



# State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: [www.med.ohio.gov](http://www.med.ohio.gov)

December 13, 2006

Harry Michael Condoleon, D.O.  
1501 East 10<sup>th</sup> Street  
P. O. Box 611  
Atlantic, IA 50022

Dear Doctor Condoleon:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Christopher B. McNeil, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on December 13, 2006, 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 an original Notice of Appeal with the State Medical Board of Ohio and a copy of the Notice of Appeal with 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* RW  
Lance A. Talmage, M.D.  
Secretary

LAT:jam  
Enclosures

CERTIFIED MAIL NO. 7003 0500 0002 4330 1903  
RETURN RECEIPT REQUESTED

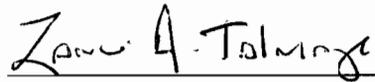
Cc: Robert C. Angell, Esq.  
CERTIFIED MAIL NO. 7003 0500 0002 4330 1910  
RETURN RECEIPT REQUESTED

*Mailed 1-8-07*

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Christopher B. McNeil State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on December 13, 2006, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order; constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Harry Michael Condoleon, 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. RW  
Secretary

(SEAL)

December 13, 2006  
\_\_\_\_\_  
Date

**BEFORE THE STATE MEDICAL BOARD OF OHIO**

IN THE MATTER OF

\*

\*

HARRY MICHAEL CONDOLEON, D.O. \*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on December 13, 2006.

Upon the Report and Recommendation of Christopher B. McNeil, 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. Harry Michael Condoleon, D.O., is **REPRIMANDED**.

B. **PROBATION:** The certificate of Harry Michael Condoleon, D.O., to practice osteopathic medicine and surgery in the State of Ohio shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least three years:

1. **Obey the Law:** Dr. Condoleon shall obey all federal, state, and local laws, and all rules governing the practice of osteopathic medicine and surgery in Ohio and the state in which he is practicing.
2. **Quarterly Declarations:** Dr. Condoleon shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution (or both), 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 or before 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.

3. **Evidence of Compliance with the Order of the Iowa Board**: At the time he submits his quarterly declarations, Dr. Condoleon shall also submit declarations under penalty of Board disciplinary action or criminal prosecution (or both), stating whether he has complied with all the terms, conditions, and limitations imposed by the Iowa Board. Moreover, Dr. Condoleon shall cause to be submitted to the Board copies of any reports that he submits to the Iowa Board whenever the Iowa Board requires such submission.
4. **Practice Plan**: Prior to his commencement of practice in Ohio or as otherwise determined by the Board, Dr. Condoleon shall submit to the Board and receive its approval for a plan of practice in Ohio. Dr. Condoleon shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.
5. **Personal Appearances**: Dr. Condoleon shall appear in person for interviews before the full Board or its designated representative within three months of the effective date of this Order, upon Dr. Condoleon's request for the termination of the probationary period, and as otherwise requested by the Board.

- C. **TERMINATION OF PROBATION**: Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Condoleon's certificate will be fully restored.
- D. **RELEASES**: Dr. Condoleon 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 of Dr. Condoleon by the Center for Professional Education for Physicians, 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.
- E. **REQUIRED REPORTING TO EMPLOYERS AND HOSPITALS**: Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Condoleon 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

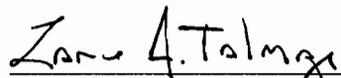
privileges or appointments. Further, Dr. Condoleon shall provide a copy of this Order to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments. This requirement shall continue until Dr. Condoleon receives from the Board written notification of his successful completion of probation.

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

**AUTHORITIES:** Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Condoleon 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. Condoleon shall also provide a copy of this Order by certified mail, return receipt requested, at the 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. Condoleon shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt, unless otherwise determined by the Board. This requirement shall continue until Dr. Condoleon receives from the Board written notification of his successful completion of probation.

**EFFECTIVE DATE OF ORDER:** This Order shall become effective immediately upon the mailing of notification of approval by the Board.

(SEAL)

  
\_\_\_\_\_  
Lance A. Talmage, M.D. RW  
Secretary

December 13, 2006  
Date

**REPORT AND RECOMMENDATION  
IN THE MATTER OF HARRY MICHAEL CONDOLEON, D.O.**

The Matter of Harry Michael Condoleon, D.O., was heard by Christopher B. McNeil, Esq., Hearing Examiner for the State Medical Board of Ohio, on September 27, 2006.

