient treatment program at Glenbeigh as of January 2, 2003. Dr. Hunter subsequently entered inpatient treatment at Glenbeigh on January 2, 2003, and was discharged on January 30, 2003.

CONCLUSIONS OF LAW

1. The plea of guilty and/or the judicial finding of guilt of Brian J. Hunter, D.O., as set forth in Findings of Fact 1, constitute "[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony," as that clause is used in Section 4731.22(B)(9), Ohio Revised Code.
2. The conduct of Dr. Hunter underlying his criminal conviction for Medicaid Fraud would constitute a violation of Section 4731.22(B)(8), Ohio Revised Code. That section prohibits "[t]he obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice." R.C. 4731.22(B)(8).

Accordingly, the Ohio Department of Job & Family Services Letter of Notification of Termination of Medicaid Provider Agreement, as set forth in Findings of Fact 2, constitutes “[t]ermination or suspension from participation in the medicare or medicaid programs by the department of health and human services or other responsible agency for any act or acts that also would constitute a violation of division (B)(2), (3), (6), (8), or (19), of this section,” as that clause is used in Section 4731.22(B)(25), Ohio Revised Code, to wit: Section 4731.22(B)(8), Ohio Revised Code.

3. The conduct of Dr. Hunter, as set forth in Findings of Fact 3, constitutes “[i]mpairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice,” as that clause is used in Section 4731.22(B)(26), Ohio Revised Code.

PROPOSED ORDER

It is hereby ORDERED that:

- A. **PERMANENT REVOCATION, STAYED; SUSPENSION:** The certificate of Brian J. Hunter, D.O., to practice osteopathic medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED. Such permanent revocation is STAYED, and Dr. Hunter’s certificate shall be SUSPENDED for an indefinite period of time, but not less than eighteen months. The minimum suspension period shall be calculated from February 27, 2003, the effective date of Dr. Hunter’s Interim Agreement with the Board.
- B. **INTERIM MONITORING:** During the period that Dr. Hunter’s certificate to practice osteopathic medicine and surgery in Ohio is suspended, Dr. Hunter shall comply with the following terms, conditions, and limitations:
 1. **Obey the Law and Terms of Intervention in Lieu of Conviction:** Dr. Hunter shall obey all federal, state and local laws; all rules governing the practice of medicine and surgery in Ohio; and all terms imposed by the Franklin County Court of Common Pleas in criminal case number 01CR 12-7265.
 2. **Personal Appearances:** Dr. Hunter shall appear in person for quarterly interviews before the Board or its designated representative during the third month following the effective date of this Order, or as otherwise directed by the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

3. **Quarterly Declarations**: Dr. Hunter shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which this Order becomes effective. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
4. **Abstention from Drugs**: Dr. Hunter shall abstain completely from the personal use or possession of drugs, except those prescribed, administered, or dispensed to him by another so authorized by law who has full knowledge of Dr. Hunter's history of chemical dependency.
5. **Abstention from Alcohol**: Dr. Hunter shall abstain completely from the use of alcohol.
6. **Drug & Alcohol Screens; Supervising Physician**: Dr. Hunter shall submit to random urine screenings for drugs and/or alcohol on a weekly basis or as otherwise directed by the Board. Dr. Hunter shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis. The drug testing panel utilized must be acceptable to the Secretary of the Board.

Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Hunter shall submit to the Board for its prior approval the name and curriculum vitae of a supervising physician to whom Dr. Hunter shall submit the required specimens. In approving an individual to serve in this capacity, the Board will give preference to a physician who practices in the same locale as Dr. Hunter. Dr. Hunter and the supervising physician shall ensure that the urine specimens are obtained on a random basis and that the giving of the specimen is witnessed by a reliable person. In addition, the supervising physician shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

Dr. Hunter shall ensure that the supervising physician provides quarterly reports to the Board, in a format acceptable to the Board as set forth in the materials provided by the Board to the supervising physician, verifying whether all urine screens have been conducted in compliance with this Order, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his or her responsibilities.

In the event that the designated supervising physician becomes unable or unwilling to so serve, Dr. Hunter must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Dr. Hunter shall further ensure that the previously designated supervising

physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

All screening reports and supervising physician reports required under this paragraph must be received in the Board's offices no later than the due date for Dr. Hunter's quarterly declaration. It is Dr. Hunter's responsibility to ensure that reports are timely submitted.

7. **Submission of Blood or Urine Specimens upon Request**: Dr. Hunter shall submit blood and urine specimens for analysis without prior notice at such times as the Board may request, at Dr. Hunter's expense.
8. **Rehabilitation Program**: Dr. Hunter shall maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., C.A., or Caduceus, no less than four times per week, unless otherwise determined by the Board. Substitution of any other specific program must receive prior Board approval. Dr. Hunter shall submit acceptable documentary evidence of continuing compliance with this program, which must be received in the Board's offices no later than the due date for Dr. Hunter's quarterly declarations.
9. **Comply with the Terms of Treatment and Aftercare Contract**: Dr. Hunter shall maintain continued compliance with the terms of the treatment and aftercare contracts entered into with his treatment provider, provided that, where terms of the treatment and aftercare contract conflict with terms of this Order, the terms of this Order shall control.
10. **Comply with OPEP Contract**: Dr. Hunter shall maintain compliance with his contract with OPEP, unless otherwise determined by the Board.
11. **Psychiatric Assessment/Treatment**: Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Hunter shall submit to the Board for its prior approval the name and curriculum vitae of a psychiatrist of Dr. Hunter's choice.

