

FINAL APPEALABLE ORDER

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

TERMINATION NO. 10
BY: ad 9-28-10

CRAIG WARREN-MARZOLA, D.O.,

Appellant,

vs.

STATE MEDICAL BOARD OF OHIO,

Appellee

CASE NO. 10CVF-04-6264

JUDGE REECE

FILED COURT
COMMON PLEAS COURT
FRANKLIN CO., OHIO
2010 SEP 28 PM 1:23
CLERK OF COURTS

DECISION AND JUDGMENT ENTRY AFFIRMING THE ORDER OF
THE STATE MEDICAL BOARD OF OHIO

AND

NOTICE OF FINAL APPEALABLE ORDER

Rendered this 28th day of Sep, 2010

REECE, JUDGE

This is an appeal pursuant to R.C. 119.12 from an April 14, 2010 Order of the State Medical Board of Ohio ("the Board") suspending the medical license of Appellant Craig Warren-Marzola, D.O., for at least 90 days and imposing conditions on reinstatement.

I. FACTS

In May, 2004, Appellant entered into a Step I Consent Agreement with the Board, under which his medical license was suspended. (St. Ex. 2, p. 14). In the Step I Agreement, Appellant admitted that he began abusing drugs in about March 2003, issued false and/or unauthorized prescriptions in order to obtain controlled substances for his personal use, was arrested for drug-related conduct in April 2004, and entered inpatient treatment for chemical dependency in April 2004. (*Id.*, p. 15). He further admitted that he falsely answered a question on his September 2003 license application with respect to his illegal use of controlled substances. (*Id.*).

In March, 2005, Appellant's license was reinstated, subject to the terms of a March 2005 Step II Consent Agreement (the "Agreement") which placed his license on probation for five years. In the Agreement, Appellant agreed to probationary conditions, including that he would "abstain completely from the use of alcohol," "obtain permission from the Board for departures or absences from Ohio," and submit documentation of participation in a rehabilitation program no less than three times per week. (St. Ex. 2, pgs. 5-10; Agreement conditions 4, 9, and 14).

On June 10, 2009, the Board notified Appellant that it intended to determine whether to take disciplinary action against his medical license based on allegations that he: (1) consumed alcohol in violation of the Agreement; (2) falsely stated under oath that he had not consumed alcohol during the relevant time period; (3) traveled outside Ohio without the Board's permission on three occasions in violation of the Agreement; and (4) failed to submit documentation of attending required rehabilitation-program meetings for three specific weeks. It was alleged that the above actions violated R.C. 4731.22(B)(5), (10), (15), and (26).

Appellant requested a hearing, which was held on January 19, 2010. The State called Appellant as a witness and presented testimony from Danielle Bickers, Compliance Supervisor for the Board. Appellant testified on his own behalf and presented testimony from Michael L. Hooker, D.O., and David D. Sullivan (case manager for Ohio Physicians Health Program ("OPHP")).

Appellant testified that on November 16, 2007, he consumed alcohol. (T. 27). He testified that while cleaning up after a meeting at his house, he took a sip of wine from one of the glasses that had wine left in it. (T. 201). He stated that it was a

"horrible" incident, and he "freaked out," called his AA sponsor, and went to an AA meeting that night. (T. 200-205). He reported what happened to the director of OPHP about a week later. (T. 207). Appellant did not report the incident to the Board at that time. (T. 34).

Appellant testified that he did not consider one sip of wine to be a clinical relapse of alcoholism. (T. 34). He stated that he considered a clinical relapse to be a continued use with impairment. (*Id.*). Appellant testified that his physician, Dr. Archambeau, treated the incident as a symptom of post-traumatic stress disorder, with which Appellant had been diagnosed in the fall of 2007, rather than as a relapse of alcoholism. (T. 210-213).

Dr. Michael L. Hooker testified that he has served as monitoring physician for Appellant for OPHP and has assisted with Appellant's random drug screens. (T. 137, 142). Dr. Hooker testified that, in his opinion, "a sip of wine does not equal a complete relapse and drug and alcohol abuse." (T. 144).

Appellant also submitted a letter from his psychologist, Dr. Dennis W. Kogut, stating that he did not consider Appellant's consumption of alcohol to be a relapse of substance abuse. (Resp. Ex. B).

David D. Sullivan testified that as a case manager for OPHP he visits with program participants, monitors compliance with the recovery program, and assists with random drug screens. (T. 157-158). Mr. Sullivan was the case manager for Appellant. (T. 160). Mr. Sullivan testified that Appellant has not tested positive on any of his drug screens and has generally done well in his recovery and compliance with treatment. (T. 161, 167).

Appellant first reported the alcohol consumption to the Board in a telephone call on February 5, 2009. (T. 26). He made the report after a counselor in a rehabilitation program said that she was going to have to report the incident to the Board. (T. 40-41).

Appellant's deposition was taken by an enforcement attorney for the Board on September 12, 2008 as part of monitoring his compliance with the Agreement. During his deposition, Appellant testified that he had not used alcohol since 2004. (T. 39). Appellant testified that he denied using alcohol because of "Fear of knowing that doing the next right thing might cause my life to come to a crashing halt. The power that the Board has over that." (T. 245).

Appellant admitted that in 2008, he traveled to the Dominican Republic, Mississippi, and Florida. (T. 42). Appellant testified that he did send notice of the trips to the Board by e-mail, but that he was unaware the Board's permission was required. (T. 43, 223). Appellant acknowledged that the Agreement states that he "shall obtain permission from the Board for departures or absences from Ohio." (T. 243; St. Ex. 2, p. 5).

Ms. Bickers confirmed that the Board did not give permission for Appellant to take any of the three trips in 2008. (T. 70-71). She testified that it is important for probationers to get permission for travel out of state so that the Board knows where to contact them for random urine screens required under the Agreement. (T. 68).

Ms. Bickers testified that the Board did not receive from Appellant documentation verifying his attendance of required rehabilitation-program meetings for three specific weeks in 2008. (T. 63, 100). Appellant testified that he believes he did attend meetings for the three weeks in question. (T. 233). Documentation was submitted that suggested

Appellant did attend meetings for one of the three weeks in question; apparently confusion was caused by the illegibility of dates on the records. (T. 170). Appellant stated that he had looked for, but could not locate, documentation for the other two weeks. (T. 234).