**INTRODUCTION**

I. Basis for Hearing

- A. By letter dated July 12, 2006, the State Medical Board of Ohio [Board] notified Harry Michael Condoleon, D.O., that it proposes to determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register, or reinstate Dr. Condoleon's certificate to practice osteopathic medicine and surgery, or to reprimand him or place him on probation. The Board based its proposed action on a prior action against Dr. Condoleon by the Iowa Board of Medical Examiners [Iowa Board]. The Board alleged that the action of the Iowa Board constitutes an "action[] taken by the agency responsible for regulating the practice of medicine and surgery . . . in another jurisdiction, for any reason other than the nonpayment of fees [including] the limitation, revocation, or suspension of an individual's license to practice" as that clause is used in R.C. 4731.22(B)(22). Upon stating the bases for the Board's proposed action, the Board advised Dr. Condoleon of his right to a hearing. (State's Exhibit [St. Ex.] 1A).
- B. The Board received a written hearing request from Dr. Condoleon on July 21, 2006. (St. Ex. 1B).

II. Appearances

- A. On behalf of the State of Ohio: Jim Petro, Attorney General, by Damion M. Clifford, Assistant Attorney General.
- B. On behalf of the Respondent: Dr. Condoleon: Robert C. Angell, Robert C. Angell, LLC.

**EVIDENCE EXAMINED**

I. Testimony Heard

There was no testimony presented, but the State and Dr. Condoleon presented the exhibits identified below.

II. Exhibits Examined

A. Presented by the State

1. State's Exhibits 1A through 1I: Procedural exhibits.
2. State's Exhibit 2: Certified copies of documents pertaining to Dr. Condoleon maintained by the Iowa Board.

B. Presented by the Respondent

1. Respondent's Exhibit A: Declaration of Harry Michael Condoleon, D.O., F.A.C.O.S.

**SUMMARY OF THE EVIDENCE**

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

1. Harry Michael Condoleon, D.O., is licensed to practice osteopathic medicine and surgery in Ohio and Iowa. He earned a Doctor of Osteopathy degree from the Des Moines University Osteopathic Medical Center and is a Fellow of the American College of Osteopathic Surgeons. He has been licensed in Iowa since 1993. He is an Ohio native, has been licensed in Ohio since 2003, and his current Ohio certificate expires in 2007. He has listed specialties in surgical oncology and general surgery. He currently practices general surgery at the Cass County Memorial Hospital in Atlantic, Iowa, but states that he has considered the possibility of returning to practice in Ohio at some time in the future. (Respondent's Exhibit [Resp. Ex.] A at 1)
2. In 2002, Dr. Condoleon was employed at Mercy Hospital in Des Moines, Iowa. His practice at that time consisted exclusively of surgical oncology cases. According to a Statement of Charges, Settlement Agreement, and Final Order [Iowa Order], issued by the Board of Medical Examiners of the State of Iowa (St. Ex. 1A), Dr. Condoleon was charged with failing to conform to the minimal standards of acceptable and prevailing practice of medicine and surgery in Iowa. Dr. Condoleon denied the Iowa Board's charges, but voluntarily agreed to enter into a settlement with the Iowa Board "so as to ensure public confidence in his abilities." (Iowa Order at 2)
3. Before it entered into the Iowa Order (which includes the charges against Dr. Condoleon, the terms of his agreement with the Iowa Board, and the Iowa Board's final disposition), the Iowa Board appointed a peer review committee to review Dr. Condoleon's treatment of five patients. Based upon the report of its peer review committee, the Iowa Board cited Dr. Condoleon for "failing to conform to the prevailing standard of care in his treatment of several patients." (Iowa Order at 3) Because these proceedings were confidential,

however, there is no record describing the kind of practice failures that were attributed to Dr. Condoleon. (Respondent's Exhibit [Resp. Ex.] A at 2)