Upon approval by the Board, Dr. Hunter shall obtain from the approved psychiatrist an assessment of Dr. Hunter's current psychiatric status. Prior to the initial assessment, Dr. Hunter shall furnish the approved psychiatrist copies of the Board's Order, including the Summary of the Evidence, Findings of Fact, and Conclusions, and any other documentation from the hearing record that the Board may deem appropriate or helpful to that psychiatrist.

Upon completion of the initial assessment, Dr. Hunter shall cause a written report to be submitted to the Board from the approved psychiatrist. The written report shall include:

- a. A detailed report of the evaluation of Dr. Hunter's current psychiatric status and condition;
- b. A detailed plan of recommended psychiatric treatment, if any, based upon the psychiatrist's informed assessment of Dr. Hunter's current needs; and
- c. Any reports upon which the treatment recommendation is based, including reports of physical examination and psychological or other testing.

Should the Board approved psychiatrist recommend psychiatric treatment, and upon approval by the Board, Dr. Hunter shall undergo and continue psychiatric treatment weekly or as otherwise directed by the Board. The sessions shall be in person and may not be conducted by telephone or other electronic means. Dr. Hunter shall comply with his psychiatric treatment plan, including taking medications as prescribed for his psychiatric disorder.

Dr. Hunter shall continue in psychiatric treatment until such time as the Board determines that no further treatment is necessary. To make this determination, the Board shall require reports from the approved treating psychiatrist. The psychiatric reports shall contain information describing Dr. Hunter's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Hunter's compliance with the treatment plan; Dr. Hunter's psychiatric status; Dr. Hunter's progress in treatment; and results of any laboratory or other studies that have been conducted since the prior report. Dr. Hunter shall ensure that the reports are forwarded to the Board on a quarterly basis and are received in the Board's offices no later than the due date for Dr. Hunter's quarterly declaration.

In addition, Dr. Hunter shall ensure that his treating psychiatrist immediately notifies the Board of Dr. Hunter's failure to comply with his psychiatric treatment plan and/or any determination that Dr. Hunter is unable to practice due to his psychiatric disorder.

In the event that the designated psychiatrist becomes unable or unwilling to serve in this capacity, Dr. Hunter must immediately so notify the Board in writing and make arrangements acceptable to the Board for another psychiatrist as soon as practicable. Dr. Hunter shall further ensure that the previously designated psychiatrist also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

- C. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Hunter's certificate to practice osteopathic medicine and surgery until all of the following conditions have been met:
1. **Application for Reinstatement or Restoration:** Dr. Hunter shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
 2. **Compliance with Interim Conditions:** Dr. Hunter shall have maintained compliance with all the terms and conditions set forth in Paragraph B of this Order.
 3. **Demonstration of Ability to Resume Practice:** Dr. Hunter shall demonstrate to the satisfaction of the Board that he can resume practice in compliance with acceptable and prevailing standards of care under the provisions of his certificate. Such demonstration shall include but shall not be limited to the following:
 - a. Certification from a treatment provider approved under Section 4731.25 of the Revised Code that Dr. Hunter has successfully completed any required inpatient treatment.
 - b. Evidence of continuing full compliance with a post-discharge aftercare contract with a treatment provider approved under Section 4731.25 of the Revised Code. Such evidence shall include, but not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with rule 4731-16-10 of the Administrative Code.
 - c. Evidence of continuing full compliance with this Order.
 - d. Two written reports indicating that Dr. Hunter's ability to practice has been evaluated for chemical dependency and/or impairment and that he has been found capable of practicing according to acceptable and prevailing standards of care. The evaluations shall have been performed by individuals or providers approved by the Board for making such evaluations. Moreover, the evaluations shall have been performed within sixty days prior to Dr. Hunter's application for restoration. The reports of evaluation shall describe with particularity the bases for the determination that Dr. Hunter has been found capable of practicing according to acceptable and prevailing standards of care and shall include any recommended limitations upon his practice.
 4. **Psychiatric Report Evidencing Fitness to Practice; Recommended Limitations:** At the time Dr. Hunter submits his application for reinstatement or restoration, Dr. Hunter shall provide the Board with a written report of evaluation by a psychiatrist acceptable to the Board indicating that Dr. Hunter's ability to practice has been assessed and that he has been found capable of practicing in accordance with

acceptable and prevailing standards of care. Such evaluation shall have been performed within sixty days prior to Dr. Hunter's application for reinstatement or restoration. The report of evaluation shall describe with particularity the bases for the determination that Dr. Hunter has been found capable of practicing according to acceptable and prevailing standards of care and shall include any recommended limitations upon his practice.

5. **Additional Evidence of Fitness To Resume Practice:** In the event that Dr. Hunter has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222 of the Revised Code to require additional evidence of his fitness to resume practice.
- D. **PROBATION:** Upon reinstatement or restoration, Dr. Hunter's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:
1. **Terms, Conditions, and Limitations Continued from Suspension Period:** Dr. Hunter shall continue to be subject to the terms, conditions, and limitations specified in Paragraph B of this Order.
 2. **Practice Plan:** Prior to Dr. Hunter's commencement of practice in Ohio, or as otherwise determined by the Board, Dr. Hunter shall submit to the Board and receive its approval for a plan of practice in Ohio. The practice plan, unless otherwise determined by the Board, shall be limited to a supervised structured environment in which Dr. Hunter's activities will be directly supervised and overseen by a monitoring physician approved by the Board. Dr. Hunter shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

At the time Dr. Hunter submits his practice plan, he shall also submit the name and curriculum vitae of a monitoring physician for prior written approval by the Secretary or Supervising Member of the Board. In approving an individual to serve in this capacity, the Secretary or Supervising Member will give preference to a physician who practices in the same locale as Dr. Hunter and who is engaged in the same or similar practice specialty.