II. FINDINGS OF THE BOARD

On March 18, 2010, the Hearing Examiner issued a Report and Recommendation concluding that Appellant had committed the violations charged. The Hearing Examiner noted that under the Board's rules, "any use" of alcohol following treatment must be deemed a relapse and a violation of R.C. 4731.22(B)(26). (Report, p. 20-21). The Hearing Examiner noted that Appellant's use of alcohol also violated the provision of the Agreement requiring that he "abstain completely from the use of alcohol." The Hearing Examiner found that Appellant's delayed disclosure of alcohol consumption to the Board "was not truly voluntary because it was prompted by the threat of disclosure by another person." (*Id.*, p. 21). The Hearing Examiner stated that "it is clear that [Appellant] knew without any doubt that he had consumed some alcohol in November 2007, and that he lied during his deposition" and he "must accept the consequences of giving false testimony while under oath. A suspension is warranted for this conduct, which is far from a 'technical' violation." (*Id.*, p. 21-22). The Hearing Examiner found that Appellant traveled outside Ohio without the Board's permission on three occasions in violation of the Agreement and failed to submit documentation of attending required rehabilitation-program meetings for two of the three weeks in question. (*Id.*, p. 20). The Order proposed by the Hearing Examiner included a license suspension of at least 90 days, with conditions on reinstatement. (*Id.*, p. 23-33).

The Board considered this matter at its April 14, 2010 meeting. At the conclusion of the discussion, the Board voted to approve and confirm the Hearing Examiner's Report and Recommendation and proposed Order.

On April 23, 2010, Appellant filed this appeal of the Board's Order.

III. LAW

When considering an appeal from an order of the Medical Board, a common pleas court must uphold the order if it is supported by reliable, probative, and substantial evidence and is in accordance with law. R.C. 119.12. *Pons v. Ohio State Med. Bd.* (1993), 66 Ohio St.3d 619, 621; *Landefeld v. State Med. Bd.* (2000), Tenth Appellate District No. 99AP-612, 2000 Ohio App. LEXIS 2556.

IV. THE COURT'S FINDINGS AND CONCLUSIONS

Appellant first argues that the Board's Order is not supported by reliable, probative and substantial evidence of a relapse.

The Board's Order found that Appellant's alcohol consumption violated R.C. 4731.22(B)(26), which authorizes discipline for the following:

Impairment 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.

For the purposes of this division, any individual authorized to practice by this chapter accepts the privilege of practicing in this state subject to supervision by the board. ...

... If the board determines that the individual's ability to practice is impaired, the board shall suspend the individual's certificate or deny the individual's application and shall require the individual, as a condition for initial, continued, reinstated, or renewed certification to practice, to submit to treatment.

Before being eligible to apply for reinstatement of a certificate suspended under this division, the impaired practitioner shall demonstrate to the board the ability to resume practice in compliance with acceptable

and prevailing standards of care under the provisions of the practitioner's certificate. The 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 the individual has successfully completed any required inpatient treatment;

(b) Evidence of continuing full compliance with an aftercare contract or consent agreement;

...

The board may reinstate a certificate suspended under this division after that demonstration and after the individual has entered into a written consent agreement.

When the impaired practitioner resumes practice, the board shall require continued monitoring of the individual. The monitoring shall include, but not be limited to, compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, upon termination of the consent agreement, submission to the board for at least two years of annual written progress reports made under penalty of perjury stating whether the individual has maintained sobriety.

Ohio Admin. Code §4731-16-02 states, in relevant part:

(B)(2) The presence of one or more of the following circumstances shall constitute independent proof of impairment and shall support license suspension or denial without the need for an examination:

(a) The individual has relapsed during or following treatment;

Ohio Admin. Code §4731-16-01 supplies the following definition:

(B) "Relapse" means any use of, or obtaining for the purpose of using, alcohol or a drug or substance that may impair ability to practice, by someone who has received a diagnosis of and treatment for chemical dependency or abuse

The Board presented evidence that Appellant consumed alcohol on November 16, 2007, after receiving treatment for chemical dependency or abuse. Pursuant to Ohio Admin. Code 4731-16-01(B), such a use of alcohol constitutes a "relapse," and pursuant to Ohio Admin. Code 4731-16-02, a "relapse" following treatment "shall constitute

independent proof of impairment and shall support license suspension or denial.” The Hearing Examiner’s Report and Recommendation expressly relies upon these Administrative Code provisions in concluding that “any use” of alcohol by Appellant following treatment must be deemed a “relapse.” (Report, p. 21).

Appellant argues that the definition of “relapse” in Ohio Admin. Code 4731-16-01(B) is unreasonable, arbitrary, and discriminatory and therefore unconstitutional.

R.C. Chapter 4731, The Medical Practices Act, has been held to be a valid exercise of the state’s police power to regulate the public health and welfare. *Williams v. Scudder* (1921), 102 Ohio St. 305. The General Assembly has bestowed upon the Board the duty to safeguard the public’s interest in having competent, trained, and experienced doctors. *State ex rel. Copeland v. State Med. Bd.* (1923), 107 Ohio St. 20. R.C. 4731.05 provides that the Board shall adopt rules to carry out the purposes of R.C. Chapter 4731.

The Ohio Supreme Court has recognized that the General Assembly granted the Medical Board a broad measure of discretion. *Arlen v. State* (1980), 61 Ohio St.2d 168, 174. In *Farrand v. State Med. Bd.* (1949), 151 Ohio St. 222, 224, the court stated:

... The purpose of the General Assembly in providing for administrative hearings in particular fields was to facilitate such matters by placing the decision on facts with boards or commissions composed of men equipped with the necessary knowledge and experience pertaining to a particular field. ...

“Accordingly, when courts review a medical board order, they are obligated to accord due deference to the board’s interpretation of the technical and ethical requirements of the medical profession.” *Landefeld, supra*, at p. 9.

In *Midwestern College of Massotherapy v. Ohio Medical Board* (1995), 102 Ohio App.3d 17, 23, the Tenth District Court of Appeals held that rules are a proper exercise of

administrative power provided that they are not unreasonable, discriminatory, or in conflict with law. The Court held that the Board's rules "enjoy a presumption of reasonableness" and the burden of proof is upon the party challenging the rules "to establish by a preponderance of substantial, probative, and reliable evidence upon the whole record that the disputed rule is unreasonable" and rebut the presumption. The Court added: "When considering the reasonableness of a rule, deference is given to the agency's expertise in evaluating the reasonableness and lawfulness of the rule." (*Id.*, p. 25).

The challenged rule, Ohio Admin. Code §4731-16-01(B), provides that a "relapse" includes "any use" of alcohol "by someone who has received a diagnosis of and treatment for chemical dependency or abuse." Appellant testified that in his opinion, his one-time use of alcohol did not constitute a relapse of substance abuse in a clinical sense because it did not involve continued use or impairment. Appellant also submitted a letter from his psychologist, Dr. Kogut, to the same effect.