4. Dr. Condoleon voluntarily completed a comprehensive competency evaluation at the Center for Personalized Education for Physicians (CPEP). CPEP identified areas of concern in Dr. Condoleon's surgical practice, and then CPEP recommended a remediation program. Dr. Condoleon expects it to take from six to nine months for him to complete this program. This program includes a requirement that Dr. Condoleon participate in a supervised clinical experience with an educational preceptor approved by the Iowa Board. In this program, Dr. Condoleon is required to meet regularly with his preceptor, Dr. Robert Fitzgibbons. As part of its remediation plan, CPEP also required that Dr. Condoleon successfully complete continuing medical education courses and self-study approved by the Iowa Board. (Resp. Ex. A at 3 and Iowa Order at 2-3)
5. As part of the settlement agreement, the Iowa Board placed Dr. Condoleon's medical license on probation. Conditions included in the Iowa Order of probation include: (1) Dr. Condoleon is required to participate in a monitoring program through the Iowa Board; (2) he must comply with all requirements of the CPEP, including the remediation plan, described above, requiring the involvement of an educational preceptor and continuing medical education; (3) he is required to work with a workplace monitor approved by the Iowa Board; (4) he is required to make personal appearances (annually or upon request) before the Iowa Board and file quarterly reports with the Iowa Board; and (5) he is to obey all applicable laws, and pay a monitoring fee. (Iowa Order, at 3-6)
6. In his sworn written statement to the Ohio Board (which he filed in lieu of appearing personally during the evidentiary hearing), Dr. Condoleon states that, as part of the remediation plan recommended by CPEP, he meets monthly with an educational preceptor, Dr. Robert Fitzgibbons, of Creighton University, who is nationally known and well respected. Dr. Condoleon reports that his workplace monitor is Dr. Angela Wepler, Chief of Staff at Cass County Memorial Hospital. Further, Dr. Condoleon reports that Dr. Fitzgibbons and Dr. Wepler will submit written reports to the Iowa Board regarding his work performance and his program in areas of concern identified by the Iowa Board. In his statement, Dr. Condoleon affirmed that he will comply with the Iowa Order by submitting quarterly reports and appearing before the Iowa Board as required, and that he will continue to attend continuing medical education courses and engage in courses of self-study as directed by the Iowa Board. (Resp. Ex. A at 3-4)
7. Dr. Condoleon explained the link between the decision of the Iowa Board and the result that he would urge by the Ohio Board. He wrote that the settlement agreement with the Iowa Board

is intended to ensure, and will ensure, public confidence in my abilities as a physician and surgeon. It is my hope that the State Medical Board of Ohio, in considering action against my Ohio license, will take into account

the above factors, including my participation with CPEP and with a well-respected educational preceptor and work site monitor, in addition to my continuing education and self study. Should the Ohio Board place my license on probation, it is my hope that the Board will find the remedial steps entered into with the Iowa Board acceptable and an assurance of public confidence in my abilities in Ohio as well.

(Resp. Ex. A at 4)

8. Dr. Condoleon further states in his declaration that the Iowa Order provides conditions under which the probation may be terminated. He asserts that, at his last meeting with the Iowa Board in August 2006, he was informed that he could request termination of his probation “once the remediation program is completed” and that the Iowa Board told him that it saw “no reason not to terminate [the] probation at that time.” Dr. Condoleon added that he is fully cooperating with the Iowa Board and expects his probation to be terminated “within the time expressed to me by CPEP.” This “time expressed” appears to be a reference to the reported statement from CPEP that the remediation program “should last six to nine months.” (Resp. Ex. A at 3-4)

### **ANALYSIS**

There is no dispute regarding the facts supporting the Board’s charges against Dr. Condoleon. These facts establish that Dr. Condoleon’s Iowa medical license was placed on probation. The order of probation was based on an agreed-upon resolution of practice-related charges that were then pending against Dr. Condoleon in Iowa. There is, however, only scant information about the factual bases supporting the Iowa Order: we know only that the Iowa Board charged Dr. Condoleon with failing to conform to the minimal standards of acceptable and prevailing practice of medicine following a peer review of records showing Dr. Condoleon’s treatment of five patients.

The lack of evidence and the absence of information about the nature of the charges against Dr. Condoleon in Iowa is a cause for some concern. The State Medical Board of Ohio is, of course, not bound by the terms of the agreement Dr. Condoleon entered into with the Iowa Medical Board. A suspension or probationary order in Iowa may, indeed, give rise to a more severe sanction in Ohio, up to and including permanent revocation. Neither the State Medical Board of Ohio nor the public is assured that the practice errors attributed to Dr. Condoleon would, if committed in Ohio, be regarded as minor enough to warrant only a reprimand, the mildest of all available sanctions – which is what both parties have suggested as an appropriate sanction in this case.

Because it is charged with the responsibility of protecting the public interest in the licensing of doctors in Ohio, the Board has a legitimate interest in knowing what kind of professional conduct led to the action of the Iowa Board, i.e., what standard or standards did Dr. Condoleon breach, what harm did the breach cause, and how persistent or pervasive was the

breach. The Board's legitimate interest here has been frustrated, such that the Ohio Board cannot with any degree of certainty be confident that the disciplinary standard applied by the Iowa Board is appropriate here in Ohio.