The monitoring physician shall monitor Dr. Hunter and his practice, and shall review Dr. Hunter's patient charts. The chart review may be done on a random basis, with the frequency and number of charts reviewed to be determined by the Board.

Further, the monitoring physician shall provide the Board with reports on the monitoring of Dr. Hunter and his practice, and on the review of Dr. Hunter's patient charts. Dr. Hunter shall ensure that the reports are forwarded to the Board on a

quarterly basis and are received in the Board's offices no later than the due date for Dr. Hunter's quarterly declaration.

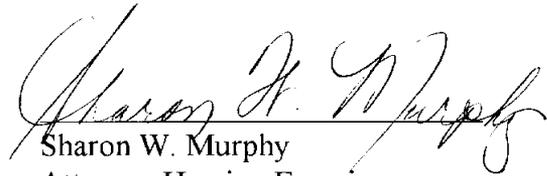
In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Hunter must immediately so notify the Board in writing. In addition, Dr. Hunter shall make arrangements acceptable to the Board for another monitoring physician within thirty days after the previously designated monitoring physician becomes unable or unwilling to serve, unless otherwise determined by the Board. Furthermore, Dr. Hunter shall ensure that the previously designated monitoring physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

3. **Tolling of Probationary Period While Out of State**: In the event that Dr. Hunter should leave Ohio for three consecutive months, or reside or practice outside the State, Dr. Hunter must notify the Board in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of this probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that the purposes of the probationary monitoring are being fulfilled.
 4. **Violation of Terms of Probation**: If Dr. Hunter violates probation in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.
- E. **TERMINATION OF PROBATION**: Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Hunter's certificate will be fully restored.
- F. **RELEASES**: Dr. Hunter shall provide continuing authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Dr. Hunter's chemical dependency, psychiatric condition, and/or related conditions, or for purposes of complying with this Order, whether such treatment or evaluations occurred before or after the effective date of this Order. The above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute.

Dr. Hunter shall also provide the Board written consent permitting any treatment provider from whom Dr. Hunter obtains treatment to notify the Board in the event he fails to agree to or comply with any recommended treatment or with any treatment or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Order.

- G. **REQUIRED REPORTING TO EMPLOYERS AND HOSPITALS:** Within thirty days of the effective date of this Order, Dr. Hunter shall provide a copy of this Order to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Hunter shall provide a copy of this Order to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments.
- H. **REQUIRED REPORTING TO OTHER STATE LICENSING AUTHORITIES:** Within thirty days of the effective date of this Order, Dr. Hunter shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Dr. Hunter shall also provide a copy of this Order by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement or restoration of any professional license. Further, Dr. Hunter shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

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


Sharon W. Murphy
Attorney Hearing Examiner



State Medical Board of Ohio

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EXCERPT FROM THE DRAFT MINUTES OF JULY 9, 2003

REPORTS AND RECOMMENDATIONS

Mr. Browning announced that the Board would now consider the findings and orders appearing on the Board's agenda. He asked whether each member of the Board had received, read, and considered the hearing record, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Michael Howard Bridges, M.D.; Subramaniam Chandrasekhar, M.D.; Samuel R. Goss, D.P.M.; Brian J. Hunter, D.O.; and Donald R. Kiser, D.O. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Kumar	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Mr. Browning	- aye

Mr. Browning 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:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Kumar	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye

Dr. Steinbergh - aye
Mr. Browning - aye

Mr. Browning 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.

Mr. Browning stated that if there were no objections, the Chair would dispense with the reading of the proposed findings of fact, conclusions and orders in the above matters. No objections were voiced by Board members present.

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

.....
BRIAN J. HUNTER, D.O.

Mr. Browning directed the Board's attention to the matter of Brian J. Hunter, D.O. He advised that objections were filed to Hearing Examiner Murphy's Report and Recommendation and were previously distributed to Board members.

Mr. Browning continued that a request to address the Board has been timely filed on behalf of Dr. Hunter. Five minutes would be allowed for that address.

Dr. Hunter was accompanied by Charles R. Saxbe, his attorney.

Mr. Saxbe stated that he and Timothy S. Horton represent Dr. Hunter, who would like this opportunity to address the Board in support of adoption of the Report and Recommendation.

Dr. Hunter stated that he would first like to thank the Medical Board, counsel, Board investigators and employees for their professionalism and courtesies extended throughout this process, and for the opportunity to share his thoughts with the Board now.

Dr. Hunter stated that many times during the last three years he thought that, perhaps, this was all a nightmare and that he would wake up and it would all go away. What he did is not a dream, but a reality. He committed Medicaid fraud. When Medicaid investigators came to his office, it was almost with a sense of relief that he admitted the full extent of his wrongdoing. Although he has made full restitution, he can never atone for his actions. He has embarrassed the medical profession, this Board, his family and, most importantly, himself. He cannot now fathom the thought process that led him to fraudulently bill Medicaid. At the time these events were occurring, he was able to delude himself that his actions were justified because Medicaid owed him money. While he was clearly wrong, the wrongness of his actions

was not apparent to him. Back then he was in the grips of a substance abuse problem. Dr. Hunter stated that he doesn't seek to justify his actions, only to explain them. He has committed himself to recovery.

Dr. Hunter stated that the person who stands before the Board today is in many ways different from the person who committed Medicaid fraud years ago. No matter what happens here, he will continue his recovery. He has a second chance at life, and he will make the best of that second chance.