Evidence about the extent of harm caused by Appellant's alcohol consumption in this particular case does not equate to a showing that the Board's rule is unreasonable. The Board's rule defining "any use" of alcohol as a "relapse" only applies to a physician who has already "received a diagnosis of and treatment for chemical dependency or abuse." Appellant has not carried its burden of proving that, as a general matter, it is unreasonable for the Board to adopt such a "zero-tolerance" policy for physicians diagnosed with and treated for chemical dependency or abuse who are permitted to continue to render care to patients. The practice of medicine is a privilege and not a right. *Ohio State Medical Board v. Miller* (1989), 44 Ohio St.3d 136. In *Midwestern*

College of Massotherapy, supra, the appellants argued that rules prohibiting certain treatments were unreasonable because the treatments had not harmed any patients. The Court of Appeals held that evidence that the treatments at issue did not cause harm in that particular case did not meet the burden of proving that the rules were unreasonable. 102 Ohio App.3d 17, 25.

Appellant also has not shown that the challenged rules are in conflict with the law. Support for the Board's rules is found in R.C. 4731.22(B)(26), which states that when an impaired practitioner resumes practice, "the board shall require continued monitoring of the individual. The monitoring shall include ... compliance with the written consent agreement ...and... reports made under penalty of perjury stating whether the individual has maintained sobriety."

For these reasons, the Court finds that the Board's Order is supported by reliable, probative and substantial evidence of a "relapse" as defined by law.

Appellant next argues that Ohio Admin. Code 4731-16-02(D) is unreasonable, arbitrary, and discriminatory. The challenged rule states in pertinent part that "an individual who has relapsed during or following treatment shall be ineligible to apply for reinstatement for at least ninety days following the date of license suspension for a first relapse" Appellant relies upon *Brost v. State Medical Board* (1991), 62 Ohio St.3d 218, which held that the Board did not act in accordance with law where it felt constrained to abide by disciplinary guidelines without considering the full range of sanctions permitted by R.C. 4731.22(B).

In *Brost*, the Court noted that it was improper for the Board to apply as binding authority disciplinary guidelines that had not been properly promulgated as

administrative rules. 62 Ohio St.3d 218, 220. *Brost* is thus distinguishable, because the disciplinary guideline at issue here has been promulgated as a rule.

In subsequent cases involving disciplinary guidelines, the Tenth District Court of Appeals has found that the Board appropriately considered the range of available sanctions when, as here, the minutes of the Board's meeting indicate that "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." Minutes, April 14, 2010. *Ross v. State Medical Board*, 2004-Ohio-2130, ¶10; *Schechter v. Ohio State Med. Bd.*, 2005-Ohio-4062, ¶77.

Accordingly, the Court finds to be without merit Appellant's arguments that Ohio Admin. Code 4731-16-02(D) is invalid and that the Board did not act in accordance with law.

Appellant has not challenged in this appeal the other bases for the Board's Order, namely that Appellant violated the Agreement's condition that he "abstain completely from the use of alcohol," falsely stated under oath in his deposition that he had not consumed alcohol during the relevant time period, traveled outside Ohio without the Board's permission on three occasions in violation of the Agreement, and failed to submit documentation of attending required rehabilitation program meetings for certain specified weeks. The discipline imposed in the Board's Order is also authorized by R.C. 4731.22(B) for these violations of R.C. 4731.22(5), (10), and (15). The Court notes that the Hearing Examiner found that Appellant's false testimony under oath was "far from a 'technical' violation." (Report, p. 21-22). The Court has discretion to affirm the Board's

administrative rules. 62 Ohio St.3d 218, 220. *Brost* is thus distinguishable, because the disciplinary guideline at issue here has been promulgated as a rule.

In subsequent cases involving disciplinary guidelines, the Tenth District Court of Appeals has found that the Board appropriately considered the range of available sanctions when, as here, the minutes of the Board's meeting indicate that "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." Minutes, April 14, 2010. *Ross v. State Medical Board*, 2004-Ohio-2130, ¶10; *Schechter v. Ohio State Med. Bd.*, 2005-Ohio-4062, ¶77.

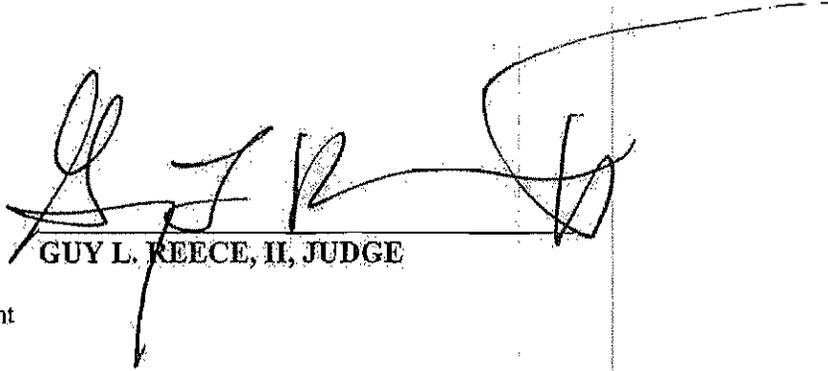
Accordingly, the Court finds to be without merit Appellant's arguments that Ohio Admin. Code 4731-16-02(D) is invalid and that the Board did not act in accordance with law.

Appellant has not challenged in this appeal the other bases for the Board's Order, namely that Appellant violated the Agreement's condition that he "abstain completely from the use of alcohol," falsely stated under oath in his deposition that he had not consumed alcohol during the relevant time period, traveled outside Ohio without the Board's permission on three occasions in violation of the Agreement, and failed to submit documentation of attending required rehabilitation program meetings for certain specified weeks. The discipline imposed in the Board's Order is also authorized by R.C. 4731.22(B) for these violations of R.C. 4731.22(5), (10), and (15). The Court notes that the Hearing Examiner found that Appellant's false testimony under oath was "far from a 'technical' violation." (Report, p. 21-22). The Court has discretion to affirm the penalty

imposed in the Board's Order based on this violation alone. *Rossiter v. Ohio State Medical Board*, 2002-Ohio-2017, p. 18.

For the foregoing reasons, the Court finds that the Board's Order is supported by reliable, probative and substantial evidence and in accordance with law. The Board's Order is **AFFIRMED**. This is a final, appealable Order. Costs to Appellant. Pursuant to Civil Rule 58, the Clerk of Court shall serve upon all parties notice of this judgment and its date of entry.

IT IS SO ORDERED.



A handwritten signature in black ink, appearing to read 'GUY L. REECE, II', is written over a horizontal line. The signature is stylized and cursive.

GUY L. REECE, II, JUDGE

Copies to:
Elizabeth Y. Collis, Counsel for Appellant
Karen A. Unver, Counsel for Appellee

FILED
COMMON PLEAS COURT
FRANKLIN CO., OHIO
2010 MAY -4 AM 11:15
CLERK OF COURTS

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

CRAIG WARREN-MARZOLA, D.O., :
Appellant, : Case No. 10 CVF-04-6264
v. : Judge: Guy L. Reece, II
STATE MEDICAL BOARD OF OHIO, :
Appellee. :

DECISION AND ENTRY
GRANTING APPELLANT'S APRIL 23, 2010
MOTION FOR STAY

RENDERED THIS  DAY OF MAY 2010.