Notwithstanding Dr. Condoleon's suggestion that the Ohio probation should expire once he completes the CPEP remediation program in Iowa, probation in Ohio should continue for three years, as was recommended by the State. Further, any probationary order should be expressly conditioned on the Board's receipt of Dr. Condoleon's written release authorizing this Board full access to all records relating to Dr. Condoleon's participation in the CPEP program. In the event the Board is satisfied with Dr. Condoleon's progress through the CPEP program, it may always release him from probation prior to the end of the three-year term.

### **FINDINGS OF FACT**

1. The Respondent, Harry Michael Condoleon, D.O., holds a certificate to practice osteopathic medicine and surgery issued by the State Medical Board of Ohio under license number 34.008159. That license expires on April 1, 2007.
2. In an order dated May 31, 2006, the Iowa Board of Medical Examiners [Iowa Board] set forth charges regarding Dr. Condoleon's professional conduct in Atlantic, Iowa, where he maintains a general surgery practice. The Iowa Board appointed a peer review committee to review Dr. Condoleon's treatment of five patients. Based on the report of the peer review committee, the Iowa Board concluded that Dr. Condoleon failed to conform to the minimal standards of acceptable and prevailing practice of medicine and surgery in Iowa with respect to his treatment of these five patients.
3. The Iowa Board cited Dr. Condoleon for failing to conform to the prevailing standard of care in his treatment of several patients, and warned him that the failure to conform to the prevailing standard of care in the future may result in further disciplinary action.
4. The Iowa Board also placed Dr. Condoleon's medical license on probation, requiring that he establish a monitoring program and fully comply with all requirements of that program; that he fully comply with all recommendations made by the Center for Personalized Education for Physicians (CPEP), including that he successfully complete the remediation plan established by CPEP; that he have a worksite monitor; that he submit quarterly reports and make annual Iowa Board appearances for the duration of the probationary period; that he pay a \$100 monitoring fee each quarter; and that he obey all federal, state, and local laws, and all rules governing the practice of medicine in Iowa. In this agreement, the Iowa Board agreed that it would consider modifying or terminating the terms of probation upon Dr. Condoleon's written request, and that modification or termination of this term of probation would be at the Iowa Board's sole discretion.
5. Upon notice that the Iowa Board had placed Dr. Condoleon on probation, the State Medical Board of Ohio issued a letter dated July 12, 2006, advising Dr. Condoleon that

the foregoing action by the Iowa Board constitutes the “imposition of probation” as that phrase is used in R.C. 4731.22(B)(22).

### CONCLUSIONS OF LAW

1. Because he holds a certificate issued by the State Medical Board of Ohio to practice osteopathic medicine and surgery in Ohio, the Respondent, Harry Michael Condoleon, D.O., is subject to the jurisdiction of the Board with respect to that certificate in administrative proceedings conducted pursuant to R.C. Chapter 4731.
2. The Board may take disciplinary action against a certificate-holder upon sufficient proof that the “agency responsible for regulating the practice of . . . osteopathic medicine and surgery . . . in another jurisdiction, for any reason other than the nonpayment of fees” limits the certificate holder’s license to practice medicine in that jurisdiction, or imposes probation on the certificate, as that clause is used in R.C. 4731.22(B)(22).
3. The State established by at least a preponderance of the evidence that the Iowa State Medical Board placed Dr. Condoleon’s license to practice medicine on probation. As such, the State has met its burden of establishing a legal basis for taking action against the certificate issued by the Board to Dr. Condoleon in Ohio, pursuant to R.C. 4731.22(B)(22).
4. Upon the foregoing findings of fact and conclusions of law, the Board may limit, revoke or suspend Dr. Condoleon’s certificate to practice, refuse to register him, refuse to reinstate his certificate, reprimand him, or place him on probation, all pursuant to R.C. 4731.22(B).

### PROPOSED ORDER

It is hereby **ORDERED** that:

- A. Harry Michael Condoleon, D.O., is **REPRIMANDED**.
- B. **PROBATION**: The certificate of Harry Michael Condoleon, D.O., to practice osteopathic medicine and surgery in the State of Ohio shall be subject to the following **PROBATIONARY** terms, conditions, and limitations for a period of at least three years:
  1. **Obey the Law**: Dr. Condoleon shall obey all federal, state, and local laws, and all rules governing the practice of osteopathic medicine and surgery in Ohio and the state in which he is practicing.
  2. **Quarterly Declarations**: Dr. Condoleon shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution (or both), 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 or before 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.