Dr. Hunter added that one reason he hopes to return to the practice of medicine is to provide quality medical care to a middle to low income patient population that finds it difficult to obtain quality medical care in the present environment. Dr. Hunter stated that the practice of medicine has always been his passion, and he hopes someday to once again be a proud member of the medical community. If given the chance, he will not let the Board down, and he will not let himself down.

Mr. Browning asked whether the Assistant Attorney General wished to respond.

Mr. Michael stated that the State is also in support of the Report and Recommendation, as written, and believes that the Recommendation is appropriate, given the facts of this case.

Mr. Michael stated that, while Dr. Hunter has been forthright in most respects, initially in the hearing he denied that his impairment had affected his treatment of patients. However, during the course of the hearing it came out that he did treat patients while impaired by taking call in the evenings, while he was using.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF BRIAN J. HUNTER, D.O. DR. BHATI SECONDED THE MOTION.

Mr. Browning stated that he would now entertain discussion in the above matter.

Dr. Kumar stated that he agrees with the Report and Recommendation. He added that the only question he has is that the Proposed Order does not address the Medicaid fraud issue. The Report and Recommendation is primarily written for the abuse issues, and the Board needs to look at this carefully and perhaps require him to complete an ethics course pertaining to the practice of medicine and Medicaid fraud.

DR. KUMAR MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF BRIAN J. HUNTER, D.O., BY ADDING A REQUIREMENT UNDER PARAGRAPH C THAT DR. HUNTER SUCCESSFULLY COMPLETE A COURSE IN PROFESSIONAL ETHICS THAT ADDRESSES THE ISSUE OF MEDICAID FRAUD. DR. STEINBERGH SECONDED THE MOTION.

Dr. Steinbergh agreed with Dr. Kumar that the Proposed Order does not address the Medicaid fraud issue. She acknowledged that impairment does lead to all kinds of problems, and that in this case it led to

Medicaid fraud. In other cases, it's other issues. Requiring a professional ethics course in this case would be appropriate. That course needs to address this kind of issue.

Dr. Talmage asked whether Dr. Kumar wishes to add language allowing the Secretary and Supervising Member to approve the course presented.

Dr. Steinbergh stated that it's standard for the full Board to approve the course.

Dr. Robbins stated that he is in agreement with the amendment. He added that he also appreciates Dr. Hunter's statement to the Board, and stated that it was well done.

A vote was taken on Dr. Kumar's motion to amend:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Bhati	- aye
	Dr. Kumar	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF BRIAN J. HUNTER, D.O. DR. BHATI SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Bhati	- aye
	Dr. Kumar	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.

**INTERIM AGREEMENT
BETWEEN
BRIAN J. HUNTER, D.O
AND
THE STATE MEDICAL BOARD OF OHIO**

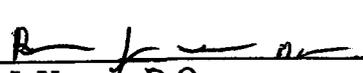
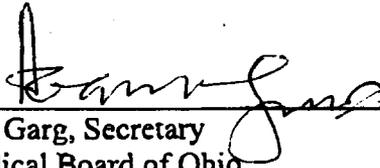
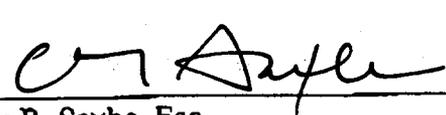
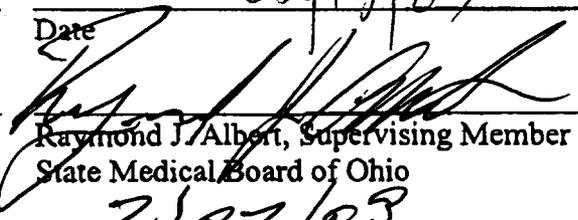
STATE MEDICAL BOARD
OF OHIO
2003 FEB 27 P 2:10

Brian J. Hunter, D.O hereby agrees that, until the allegations contained in the State Medical Board of Ohio's (hereinafter Board) August 14, 2002 Notice of Opportunity for Hearing have been fully resolved by the Board, he will not practice osteopathic medicine or surgery in the State of Ohio in any form. Dr. Hunter further agrees that any violation of the above-referenced limitation shall subject him to further disciplinary action pursuant to Section 4731.22, Ohio Revised Code.

The State Medical Board of Ohio, by its acceptance of this Interim Agreement, hereby agrees not to object, through its counsel, to the granting of a continuance of the administrative hearing on the above-referenced matter, currently scheduled for January 10, 2003.

This Interim Agreement shall not be construed as an admission by Dr. Hunter to the allegations contained in the August 14, 2002 Notice of Opportunity for Hearing.

This Interim Agreement shall become effective immediately upon the last date of signature below.

<p style="text-align: center;"> _____ Brian J. Hunter, D.O.</p>	<p style="text-align: center;"> _____ Anand G. Garg, Secretary State Medical Board of Ohio</p>
<p style="text-align: center;">1-18-03 _____ Date</p>	<p style="text-align: center;">02/13/03 _____ Date</p>
<p style="text-align: center;"> _____ Charles R. Saxbe, Esq. Attorney for Dr. Hunter</p>	<p style="text-align: center;"> _____ Raymond J. Albert, Supervising Member State Medical Board of Ohio</p>
<p style="text-align: center;">1/6/03 _____ Date</p>	<p style="text-align: center;">2/27/03 _____ Date</p>



State Medical Board of Ohio

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February 12, 2003

Brian J. Hunter, D.O.
1175 E. Calla Road
Poland, Ohio 44514

Dear Doctor Hunter:

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 certificate to practice osteopathic medicine and surgery, or to reprimand or place you on probation for one or more of the following reasons:

- (1) On or about December 23, 2002, you reported to Board staff that you are an impaired physician as a result of alcohol and cocaine dependence. You also advised that your sobriety date is May 26, 2002; that you began outpatient treatment at Glenbeigh Health Sources [Glenbeigh] on June 2, 2002; and that you were in aftercare. You also reported that you were closing your office and entering a 28-day inpatient treatment program at Glenbeigh as of January 2, 2003. On or about January 7, 2003, Glenbeigh staff notified the Board that you had been admitted to Glenbeigh on January 2, 2003, for inpatient treatment.