REECE, J.

On April 23, 2010, Appellant Craig Warren-Marzola, D.O. ("Appellant") filed a Motion for Stay. Therein, he requests that the Court stay the April 14, 2010 Order of the State Medical Board of Ohio ("Appellee" or "the Board") during the pendency of this administrative appeal. The April 14, 2010 Order suspended Appellant's license to practice medicine for a minimum of 90 days and placed Appellant on probation for five years once his license is restored. Appellant requests a stay "so that the issues on appeal do not become substantially moot prior to the decision in this case."

(Motion, at 2.)

Appellant explains that he has a history of alcoholic dependency, having entered into a Step I Consent Agreement in 2004, and a Step II Consent Agreement in 2005. Step I suspended his license for 270 days while he received treatment, and Step II allowed him to return to practice under a five year probationary period that required him to completely abstain from alcohol. Appellant

admits that he had “a single sip of wine” on November 16, 2007, which he maintains “arose from a post-traumatic stress disorder and was clinically not a relapse.” (Id., at 3.) Appellant disclosed this to his AA sponsor, attended an AA meeting and, approximately one week later, he disclosed it to the director of the Ohio Physicians Health Program, which serves as Appellant’s monitoring agent under Step II. Appellant notified the Compliance Supervisor of the Board on February 5, 2009.

The Board held a hearing on this matter on January 19, 2010, the Hearing Examiner issued a Report and Recommendation on March 18, 2010, and the Board adopted the same on April 14, 2010.

Specifically, it found Appellant’s ability to practice was impaired due to his relapse on alcohol, Appellant had violated his Step II Consent Agreement several times when he failed to get the Board’s permission prior to travelling outside of Ohio, and Appellant committed an act of perjury when he made a false statement to a Board enforcement attorney during a deposition in 2008.

Appellant argues he is substantially likely to succeed on the merits of his appeal. He notes the Board’s decision in this case is based on O.A.C. §4731-16-02(D) and §4731-16-01(B), which pertain to the handling of a relapse of a physician and the interpretation of a “relapse.” However, Appellant argues the statutes’ definition of a relapse is arbitrary and contrary to the clinical use and understanding of that term. Appellant further notes the Board’s decision was based on “its conclusion that it was bound by the terms of its rule in a situation in which it felt the dictates of that rule were not in the public’s best interests.” (Id., at 7.)¹ Appellant maintains the un rebutted evidence established that he did not suffer a relapse and staying the Order will not cause harm to others. He explains that since the sip of wine in 2007, he practiced medicine without any incident

¹ Specifically, Appellant notes that the Report and Recommendation of the Hearing Examiner, subsequently adopted by the Board, states that “*** with regard to the question of suspension, the Hearing Examiner acknowledges that the relapse was comparatively mild and further indicates that Dr. Warren-Marzola has now maintained sobriety for more than two years; however, the Board’s rules do not provide the Hearing Examiner with discretion to propose a suspension of less than 90 days or waive a suspension altogether.”

and without relapse and the Board's 90-day suspension was not imposed in order to protect the public but was due to the Board's "belief that it was constrained by its rule to impose it." (Id.) Appellant argues that if a stay is not granted, he "will be deprived of any meaningful opportunity for judicial review of the Order" and "[t]he deprivation of such a fundamental right is an unusual hardship." (Id., at 8.)

In its April 23, 2010 Memorandum Contra, the Board argues a stay is not warranted because Appellant has failed to establish the existence of "unusual hardship." The Board cites to a number of decisions issued by different judges from this Court finding that the inability to practice one's profession and the loss of income and livelihood, among other such losses, do not constitute "unusual hardship" pursuant to R.C. §119.12. The Board further argues that the safety and welfare of the public will not be protected if a stay is granted because, contrary to Appellant's assertions, "[t]his is not a case about one spontaneous sip of alcohol" but the Board's decision is based on numerous violations. (Memo. Contra, at 2.) It argues that, while Appellant's relapse and impairment "is potentially very dangerous to the public, the fact that Dr. Warren-Marzola lied about his relapse is also very concerning." (Id., at 6.)

R.C. §119.12 provides, in pertinent part, as follows:

Any party adversely affected by any order of an agency *** revoking or suspending a license, *** may appeal from the order of the agency to the court of common pleas of the county in which the place of business of the licensee is located or the county in which the licensee is a resident, except that appeals from decisions of the liquor control commission, the state medical board, state chiropractic board, and board of nursing shall be to the court of common pleas of Franklin county.

The filing of a notice of appeal shall not automatically operate as a suspension of the order of an agency. If it appears to the court that an unusual hardship to the appellant will result from the execution of the agency's order pending determination of the appeal, the court *may* grant a suspension and fix its terms. *** In the case of an appeal from the state medical board or state chiropractic board, the court *may* grant a suspension and fix its

terms *if it appears to the court that an unusual hardship to the appellant will result from the execution of the agency's order pending determination of the appeal and the health, safety, and welfare of the public will not be threatened* by suspension of the order. This provision shall not be construed to limit the factors the court may consider in determining whether to suspend an order of any other agency pending determination of an appeal.

(Emphasis added.)

As the Tenth Appellate District noted in *Bob Krihwan Pontiac-GMC Truck, Inc. v. GMC* (2001), 141 Ohio App.3d 777, 753 N.E.2d 864,

When asked to stay an administrative order, courts give significant weight to the expertise of the administrative agency, as well as to the public interest served by the proper operation of the regulatory scheme. See *Hamlin Testing Labs, Inc. v. United States Atomic Energy Comm.* (1964), 337 F.2d 221. To that end, R.C. 119.12 allows the court to 'grant a suspension' of an agency order pending appeal if the court determines that 'unusual hardship' will result to appellant.

Although R.C. 119.12 does not set forth or proscribe the factors the court may consider in determining whether to suspend operation of an administrative order, those factors have been refined by the courts. The Sixth Circuit, in addition to many other courts, has repeatedly relied upon the following factors as logical considerations when determining whether it is appropriate to stay an administrative order pending judicial review. Those factors are: (1) whether appellant has shown a strong or substantial likelihood or probability of success on the merits; (2) whether appellant has shown that it will suffer irreparable injury; (3) whether the issuance of a stay will cause harm to others; and (4) whether the public interest would be served by granting a stay.