3. **Evidence of Compliance with the Order of the Iowa Board:** At the time he submits his quarterly declarations, Dr. Condoleon shall also submit declarations under penalty of Board disciplinary action or criminal prosecution (or both), stating whether he has complied with all the terms, conditions, and limitations imposed by the Iowa Board. Moreover, Dr. Condoleon shall cause to be submitted to the Board copies of any reports that he submits to the Iowa Board whenever the Iowa Board requires such submission.
4. **Personal Appearances:** Dr. Condoleon shall appear in person for interviews before the full Board or its designated representative within three months of the effective date of this Order, upon Dr. Condoleon's request for the termination of the probationary period, and as otherwise requested by the Board.

- C. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Condoleon's certificate will be fully restored.
- D. **RELEASES:** Dr. Condoleon 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 of Dr. Condoleon by the Center for Professional Education for Physicians, 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.
- E. **REQUIRED REPORTING TO EMPLOYERS AND HOSPITALS:** Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Condoleon 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. Condoleon 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. This requirement shall continue until Dr. Condoleon receives from the Board written notification of his successful completion of probation.

**F. REQUIRED REPORTING TO OTHER STATE LICENSING AUTHORITIES:**

Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Condoleon 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. Condoleon shall also provide a copy of this Order by certified mail, return receipt requested, at the 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. Condoleon shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt, unless otherwise determined by the Board. This requirement shall continue until Dr. Condoleon receives from the Board written notification of his successful completion of probation.

EFFECTIVE DATE OF ORDER: This Order shall become effective immediately upon the mailing of notification of approval by the Board.



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Christopher B. McNeil, Esq.  
Hearing Examiner



# State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: [www.med.ohio.gov](http://www.med.ohio.gov)

## EXCERPT FROM THE DRAFT MINUTES OF DECEMBER 13, 2006

### REPORTS AND RECOMMENDATIONS

Dr. Robbins announced that the Board would now consider the Reports and Recommendations appearing on its agenda. He asked whether each member of the Board had received, read, and considered the hearing records, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Ravi Chandra Ashwath, M.D.; Alexander M. Beylinson, M.D.; Harry Michael Condoleon, D.O.; Shaji Jaffrey Kazi, M.D.; Tera Jean Martin, M.T.; Lalsingh P. Rohira, M.D.; Robert Franklin Short, M.D.; and Gretel Case Stephens, M.D. A roll call was taken:

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

Dr. Robbins 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. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Steinbergh	- aye

Dr. Robbins - aye

Dr. Robbins 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. They may, however, participate in the matter of Dr. Beylinson, as that case is not disciplinary in nature and concerns only the doctor's qualifications for licensure. In the other matters before the Board today, Dr. Talmage served as Secretary and Mr. Albert served as Supervising Member.

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

.....  
HARRY MICHAEL CONDOLEON, D.O.

Dr. Robbins directed the Board's attention to the matter of Harry Michael Condoleon, D.O. He advised that no objections were filed to Hearing Examiner McNeil's Report and Recommendation.

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

Dr. Condoleon was represented at the meeting by his attorney, Robert C. Angell. Mr. Angell stated that he and Dr. Condoleon have no objection to the Report and Recommendation. They feel that the proposed resolution is appropriate. Mr. Angell advised that Dr. Condoleon has asked him to assure the Board that he will comply in every respect with the monitoring and the documentation requirements of the Proposed Order.

Mr. Angell advised that he spoke with Dr. Condoleon about ten days ago, and he said that the monitoring aspect of the CPEP process is just now getting underway. The six-to-nine-month period that was referenced in Dr. Condoleon's materials will probably be pushed out to twelve months at this point.

Mr. Angell stated that he does think that Dr. Condoleon will be able to get this Board to the same level of comfort as the Iowa Board in less than three years. Mr. Angell noted that Mr. McNeil's Report and Recommendation indicates that the Board may always release Dr. Condoleon from probation prior to the end of the three-year term; however, in his recommended order, Mr. McNeil indicates that the probation will be for a minimum of three years. Mr. Angell indicated that he would like clarification on that.

Dr. Robbins asked whether the Assistant Attorney General wished to respond.

Mr. Clifford stated that he doesn't have anything to add to this case.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. MCNEIL'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF HARRY MICHAEL CONDOLEON, D.O. MR. BROWNING SECONDED THE MOTION.**

Dr. Robbins stated that he would now entertain discussion in the above matter.