Your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute “[i]mpairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice,” as that clause is used in Section 4731.22(B)(26), 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 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.

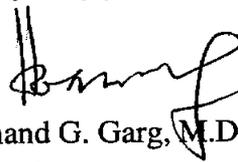
In the event that there is no request for such hearing received within thirty days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice osteopathic medicine and surgery or to reprimand or place you on probation.

Mailed 2-13-03

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,



Anand G. Garg, M.D.
Secretary

AGG/blt
Enclosures

CERTIFIED MAIL # 7000 0600 0024 5148 0373
RETURN RECEIPT REQUESTED

cc: Charles R. Saxbe, Esq.
Chester, Wilcox & Saxbe, LLP
65 E. State Street, Suite 100
Columbus, OH 43215

CERTIFIED MAIL # 7000 0600 0024 5148 0380
RETURN RECEIPT REQUESTED

cc: Timothy S. Horton, Esq.
Chester, Wilcox & Saxbe, LLP
65 E. State Street, Suite 100
Columbus, OH 43215

CERTIFIED MAIL # 7000 0600 0024 5148 0397
RETURN RECEIPT REQUESTED

cc: J. Gerald Ingram, Esq.
7330 Market Street
Youngstown, OH 44512

CERTIFIED MAIL # 7000 0600 0024 5148 0403
RETURN RECEIPT REQUESTED



State Medical Board of Ohio

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August 14, 2002

Brian J. Hunter, D.O.
1175 E. Calla Road
Poland, Ohio 44514

Dear Doctor Hunter:

In accordance with R. C. 119., you are hereby notified that the State Medical Board of Ohio intends to determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice osteopathic medicine and surgery, or to reprimand or place you on probation for one or more of the following reasons:

- (1) On or about January 17, 2002, in the Franklin County Court of Common Pleas, Criminal Division, you pleaded guilty to, and were adjudged guilty of, one (1) count of Medicaid Fraud, in violation of R.C. 2913.40(B), a felony of the fifth degree. You made restitution totaling \$12,500.00.

The conduct underlying your plea of guilty to, and the judicial finding of guilt of, Medicaid fraud is more fully set forth in the Information, Entry of Guilty Plea and Judgment Entry, which are attached hereto and incorporated herein.

- (2) On or about May 15, 2002, the Ohio Department of Job & Family Services (ODJ&FS) issued you a letter notifying you of termination of your Medicaid Provider Agreement, a copy of which is attached hereto and incorporated herein. This termination was based upon your plea of guilty, and the judicial finding of guilt, as provided in paragraph one (1) above. A copy of the ODJ&FS Letter of Notification of Termination of Medicaid Provider Agreement is attached hereto and incorporated herein.

Your plea of guilty and/or the judicial finding of guilt as alleged in paragraph one (1) above, individually and/or collectively, constitute "[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony," as that clause is used in R. C. 4731.22(B)(9).

Further, the ODJ&FS Letter of Notification of Termination of Medicaid Provider Agreement, as alleged in paragraph two (2) above, constitutes "[t]ermination or suspension from participation in the medicare or medicaid programs by the department of health and human services or other responsible agency for any act or acts that also would constitute a violation of division (B)(2), (3), (6), (8), or (19) of this section," as that clause is used in R. C. 4731.22(B)(25), to wit: R. C. 4731.22(B)(8).

Mailed 8.15.02

Brian J. Hunter, D.O.

Page 2

Pursuant to R.C. Chapter 119., 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 must be received in the offices of the State Medical Board within thirty (30) days of the time of mailing of this notice.

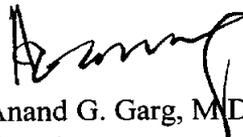
You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at 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 (30) 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 certificate to practice osteopathic medicine and surgery or to reprimand or place you on probation.

Please note that, whether or not you request a hearing, R.C. 4731.22(L), Ohio Revised Code, effective March 9, 1999, 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,



Anand G. Garg, M.D.
Secretary

AGG/jag
Enclosures

CERTIFIED MAIL # 7000 0600 0024 5139 9538
RETURN RECEIPT REQUESTED

715 E. Midlothian
Youngstown, Ohio 44502

CERTIFIED MAIL # 7000 0600 0024 5139 9521
RETURN RECEIPT REQUESTED

38723E16

IN THE COURT OF COMMON PLEAS OF FRANKLIN COUNTY, OHIO

CRIMINAL DIVISION

STATE OF OHIO,

Plaintiff,

-vs-

BRIAN J. HUNTER,

Defendant.

: Case No.

01 CR 12-7265

: Information for Medicaid Fraud,
: O.R.C. Section 2913.40(B), One
: Count, Felony of the Fifth
: Degree

FILED
COMMON PLEAS COURT
FRANKLIN COUNTY, OHIO
01 DEC 17 PM 1:30
CLERK OF COURTS

In the Court of Common Pleas, Franklin County, Ohio, of the Term of January in the year two thousand one.