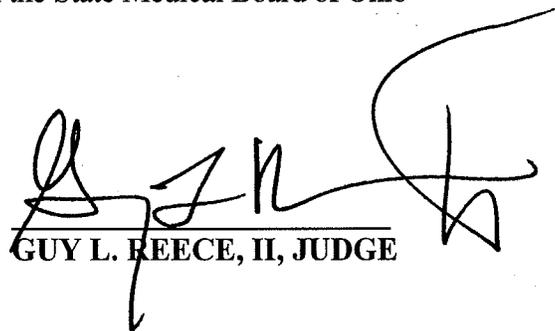
Bob Krihwan Pontiac-GMC Truck, Inc., 141 Ohio App.3d at 782-783, citing *Hamlin*, supra; *Gurtzweiler v. United States* (1985), 601 F. Supp. 883; *Holden v. Heckler* (1984), 584 F. Supp. 463; *UpJohn Company v. Finch* (1969), 303 F. Supp. 241; *Friendship Materials v. Michigan Brick, Inc.* (1982), 679 F.2d 100; and *Virginia Petroleum Jobbers Assn. v. FPC* (1958), 104 U.S. App. D.C. 106, 259 F.2d 921.

The Court finds Appellant has satisfied the foregoing and is therefore entitled to a stay. Although being unable to practice one's profession does not ordinarily constitute an "unusual hardship," the fact that the suspension in this case may expire prior to the conclusion of this

appeal renders the situation such that a stay is appropriate or else this appeal may be rendered moot. The evidence also does not indicate, given the doctor's sobriety after the incident and the Hearing Examiner's findings, that the public would be harmed by the stay.

In light of the foregoing, the Court hereby **GRANTS** Appellant's April 23, 2010 Motion for Stay. The Court hereby **STAYS** the April 14, 2010 Order of the State Medical Board of Ohio during the pendency of this administrative appeal.

IT IS SO ORDERED.



GUY L. REECE, II, JUDGE

Copies To:

Elizabeth Y. Collis
Collis Smiles & Collis, LLC
1650 Lake Shore Drive, Suite 225
Columbus, OH 43204
Counsel for Plaintiff

Karen A. Unever
Assistant Attorney General
Health and Human Services Section
30 East Broad Street, 26th Floor
Columbus, OH 43215
Counsel for Defendant

STATE OF OHIO
MAY 11 2010
HEALTH & HUMAN SERVICES

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

Craig Warren-Marzola, D.O.
2626 Sigsher Drive
Toledo, Ohio 43615
Appellant,

v.

State Medical Board of Ohio
30 East Broad Street, 3rd Floor
Columbus, OH 43215-6127

Appellee.

10 CVF 4 6264

Case No. _____

Judge _____

STATE MEDICAL BOARD
OF OHIO
2010 MAY - 2010 APR 23 AM 10:51
FILED
CLERK OF COURTS
2010 APR 23 PM 1:04
STATE MEDICAL BOARD
OF OHIO

NOTICE OF APPEAL

Appellant, Craig Warren-Marzola, D.O. ("Appellant"), pursuant to Ohio Revised Code Section 119.12, hereby appeals the final decision of the State Medical Board of Ohio ("Appellee" or "Board"), which suspends his license to practice medicine for a minimum of ninety days in its Order (attached hereto) mailed to Appellant on April 15, 2010. Appellant asserts that the decision of the Board is not supported by reliable, probative and substantial evidence and is not in accordance with law.

Specifically, appellant alleges the following issues on appeal:

- 1) O.A.C. §4731-16-1(B) relied upon by the Board in this case is without reasonable basis, is arbitrary and capricious, and exceed the statutory authority of the Board.
- 2) O.A.C. §4731-16-2(D) relied upon by the Board in this case is without reasonable basis, is arbitrary and capricious, and exceed the statutory authority of the Board.
- 3) The Board erroneously concluded that it was constrained by the terms of O.A.C. §4731-16-2(D) to suspend Appellant's license for a minimum of ninety (90) days!

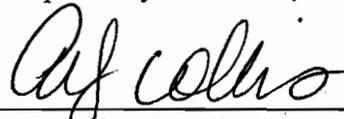
2010 MAY 3 AM 8:58
STATE MEDICAL BOARD
OF OHIO

4) The Board lacked reliable, probative and substantial evidence that Appellant suffered a relapse of his chemical dependency in this matter.

5) The Board lacked reliable, probative and substantial evidence to show that Appellant's 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 in violation of R.C. 4731.22(B)(26).

Therefore, based on the fact that the decision of the Board is not supported by reliable, probative and substantial evidence and is contrary to law, the decision must be reversed.

Respectfully submitted,



Elizabeth Y. Collis (#0061961)
Collis, Smiles & Collis, LLC
1650 Lake Shore Drive, Suite 225
Columbus, OH 43204
Tele: (614) 486-3909
Fax: (614) 486-2129
Email: beth@collislaw.com

Counsel for Appellant
Craig Warren-Marzola, D.O.

STATE MEDICAL BOARD
OF OHIO

2010 MAY -3 AM 0:51

STATE MEDICAL BOARD
OF OHIO
2010 APR 23 AM 10:51

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing *Motion for Stay* was served by first class Mail, postage prepaid, upon the following counsel of record this 23 day of April, 2010.

Karen A. Unver, Esq.
Assistant Attorney General
Health and Human Services Section
30 East Broad Street, 26th Floor
Columbus, OH 43215



Elizabeth Y. Collis

STATE MEDICAL BOARD
OF OHIO
2010 MAY -3 AM 9:51

State Medical Board of Ohio

30 E. Broad Street, 3rd Floor, Columbus, OH 43215-6127

Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
med.ohio.gov

April 14, 2010

Craig Warren-Marzola, D.O.
2626 Sigsher Drive
Toledo, OH 43615

RE: Case No. 09-CRF-075

Dear Doctor Warren-Marzola:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Patricia A. Davidson, Esq., Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on April 14, 2010, including motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

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, M.D.
Secretary

LAT:jam
Enclosures

CERTIFIED MAIL NO. 91 7108 2133 3936 3068 9367
RETURN RECEIPT REQUESTED

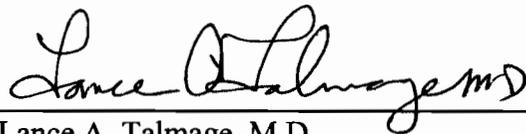
Cc: Elizabeth Y. Collis, Esq.
CERTIFIED MAIL NO. 91 7108 2133 3936 3068 9374
RETURN RECEIPT REQUESTED

mailed 4-15-10

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Patricia A. Davidson, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on April 14, 2010, including motions approving and confirming the Findings of Fact, Conclusions and Proposed Order of the Hearing Examiner as the Findings and Order of the State Medical Board of Ohio; constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Craig Warren-Marzola, D.O., Case No. 09-CRF-075, 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)

April 14, 2010
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

CASE NO. 09-CRF-075

CRAIG WARREN-MARZOLA, D.O.

*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on April 14, 2010.

Upon the Report and Recommendation of Patricia A. Davidson, 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 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.