Dr. Steinbergh stated that she finds that the Report and Recommendation is appropriate. She noted that this is a practitioner who was disciplined in Iowa for standard of care issues. This Board is not able to assess clearly what his standard of care was. Dr. Condoleon is in the CPEP process for Iowa. The language of the Proposed Order seems appropriate to her. She added that the only thing that she would add to the Proposed Order is the requirement that, prior to Dr. Condoleon's practice in Ohio, he submit a practice plan for Board approval. She added that she doesn't think that he needs to be in a supervised, structured environment; she just thinks that he should submit such a practice plan for Board approval, should he ever intend to practice medicine in Ohio.

Dr. Steinbergh advised that she thinks that the reason the Hearing Examiner added language indicating that the Board might release Dr. Condoleon prior to the end of the three-year probationary period is a suggestion for a possible amended Order. The Proposed Board Order, if adopted, would place Dr. Condoleon on probation for a period of three years, which she feels is appropriate. Dr. Steinbergh stated that the Board doesn't have any real evidence as to what this physician did. The Board's role of public protection is to make sure that the Board puts him under these probationary terms and, if he comes into the state of Ohio, the Board approves a practice plan and watches him.

**DR. STEINBERGH MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF HARRY MICHAEL CONDOLEON, D.O., BY ADDING THE REQUIREMENT THAT DR. CONDOLEON PRESENT THE BOARD WITH A PRACTICE PLAN, WHICH MUST BE APPROVED BY THE BOARD PRIOR TO HIS PRACTICE IN OHIO, AS PARAGRAPH B.4, AND RENUMBERING THE "PERSONAL APPEARANCES" PARAGRAPH AS B.5. MR. BROWNING SECONDED THE MOTION.**

Dr. Kumar agreed with Dr. Steinbergh's motion, but added that he still has a little concern that the Board should have information from CPEP prior to getting a practice plan from Dr. Condoleon. If the Board doesn't have information from CPEP prior to getting the practice plan, the Board won't know exactly what is going on.

Dr. Steinbergh stated that paragraph B.3. of the Proposed Order requires Dr. Condoleon to submit to the Board any reports he submits to the Iowa Board, which would include a report by CPEP.

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

Vote:	Mr. Albert -	- abstain
	Dr. Egner	- aye

Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Davidson	- aye
Dr. Steinbergh	- aye

The motion carried.

**MR. BROWNING MOVED TO APPROVE AND CONFIRM MR. MCNEIL'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF HARRY MICHAEL CONDOLEON, D.O. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:**

Vote:	Mr. Albert -	- abstain
	Dr. Egner	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Steinbergh	- aye

The motion carried.



# State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: [www.med.ohio.gov](http://www.med.ohio.gov)

July 12, 2006

Harry Michael Condoleon, D.O.  
1501 East 10th Street  
P.O. Box 611  
Atlantic, IA 50022

Dear Doctor Condoleon:

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 you or place you on probation for one or more of the following reasons:

- (1) On or about May 31, 2006, the Iowa Board of Medical Examiners [Iowa Board] filed a combined Statement of Charges, Settlement Agreement and Final Order [Iowa Final Order] whereby, *inter alia*, you were cited for failing to conform to the prevailing standard of care in your treatment of several patients, and your Iowa medical license was placed on probation. The terms and conditions of such probation include that you fully comply with all requirements of a monitoring program; fully comply with all recommendations made by the Center for Personalized Education for Physicians [CPEP] and the Iowa Board; successfully complete the remediation plan established by CPEP; and submit for approval the name of a physician or other healthcare professional to serve as worksite monitor.

A copy of the Iowa Final Order is attached hereto and incorporated herein.

The Iowa Final Order, as alleged in paragraph (1) above, constitutes “[a]ny of the following actions taken by the agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or the limited branches of medicine in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand,” as that clause is used in Section 4731.22(B)(22), Ohio Revised Code.

*Mailed 7-13-06*

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.

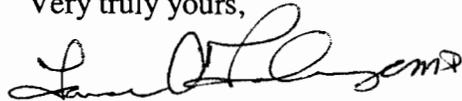
You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at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

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,



Lance A. Talmage, M.D.  
Secretary

LAT/blt  
Enclosures

CERTIFIED MAIL # 7003 0500 0002 4331 8659  
RETURN RECEIPT REQUESTED

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF IOWA

\*\*\*\*\*

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

HARRY M. CONDOLEON, D.O., RESPONDENT

FILE NOs. 03-00-729, 03-00-775, 03-00-776, 03-01-1269 & 03-03-108

\*\*\*\*\*

STATEMENT OF CHARGES,

SETTLEMENT AGREEMENT AND FINAL ORDER  
(Combined)

\*\*\*\*\*

COMES NOW the Iowa Board of Medical Examiners (the Board), and Harry M. Condoleon, D.O., (Respondent), on May 31, 2006, and pursuant to Iowa Code sections 17A.10(2) and 272C.3(4)(2005), file this combined Statement of Charges, Settlement Agreement and Final Order.