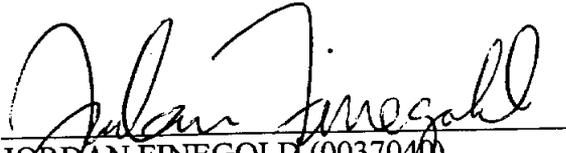
BETTY D. MONTGOMERY, the duly elected and qualified Attorney General of the State of Ohio, acting pursuant to Sections 109.85, 2939.10, and 2939.17, Revised Code, in the name of and by the authority of the State of Ohio, says that prior to this Information, Brian J. Hunter, was duly advised by the court of the nature of the charge against him and of his rights under the Ohio and United States Constitutions, he stated through his counsel, J. Gerald Ingram, that he understood the nature of the charge against him and his constitutional, statutory and procedural rights and he further stated that this case has been fully discussed, including the nature of these proceedings, and their possible consequences prior to making an appearance in open court to answer the charge set forth herein and waived in writing and in open court prosecution of the offense by indictment, that by way of Information, Brian J. Hunter, between July 1, 1996 and December 31, 2000, within Franklin County, Ohio, did knowingly make and cause to be made false and misleading statements and representations to the Ohio Department of

9723E17

Job and Family Services (formerly known as the Ohio Department of Human Services), Medicaid Division, for use in obtaining reimbursement from the Ohio Medical Assistance Program, the value of said reimbursement being five hundred dollars or more, to wit: submitting invoices to the State of Ohio for services which were not in fact provided to the Medicaid recipients for which Medicaid was billed, contrary to the rules and regulations of the Medicaid Program and the State of Ohio.

The aforesaid is a violation of Section 2913.40(B) of the Revised Code, a felony of the fifth degree.

BETTY D. MONTGOMERY
Attorney General


JORDAN FINEGOLD (0037040)
MARIA LIMBERT (0072357)
Assistant Attorneys General

38723E18

Identification

Brian J. Hunter

1175 East Calla Rd.
Poland, OH 44514

SS#:

DOB: June 25, 1957

Height: 6' 1"

Weight: 185 lbs

Hair: Brown

Eyes: Hazel

Race: White

Sex: Male

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO
CRIMINAL DIVISION - GENERAL DIVISION

01 CR 7265

State of Ohio
Plaintiff.

Case No.: _____
Indictment for: Medicaid Fraud, R.C. 2913.40(B), felony of
the fifth degree, one count

38945A17

vs.
Brian J. Hunter
Defendant.

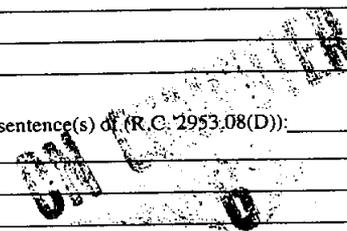
ENTRY OF GUILTY PLEA

Brian J. Hunter, Defendant in this case, am being represented by J. Gerald Ingram, as legal counsel.
My Constitutional and Statutory rights have been explained to me by the Court and by my counsel. I have reviewed the facts and law of my case with my counsel. I now
desire to withdraw my general plea of "Not Guilty" and I now plead "Guilty" to: Medicaid Fraud, R.C. 2913.40(B), felony of
the fifth degree, one count

I understand that my guilty plea(s) to the crime(s) specified constitute(s) both an admission of guilt and a waiver of any and all constitutional, statutory, or factual defenses with
respect to such crime(s) and this case. I further understand that by pleading "Guilty," I waive a number of important and substantial constitutional, statutory, and procedural rights,
which include, but are not limited to, the rights: to a trial by jury, to confront witnesses against me, to have compulsory subpoena process for obtaining witnesses in my favor, to
require the State to prove my guilt beyond a reasonable doubt on each crime herein charged at a trial at which I cannot be compelled to testify against myself, and to appeal the verdict
and rulings of the trial Court made before or during trial, should those rulings or the verdict be against my interests.

I understand the maximum prison term(s) for my offense(s) to be as follows: 12 Months

I understand that the prosecution and defense jointly recommend to the Court sentence(s) of (R.C. 2953.08(D)): N/A



FILED
COMMON PLEAS COURT
FRANKLIN CO. OHIO
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CLERK OF COURTS

Place an X in the appropriate box(es).

If the Court finds me guilty of one or more of the following and imposes the maximum prison term(s) for the offense(s), I understand that it may add an additional 1-
10 years to each term: repeat violent offender specification (R.C. 2929.01); major drug offender specification (R.C. 2929.01); violation of R.C. 2907.02; violation of
R.C. 2907.12; violation of R.C. 2923.32 when the most serious offense in the pattern is a first degree felony; violation of R.C. 2925.02, 2925.03, 2925.04, 2925.05,
2925.11, 2925.36, 3719.99, or 4729.99 that requires a ten-year prison term.

I understand that R.C. 2929.13(F) requires mandatory prison term(s) for the following offenses and that I will not be eligible for community control sanctions, judicial
release, or earned days of credit in relation to this/these term(s): _____

I understand that R.C. 2929.13(D) establishes a presumption in favor of a prison term for the following offense(s): _____

I understand that the Court may impose community control sanctions upon me. If I violate the conditions of such community control sanctions or the condition under
R.C. 2951.02(C)(1)(b), I understand that the Court may extend, up to five years, the time for which I am subject to community control sanctions, impose more
restrictive sanctions, or imprison me for up to the maximum term(s) allowed for the corresponding offense(s) as set forth above.