- A. **SUSPENSION OF CERTIFICATE, STAYED; PROBATION:** The certificate of Craig Warren-Marzola, D.O., to practice osteopathic medicine and surgery in the State of Ohio shall be **SUSPENDED** for an indefinite period of time, but not less than 90 days.
- B. **INTERIM MONITORING:** During the period that Dr. Warren-Marzola's certificate to practice in Ohio is suspended, he shall comply with the following terms, conditions, and limitations:
1. **Obey the Law:** Dr. Warren-Marzola shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.
 2. **Declarations of Compliance:** Dr. Warren-Marzola shall submit quarterly declarations under penalty of Board disciplinary action and/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 or before the date his quarterly declaration would have been due pursuant to his Step II Consent Agreement, or as otherwise directed by the

Board. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

3. **Personal Appearances**: Dr. Warren-Marzola shall appear in person for interviews before the Board or its designated representative. The first such appearance shall take place on or before the date his appearance would have been scheduled pursuant to his Step II Consent Agreement, or as otherwise directed by the Board. Subsequent personal appearances shall occur every three months thereafter and/or as otherwise directed 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.

4. **Sobriety**
 - a. **Abstention from Drugs**: Dr. Warren-Marzola shall abstain completely from the personal use or personal possession of drugs, except those prescribed, dispensed, or administered to him by another so authorized by law who has full knowledge of Dr. Warren-Marzola's history of chemical dependency and/or abuse and who may lawfully prescribe for him (for example, a physician who is not a family member).

Further, in the event that Dr. Warren-Marzola is so prescribed, dispensed, or administered any controlled substance, carisoprodol, or tramadol, Dr. Warren-Marzola shall notify the Board in writing within seven days, providing the Board with the identity of the prescriber, the name of the drug Dr. Warren-Marzola received, the medical purpose for which he received the drug, the date the drug was initially received, and the dosage, amount, number of refills, and directions for use.

Further, within 30 days of the date said drug is so prescribed, dispensed, or administered to him, Dr. Warren-Marzola shall provide the Board with either a copy of the written prescription or other written verification from the prescriber, including the dosage, amount, number of refills, and directions for use.
 - b. **Abstention from Alcohol**: Dr. Warren-Marzola shall abstain completely from the use of alcohol.

5. **Drug and Alcohol Screens; Drug Testing Facility and Collection Site**
 - a. Dr. Warren-Marzola shall submit to random urine screenings for drugs and alcohol at least two times per month, or as otherwise directed by the Board. Dr. Warren-Marzola 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, and shall include Dr. Warren-Marzola's drugs of choice.

- b. Dr. Warren-Marzola shall submit, at his expense and on the day selected, urine specimens for drug and/or alcohol analysis. (The term "toxicology screen" may also be used herein for "urine screen" and/or "drug screen.")

All specimens submitted by Dr. Warren-Marzola shall be negative, except for those substances prescribed, administered, or dispensed to him in conformance with the terms, conditions and limitations set forth in this Order.

Refusal to submit such specimen, or failure to submit such specimen on the day he is selected or in such manner as the Board may request, shall constitute a violation of this Order.

- c. Dr. Warren-Marzola shall abstain from the use of any substance that may produce a positive result on a toxicology screen, including the consumption of poppy seeds or other food or liquid that may produce a positive result on a toxicology screen.

Dr. Warren-Marzola shall be held to an understanding and knowledge that the consumption or use of various substances, including but not limited to mouthwashes, hand-cleaning gels, and cough syrups, may cause a positive toxicology screen, and that unintentional ingestion of a substance is not distinguishable from intentional ingestion on a toxicology screen, and that, therefore, consumption or use of substances that may produce a positive result on a toxicology screen is prohibited under this Order.

- d. All urine screenings for drugs and alcohol shall be conducted through a Board-approved drug-testing facility and Board-approved collection site pursuant to the global contract between the approved facility and the Board, which provides for the Board to maintain ultimate control over the urine-screening process and to preserve the confidentiality of positive screening results in accordance with Ohio Revised Code Section 4731.22(F)(5). The screening process for random testing shall require a daily call-in procedure. Further, in the event that the Board exercises its discretion, as provided in Paragraph 6, below, to approve urine screenings to be conducted at an alternative drug-testing facility, collection site, and/or supervising physician, such approval shall be expressly contingent upon the Board's retaining ultimate control over the urine-screening process in a manner that preserves the confidentiality of positive screening results.

- e. Within 30 days of the effective date of this Order, Dr. Warren-Marzola shall enter into the necessary financial and/or contractual arrangements with the Board-approved drug-testing facility and/or collection site (“DFCS”) in order to facilitate the screening process in the manner required by this Order.

Further, within 30 days of making such arrangements, Dr. Warren-Marzola shall provide to the Board written documentation of completion of such arrangements, including a copy of any contract entered into between Dr. Warren-Marzola and the Board-approved DFCS. Dr. Warren-Marzola’s failure to timely complete such arrangements, or failure to timely provide written documentation to the Board of completion of such arrangements, shall constitute a violation of this Order.

- f. Dr. Warren-Marzola shall ensure that the urine-screening process performed through the Board-approved DFCS requires a daily call-in procedure, 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, Dr. Warren-Marzola and the Board-approved DFCS shall ensure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening result.

- g. Dr. Warren-Marzola shall ensure that the Board-approved DFCS provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Order, and whether all urine screens have been negative.
- h. In the event that the Board-approved DFCS becomes unable or unwilling to serve as required by this Order, Dr. Warren-Marzola shall immediately notify the Board in writing, and make arrangements acceptable to the Board, pursuant to Paragraph 6, below, as soon as practicable. Dr. Warren-Marzola shall further ensure that the Board-approved DFCS also notifies the Board directly of its inability to continue to serve and the reasons therefor.
- i. The Board, in its sole discretion, may withdraw its approval of any DFCS in the event that the Secretary and Supervising Member of the Board determine that the DFCS has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

- 6. **Alternative Drug-testing Facility and/or Collection Site:** It is the intent of this Order that Dr. Warren-Marzola shall submit urine specimens to the

Board-approved DFCS chosen by the Board. However, in the event that using the Board-approved DFCS creates an extraordinary hardship on Dr. Warren-Marzola, as determined in the sole discretion of the Board, then, subject to the following requirements, the Board may approve an alternative DFCS or a supervising physician to facilitate the urine-screening process for Dr. Warren-Marzola.

- a. Within 30 days of the date on which Dr. Warren-Marzola is notified of the Board's determination that utilizing the Board-approved DFCS constitutes an extraordinary hardship on Dr. Warren-Marzola, he shall submit to the Board in writing for its prior approval the identity of either an alternative DFCS or the name of a proposed supervising physician to whom Dr. Warren-Marzola shall submit the required urine specimens.

In approving a facility, entity, or an individual to serve in this capacity, the Board will give preference to a facility located near Dr. Warren-Marzola's residence or employment location, or to a physician who practices in the same locale as Dr. Warren-Marzola. Dr. Warren-Marzola shall ensure that the urine-screening process performed through the alternative DFCS or through the supervising physician requires a daily call-in procedure, 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, Dr. Warren-Marzola shall ensure that the alternative DFCS or the supervising physician maintains appropriate control over the specimen and immediately informs the Board of any positive screening result.