**STATEMENT OF CHARGES**

1. Respondent was issued license number 02796 to practice medicine and surgery in Iowa on July 8, 1993.
2. Respondent's Iowa medical license is currently active and will next expire on May 1, 2008.
3. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 147, 148 and 272C.

OHIO STATE MEDICAL BOARD

JUN 26 2006

## COUNT I

4. Respondent is charged under Iowa Code section 147.55(2), 148.6(2)(g) and 272C.10(2) (2005), and 653 IAC section 12.4(2)(d), for failing to conform to the minimal standard of acceptable and prevailing practice of medicine and surgery in the state of Iowa.

5. Respondent filed an Answer in this matter denying the Board's allegations. However, Respondent voluntarily agreed to enter into this Settlement Agreement so as to ensure public confidence in his abilities.

## CIRCUMSTANCES

6. Respondent practices general surgery in Atlantic, Iowa.

7. The Board received information which raised concerns regarding Respondent's surgical practice. The Board appointed a peer review committee to review Respondent's treatment of five patients. The Board reviewed the peer review report and concluded that Respondent failed to conform to the minimal standard of acceptable and prevailing practice of medicine and surgery in his treatment of five patients. However, Iowa law prevents Respondent from reviewing the Board's investigative file and the peer review report in this matter.

8. Respondent voluntarily completed a comprehensive competency evaluation at a Board-approved nationally recognized physician competency assessment program, the Center for Personalized Education for Physicians (CPEP). Upon completion of the evaluation, CPEP identified areas for concern in Respondent's surgical practice and recommended a remediation program.

Respondent agrees to fully comply with all recommendations made by the evaluation program and the Board following the evaluation.

### SETTLEMENT AGREEMENT

9. **SETTLEMENT:** In order to conclude this matter without the necessity of a contested case hearing, and to ensure public confidence in his abilities as a physician and surgeon, Respondent agrees to the following:

10. **CITATION AND WARNING:** Respondent is hereby **CITED** for failing to conform to the prevailing standard of care in his treatment of several patients. Respondent is hereby **WARNED** that failure to conform to the prevailing standard of care in the future may result in further disciplinary action, including suspension or revocation of his Iowa medical license.

11. **PROBATION:** Respondent's Iowa medical license shall be placed on **probation** subject to the following terms and conditions:

A. **Monitoring Program:** Respondent agrees to contact the Coordinator of Monitoring Programs, Iowa Board of Medical Examiners, 400 SW 8<sup>th</sup> Street, Suite C, Des Moines, IA 50309-4686, Ph.#515-281-6491 to establish a monitoring program. Respondent shall fully comply with all requirements of the monitoring program.

B. **Recommendations of CPEP and the Board:** Respondent agrees to fully comply with all recommendations made by CPEP and the Board.

- C. **Remediation Plan:** Respondent agrees to successfully complete the remediation plan established by CPEP:
- 1) **Educational Preceptor:** Respondent shall participate in a Board-approved supervised clinical experience with a Board-approved educational preceptor to address areas of identified remediation as recommended by CPEP. Respondent shall meet regularly with the educational preceptor to review cases and documentation, discuss decisions related to those cases, review specific topics and engage in a quality improvement processes.
  - 2) **Continuing Medical Education and Self-Study:** Respondent shall successfully complete Board-approved continuing medical education courses and self-study which include, but are not limited to the topics indicated in areas of demonstrated need.
- D. **Worksite Monitor:** Respondent agrees to submit for Board approval the name of a physician or other Board-approved healthcare professional who regularly observes and/or supervises Respondent in a practice setting to serve as worksite monitor. Respondent hereby gives the Board a release to provide the worksite monitor a copy of all Board orders relating to this matter. The worksite monitor shall provide a written statement indicating that the

monitor has read and understands the Board orders relating to this disciplinary action and agrees to act as the worksite monitor under the terms of this Order. The worksite monitor shall agree to inform the Board immediately if, in the sole judgment of the monitor, there is evidence of a violation of the standard of care, a violation of the terms of this Order, or any violation of the laws and rules governing the practice of medicine. The monitor shall agree to submit written quarterly reports to the Board concerning Respondent's progress. The reports shall be filed with the Board not later than 1/20, 4/20, 7/20 and 10/20 of each year of Respondent's probation.