If the Court imposes a prison term, I understand that it is automatically subject to extension for "Bad Time." I understand that additional prison time may be added to
my sentence for any criminal offense committed, under the laws of this state or the United States, while serving the original prison term, "Bad Time," or a prison term
imposed for violation(s) of post-release control sanction(s). Extensions will be added administratively under R.C. 2967.11 and may be for 15, 30, 60, or 90 days for
each violation. I understand that my prison term cannot be extended for longer than one-half its original duration for all violations.

DEFENDANT: Brian J. Hunter

ATTORNEY FOR THE DEFENDANT: J. Gerald Ingram

the Court imposes a prison term, I understand that the following period(s) of post-release control is/are applicable:

Place an X in the appropriate box(es).

Place an X in the appropriate box(es).

- 1 Five Years - Mandatory
- 2 Felony Sex Offense Five Years - Mandatory
- 3 Three Years - Mandatory
- 4 Three Years - Mandatory

- F-3 without Cause or Threat of Physical Harm
- F-4
- F-5

- Up to Three Years - Optional
- Up to Three Years - Optional
- Up to Three Years - Optional

98945A18

I understand that a violation of post-release control conditions or the condition under R.C. 2967.131 could result in more restrictive non-prison sanctions, a longer period of supervision or control up to a specified maximum, and/or reimprisonment for up to nine months. The prison term(s) for all post-release control violations may not exceed one-half of the prison term originally imposed. I understand that I may be prosecuted, convicted, and sentenced to an additional prison term for a violation that is a felony. I also understand that such felony violation may result in a consecutive prison term of twelve months or the maximum period of unserved post-release control, whichever is greater. Prison terms imposed for violations or new felonies do not reduce the remaining post-release control period(s) for the original offense(s).

I understand that each felony count to which I am pleading guilty corresponds with the following possible fine(s) (R.C. 2929.18):

Place an X in the appropriate box(es).

Place an X in the appropriate box(es).

- 1 Aggravated Murder up to \$25,000
- 2 Murder up to \$15,000
- 3-1 up to \$20,000
- 3-2 up to \$15,000

- F-3
- F-4
- F-5

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 up to \$10,000
 up to \$5,000
 up to \$2,500
 OHIO

For F-1, F-2, or F-3 Drug Offenses (violations of R.C. 2925.3719, or 4729) - Mandatory Fine of at Least One-Half of the Maximum for Underlying Offense

For Offenses Subject to R.C. 2929.25 - Optional Fine of Not More Than \$1 Million Dollars

For Offenses Subject to Organizational Penalties under R.C. 2929.31 - Mandatory Fines as Follows: _____

I understand that the Court may also require me to pay costs, restitution, day fines, and/or costs of all sanctions imposed upon me. I understand that the imposition of financial sanctions would constitute a civil judgment against me. (R.C. 2929.18).

I understand that I (am not) subject to mandatory driver's license suspension for not less than six months nor more than five years.

I understand that the Court upon acceptance of my plea(s) of "Guilty" may proceed with judgment and sentence. I hereby assert that no person has threatened me, promised me leniency, or in any other way coerced or induced me to plead "Guilty" as indicated above; my decision to plead "Guilty," thereby placing myself completely and without reservation of any kind upon the mercy of the Court with respect to punishment, represents the free and voluntary exercise of my own will and best judgment. I am completely satisfied with the legal representation and advice I have received from my counsel.

I am (am not) a citizen of the United States of America.

DEFENDANT: Ben J. ...

I hereby certify that I have counseled my client to the best of my professional ability with respect to the facts and law of this case. I have also diligently investigated his/her cause and assertions and possible defenses. I represent my client is competent to proceed to change his/her plea(s), as indicated hereinabove, and, in my opinion, that he/she acts knowingly, voluntarily, and intelligently in such matter.

ATTORNEY FOR THE DEFENDANT: J. ...

The Court, being fully advised as to the facts, hereby accepts the defendant's plea(s) of "Guilty," entered hereinabove, as voluntarily and intelligently made, with full knowledge of the consequences thereof, including waivers of all applicable rights and defenses and understanding of the maximum penalties. Upon recommendation of the Attorney General, in consideration of said plea(s) of "Guilty," the Court hereby enters a Nolle Prosequi as to Count(s): N/A

APPROVED:

JUDGE:

Julian Finaght
Assistant Attorney General

Richard J. Shewey

J. ...
Attorney for the Defendant

Date

1-16-02

STATE JUDICIAL BOARD
IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO
CRIMINAL DIVISION

2002 APR - 12 3 56

39397804

State of Ohio,

Termination: 12 By: PG

Plaintiff,

vs.

Case No. 01CR-7265 (Sheward, J.)

Brian J. Hunter,

Defendant.

JUDGMENT ENTRY
(Community Control Imposed)

On January 16, 2002, the State of Ohio was represented by Attorney General Jordan Finegold and the Defendant was represented by Attorney, J. Gerald Ingram. The Defendant, after being advised of his rights pursuant to Crim. R. 11, entered a plea of guilty to the Bill of Information, to wit: Medicaid Fraud, in violation of Section 2913.40 (B), a Felony of the Fifth degree.

The Court found the Defendant guilty of the Bill of Information to which the plea was entered.

The Prosecuting Attorney and the Defendant's Attorney did not recommend a sentence.

The Court ordered and received a pre-sentence investigation.

On March 15, 2002, a sentencing hearing was held pursuant to R.C. 2929.19. The State of Ohio was represented by Attorney General Jordan Finegold and the Defendant was represented by Attorney J. Gerald Ingram.

The Court afforded counsel an opportunity to speak on behalf of the Defendant and addressed the Defendant personally affording Defendant an opportunity to make a statement on Defendant's own behalf in the form of mitigation and to present information regarding the existence or non-existence of the factors the Court has considered and weighed.