- b. Dr. Warren-Marzola shall ensure that the alternative DFCS or the supervising physician provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Order, and whether all urine screens have been negative.
- c. In the event that the designated alternative DFCS or the supervising physician becomes unable or unwilling to so serve, Dr. Warren-Marzola shall immediately notify the Board in writing. Dr. Warren-Marzola shall further ensure that the previously designated alternative DFCS or the supervising physician also notifies the Board directly of the inability to continue to serve and the reasons therefor. Further, in the event that the approved alternative DFCS or supervising physician becomes unable to serve, Dr. Warren-Marzola shall, in order to ensure that there will be no interruption in his urine-screening process, immediately commence urine screening at the Board-approved DFCS chosen by the Board, until such time, if any, that the Board approves a

different DFCS or supervising physician, if requested by Dr. Warren-Marzola.

- d. The Board, in its sole discretion, may disapprove any entity or facility proposed to serve as Dr. Warren-Marzola's designated alternative DFCS or any person proposed to serve as his supervising physician, or may withdraw its approval of any entity, facility or person previously approved to so serve in the event that the Secretary and Supervising Member of the Board determine that any such entity, facility or person has demonstrated a lack of cooperation in providing information to the Board or for any other reason.
7. **Reports Regarding Drug and Alcohol Screens:** All screening reports required under this Order from the Board-approved DFCS, the alternative DFCS and/or supervising physician must be received in the Board's offices no later than the due date for Dr. Warren-Marzola's declarations of compliance. It is Dr. Warren-Marzola's responsibility to ensure that reports are timely submitted.
8. **Additional Screening Without Prior Notice:** Upon the Board's request and without prior notice, Dr. Warren-Marzola shall provide a specimen of his blood, breath, saliva, urine, and/or hair for screening for drugs and alcohol, for analysis of therapeutic levels of medications that may be prescribed for Dr. Warren-Marzola, or for any other purpose, at Dr. Warren-Marzola's expense. Dr. Warren-Marzola's refusal to submit a specimen upon the request of the Board shall result in a minimum of one year of actual license suspension. Further, the collection of such specimens shall be witnessed by a representative of the Board, or another person acceptable to the Secretary and Supervising Member of the Board.
9. **Rehabilitation Program:** Dr. Warren-Marzola shall undertake and maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., or C.A., no less than three times per week, or as otherwise ordered by the Board. Substitution of any other specific program must receive prior Board approval.

Dr. Warren-Marzola shall submit acceptable documentary evidence of continuing compliance with this program, including submission to the Board of meeting attendance logs, which must be received in the Board's offices no later than the due date for Dr. Warren-Marzola's declarations of compliance.
10. **Releases:** Dr. Warren-Marzola shall provide 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. Warren-Marzola's chemical

dependency and/or related conditions, or for purposes of complying with this Order, whether such treatment or evaluation occurred before or after the effective date of this Order. To the extent permitted by law, the above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43, Ohio Revised Code, and are confidential pursuant to statute.

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

11. **Comply with the Terms of Aftercare Contract:** Dr. Warren-Marzola shall maintain continued compliance with the terms of any aftercare contract entered into with his treatment provider(s), provided that, where terms of an aftercare contract conflict with terms of this Order, the terms of this Order shall control.
12. **Absences from Ohio:** Dr. Warren-Marzola shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the suspension/probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed. Further, the Secretary and Supervising Member of the Board shall have discretion to waive part or all of the monitoring terms set forth in this Order for occasional periods of absence of 14 days or less.

In the event that Dr. Warren-Marzola resides and/or is employed at a location that is within 50 miles of the geographic border of Ohio and a contiguous state, Dr. Warren-Marzola may travel between Ohio and that contiguous state without seeking prior approval of the Secretary or Supervising Member provided that Dr. Warren-Marzola is otherwise able to maintain full compliance with all other terms, conditions and limitations set forth in this Order.

13. **Required Reporting of Change of Address:** Dr. Warren-Marzola shall notify the Board in writing of any change of residence address and/or principal practice address within 30 days of the change.

C. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Warren-Marzola's certificate

to practice osteopathic medicine and surgery until all of the following conditions have been met:

1. **Application for Reinstatement or Restoration**: Dr. Warren-Marzola shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
2. **Compliance with Interim Conditions**: Dr. Warren-Marzola 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. Warren-Marzola shall demonstrate to the satisfaction of the Board that he can practice in compliance with acceptable and prevailing standards of care. Such demonstration shall include but shall not be limited to the following:
 - a. Certification from a treatment provider approved under Section 4731.25, Ohio Revised Code, that Dr. Warren-Marzola has successfully completed any required treatment for chemical dependency as determined by a Board-approved treatment provider pursuant to Ohio Administrative Code Section [Rule] Rule 4731-16-02(B)(3)(a).
 - b. Evidence of continuing full compliance with an aftercare contract, if any, with a treatment provider approved under Section 4731.25. Such evidence shall include, but shall not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with Rule 4731-16-10, Ohio Administrative Code.
 - c. Evidence of continuing full compliance with this Order.
 - d. Two written reports indicating that Dr. Warren-Marzola's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care, with respect to chemical dependency/abuse.

The reports shall have been made by physicians knowledgeable in the area of addictionology and who are either affiliated with a current Board-approved treatment provider or otherwise have been approved in advance by the Board to provide an assessment of Dr. Warren-Marzola. Further, the two aforementioned physicians shall not be affiliated with the same treatment provider or medical group practice. Prior to the assessments, Dr. Warren-Marzola shall provide the assessors with copies of patient records from any evaluation and/or treatment that he has received, and a copy of this Order. The reports of the assessors shall include any recommendations for treatment, monitoring, or

supervision of Dr. Warren-Marzola, and any conditions, restrictions, or limitations that should be imposed on Dr. Warren-Marzola's practice. The reports shall also describe the basis for the assessor's determinations.

All reports required pursuant to this paragraph shall be based upon examinations occurring within the three months immediately preceding any application for reinstatement or restoration. Further, at the discretion of the Secretary and Supervising Member of the Board, the Board may request an updated assessment and report if the Secretary and Supervising Member determine that such updated assessment and report is warranted for any reason.