- E. **Quarterly Reports:** Respondent agrees to file sworn quarterly reports attesting to his compliance with all the terms and conditions of this Order. The reports shall be filed not later than 1/10, 4/10, 7/10 and 10/10 of each year for the duration of the period of probation.
- F. **Board Appearances:** Respondent agrees to appear before the Board annually or upon request for the duration of the period of probation. Respondent shall be given reasonable notice of the date, time and location for the appearances. Said appearances shall be subject to the waiver provisions of 653 IAC 12.6(6)(d).

G. **Monitoring Fee:** Respondent agrees to make a payment of \$100 to the Board each quarter for the duration of this Order to cover the Board's monitoring expenses in this matter. The Monitoring Fee shall be received by the Board no later than the 15<sup>th</sup> of the month three months after the date of this Order and every quarter thereafter. The Monitoring Fee shall be sent to: Coordinator of Monitoring Programs, Iowa Board of Medical Examiners, 400 SW 8<sup>th</sup> Street, Suite C, Des Moines, IA 50309-4686. The check shall be made payable to the Iowa Board of Medical Examiners. The Monitoring Fee shall be considered repayment receipts as defined in Iowa Code section 8.2. (2003).

H. **Termination of Probation:** The Board will consider modification and/or termination of the terms of probation upon the written request of Respondent. Modification and/or termination of the terms and conditions of probation is at the sole discretion of the Board.

12. Respondent shall obey all federal, state and local laws, and all rules governing the practice of medicine in Iowa.

13. In the event Respondent violates or fails to comply with any of the terms or conditions of this combined Statement of Charges, Settlement Agreement and Final Order, the Board may initiate action to suspend or revoke Respondent's Iowa medical license or to impose other license discipline as authorized in Iowa Code Chapters 148 and 272 and 653 IAC 12.2.

OHIO STATE MEDICAL BOARD

JUN 26 2006



14. In the event Respondent leaves Iowa to reside or practice outside the state, Respondent shall notify the Board in writing of the dates of departure and return. Periods of residence or practice outside the state of Iowa will not apply to the duration of the combined Statement of Charges, Settlement Agreement and Final Order.

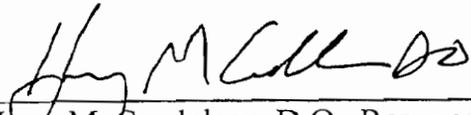
15. This combined Statement of Charges, Settlement Agreement and Final Order constitutes the resolution of a contested case proceeding.

16. By entering into this combined Statement of Charges, Settlement Agreement and Final Order, Respondent voluntarily waives any rights to a contested case hearing on the allegations contained in the Statement of Charges and waives any objections to the terms of this Settlement Agreement.

17. This combined Statement of Charges, Settlement Agreement and Final Order is voluntarily submitted by Respondent to the Board for consideration.

18. This combined Statement of Charges, Settlement Agreement and Final Order is subject to approval by the Board. If the Board fails to approve this Settlement Agreement and Final Order, it shall be of no force or effect to either party.

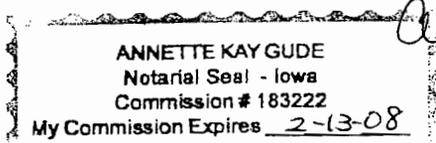
19. The Board's approval of this combined Statement of Charges, Settlement Agreement and Final Order shall constitute a **Final Order** of the Board.

  
\_\_\_\_\_  
Harry M. Condoleon, D.O., Respondent

OHIO STATE MEDICAL BOARD  
JUN 26 2006

Subscribed and sworn to before me on 5/24, 2006.

Notary Public, State of Iowa



*Annette K Guide*

This combined Statement of Charges, Settlement Agreement and Final Order is  
approved by the Board on May 31, 2006.

\_\_\_\_\_  
Yasyn Lee, M.D., Chair  
Iowa Board of Medical Examiners  
400 SW 8<sup>th</sup> Street, Suite C  
Des Moines, Iowa 50309-4686

OHIO STATE MEDICAL BOARD

JUN 26 2006

Subscribed and sworn to before me on \_\_\_\_\_, 2006.

Notary Public, State of

This combined Statement of Charges, Settlement Agreement and Final Order is  
approved by the Board on \_\_\_\_\_, 2006.



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Yasyn Lee, M.D., Chair  
Iowa Board of Medical Examiners  
400 SW 8<sup>th</sup> Street, Suite C  
Des Moines, Iowa 50309-4686