The Court has considered the purposes and principles of sentencing set forth in R.C. 2929.11 and the factors set forth in R.C. 2929.12. In addition, the Court has weighed the factors as set forth in the applicable provisions of R.C. 2929.13 and R.C. 2929.14. The Court further finds that a prison term is not mandatory pursuant to R.C. 2929.13(F).

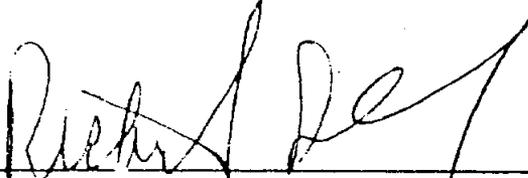
The Court hereby imposes a period of Community Control/Basic Supervision for TWO (2) YEARS. In addition to the provisions of R.C. 2951.02 and the requirements of the Franklin County Department of Community Control, as authorized by the Common Pleas Court and as given to the Defendant in writing, the Court imposes the following Community Control Sanctions (See R.C. 2925.15, R.C. 2929.16 and R.C. 2929.17): Defendant shall abide by the rules and regulations of the Probation Department. Supervision of Defendant should be transferred to Mahoning County. 89397B05

The Court has considered the Defendant's present and future ability to pay a fine and financial sanction and does, pursuant to R.C. 2929.18, hereby renders judgment for the following fine and/or financial sanctions: No fine imposed. Defendant shall pay court costs in an amount to be determined.

The total fine and financial sanction judgment is costs.

After the imposition of Community Control, the Court pursuant to R.C. 2929.19(B)(4) notified the Defendant, orally and in writing, what could happen if Defendant violates Community Control. The Court further indicated that if the Defendant violates Community Control Defendant could receive a prison term of up to TWELVE (12) MONTHS.

The Court finds that the Defendant has zero days of jail time credit.


RICHARD S. SHEWARD, JUDGE

cc: Attorney General, Jordan Finegold
Defendant's Attorney, J. Gerald Ingram

Case No. 01CR-12-7265

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO
CRIMINAL DIVISION

39397803

State of Ohio

Plaintiff,

vs.

BRIAN J. HUNTER

Defendant.

Case No. OICA-12-7265

Judge SHEWARD

CLERK OF COURTS
FRANKLIN COUNTY
OHIO

NOTICE
(Community Control Imposed)

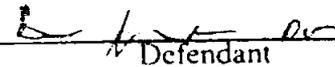
The Court hereby notifies the Defendant as follows:

You have received one or more Community Control Sanctions. If during your time on Community Control you violate any law of any jurisdiction in the United States; any rule of the Department of Community Control; or any condition of any sanction imposed upon you by the Court, the Court may impose a more restrictive sanction upon you and/or the Court may impose a prison term of up to 12 months months/~~years~~

I hereby certify that the Court read to me, and gave me in writing, the notice set forth herein.

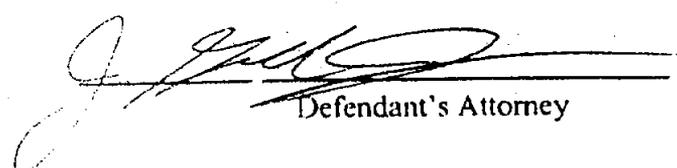
3-15-02

Date


Defendant

As the Attorney for the Defendant, I hereby certify that the Judge read to the Defendant, and gave (him,her) in writing, the notice set forth herein.

Prosecuting Attorney


Defendant's Attorney

Bob Taft
Governor



Tom Hayes
Director

STATE MEDICAL BOARD
OF OHIO

2002 JUN 20 A 11: 06

30 East Broad Street - Columbus, Ohio 43215-3414
www.state.oh.us/odjfs

May 15, 2002

Brian J. Hunter, D.O.
715 East Midlothian Blvd.
Youngstown, OH 44502

RE: TERMINATION OF MEDICAID PROVIDER AGREEMENT NUMBER 0761582

Dear Hunter:

I have been advised that you entered a plea of guilty January 16, 2002, to a Bill of Information, to wit: Medicaid Fraud, a Felony of the Fifth degree, and were found guilty by the court. Ohio Administrative Code (OAC) 5101:3-1-176(D) requires the department to terminate a provider agreement when a "judgment has been entered in either a criminal or civil action against a medicaid provider or its owner, officer, authorized agent, ... in an action brought pursuant to section 109.85 of the Revised Code..." A judgment was entered in the Court of Common Pleas of County, and filed March 15, 2002.

You are, therefore, notified that your provider agreement with the ODHS is terminated effective immediately. Ohio law affords no appeal of this action pursuant to Chapter 119. of the Revised Code. (See Revised Code 5111.06 and OAC 5101:3-1-57.) Claims filed for either Medicaid or Disability Assistance with dates of service after the date entry of the judgment, March 15, 2002, will be denied.

If you disagree with this termination, you may request an administrative review pursuant to OAC 5101:3-1-57 which allows for reconsideration of actions not subject to hearing under Chapter 119 of the Revised Code. If you wish an administrative review, please send a written request including all information that you consider relevant to this action to:

Thomas J. Hayes, Director
Ohio Department of Job and Family Services
30 East Broad Street, 32nd Floor
Columbus, Ohio 4326-0423

If you require additional information or assistance, please contact Jim Skidmore at (614) 466-4605.

Very truly yours,

Sheila J. Fujii
Sheila J. Fujii, Chief
Bureau of Plan Operations

SJF/jrs