4. **Additional Evidence of Fitness To Resume Practice:** In the event that Dr. Warren-Marzola has not been engaged in the practice of osteopathic medicine as an active practitioner for a period in excess of two years prior to his 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. Warren-Marzola's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years, unless the minimum period of probation is reduced as set forth in paragraph (D)(2) below:

1. **Terms, Conditions, and Limitations Continued from Suspension Period:** Dr. Warren-Marzola shall continue to be subject to the terms, conditions, and limitations specified in Paragraph B of this Order.
2. **Minimum Period of Probation.** The Board may grant reinstatement or restoration subject to a reduced minimum term of probation of less than five years if Dr. Warren-Marzola demonstrates continuous current sobriety of more than one year at the time of his application for reinstatement or restoration.
3. **Monitoring Physician:** Within 30 days of the date of reinstatement or restoration, Dr. Warren-Marzola shall submit to the Board in writing the name and curriculum vitae of a monitoring physician for prior written approval by the Secretary and Supervising Member of the Board. In approving an individual to serve in this capacity, the Secretary and Supervising Member will give preference to a physician who practices in the same locale as Dr. Warren-Marzola and who is engaged in the same or similar practice specialty.

The monitoring physician shall monitor Dr. Warren-Marzola and his medical practice, and shall review Dr. Warren-Marzola'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. Warren-Marzola's medical practice, and on the review of Dr. Warren-Marzola's patient charts. Dr. Warren-Marzola 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. Warren-Marzola's declaration of compliance.

In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Warren-Marzola shall immediately so notify the Board in writing. In addition, Dr. Warren-Marzola shall make arrangements acceptable to the Board for another monitoring physician within 30 days after the previously designated monitoring physician becomes unable or unwilling to serve, unless otherwise determined by the Board. Dr. Warren-Marzola shall further ensure that the previously designated monitoring physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefor.

The Board, in its sole discretion, may disapprove any physician proposed to serve as Dr. Warren-Marzola's monitoring physician, or may withdraw its approval of any physician previously approved to serve as Dr. Warren-Marzola's monitoring physician, in the event that the Secretary and Supervising Member of the Board determine that any such monitoring physician has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

4. **Controlled Substances Log:** Dr. Warren-Marzola shall keep a log of all controlled substances he prescribes, orders, administers, or personally furnishes. Such log shall be submitted in a format of Dr. Warren-Marzola's choosing and approved in advance by the Board. All such logs required under this paragraph must be received in the Board's offices no later than the due date for Dr. Warren-Marzola's declarations of compliance, or as otherwise directed by the Board. Further, Dr. Warren-Marzola shall make his/her patient records with regard to such controlled substances available for review by an agent of the Board upon request.
5. **Work Hour Limitation:** Dr. Warren shall limit his actual work hours to a combined total of no more than 84 hours of work per week, which shall be comprised of his normally scheduled work hours and his on-call hours, until otherwise approved by the Board. Dr. Warren shall keep a log reflecting the dates, times, and facilities and/or locations at which he works. Dr. Warren shall submit his work log for receipt in the Board's offices no later than the due date for Dr. Warren's quarterly declaration.

Any request by Dr. Warren for modification of the limitation on work hours and/or on-call hours set forth in this paragraph shall be accompanied by documentation from a physician affiliated with a Board approved treatment provider, or other physician approved by the Board for this purpose, who has evaluated Dr. Warren, indicating that such physician supports Dr. Warren's request for modification.

6. **Modification of Terms**: Dr. Warren-Marzola shall not request modification of the terms, conditions, or limitations of probation for at least 180 days after imposition of these probationary terms, conditions, and limitations.
 7. **Tolling of Probationary Period While Out of Compliance**: In the event Dr. Warren-Marzola is found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Order.
- E. **TERMINATION OF PROBATION**: Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Warren-Marzola's certificate will be fully restored.
- F. **VIOLATION OF THE TERMS OF THIS ORDER**: If Dr. Warren-Marzola violates the terms of this Order 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.
- G. **REQUIRED REPORTING WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS ORDER**:
1. **Required Reporting to Employers and Others**: Within 30 days of the effective date of this Order, Dr. Warren-Marzola shall provide a copy of this Order to all employers or entities with which he is under contract to provide healthcare services (including but not limited to third-party payors), or is receiving training; and the Chief of Staff at each hospital or healthcare center where he has privileges or appointments. Further, Dr. Warren-Marzola shall promptly provide a copy of this Order to all employers or entities with which he contracts in the future to provide healthcare services (including but not limited to third-party payors), or applies for or receives training, and the Chief of Staff at each hospital or healthcare center where he applies for or obtains privileges or appointments. This requirement shall continue until Dr. Warren-Marzola receives from the Board written notification of the successful completion of his probation.

In the event that Dr. Warren-Marzola provides any healthcare services or healthcare direction or medical oversight to any emergency medical services organization or emergency medical services provider in Ohio, within 30 days of the effective date of this Order, he shall provide a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services. This requirement shall continue until Dr. Warren-Marzola receives from the Board written notification of the successful completion of his probation.

2. **Required Reporting to Other State Licensing Authorities:** Within 30 days of the effective date of this Order, Dr. Warren-Marzola shall provide a copy of this Order to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which he currently holds any license or certificate. Also, Dr. Warren-Marzola shall provide a copy of this Order at the time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement/restoration of any professional license. This requirement shall continue until Dr. Warren-Marzola receives from the Board written notification of the successful completion of his probation.
3. **Required Reporting to Treatment Providers/Monitors:** Within 30 days of the effective date of this Order, Dr. Warren-Marzola shall provide a copy of this Order to all persons and entities that provide chemical dependency/abuse treatment to or monitoring of Dr. Warren-Marzola. This requirement shall continue until Dr. Warren-Marzola receives from the Board written notification of the successful completion of his probation.
4. **Required Documentation of the Reporting Required by Paragraph G:** Dr. Warren-Marzola shall provide this Board with **one** of the following documents as proof of each required notification within 30 days of the date of each such notification: (1) the return receipt of certified mail within 30 days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Order was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Order to the person or entity to whom a copy of the Order was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the e-mail transmission of a copy of the Order to the person or entity to whom a copy of the Order was e-mailed.

EFFECTIVE DATE: This Order shall become effective immediately upon the mailing of the notification of approval by the Board, at which time this Order will supersede Dr. Warren-Marzola's Step II Consent Agreement.

(SEAL)



Lance A. Talmage, M.D.

Secretary

April 14, 2010

Date

2010 MAR 23 AM 8:41

BEFORE THE STATE MEDICAL BOARD OF OHIO

In the Matter of

*

Case No. 09-CRF-075

Craig Warren-Marzola, D.O.,

*

Hearing Examiner Davidson

Respondent.

*

ERRATA

An error appears in the first line of Paragraph A of the Proposed Order set forth in the Report and Recommendation, in that the descriptive heading of Paragraph A includes words that do not reflect the content of the paragraph itself. The words "Stayed" and "Probation" shall be deleted as follows:

- A. **SUSPENSION OF CERTIFICATE, ~~STAYED; PROBATION~~:** The certificate of Craig Warren-Marzola, D.O., to practice osteopathic medicine and surgery in the State of Ohio shall be **SUSPENDED** for an indefinite period of time, but not less than 90 days.



Patricia A. Davidson
Hearing Examiner

2010 MAR 18 PM 2: 21

BEFORE THE STATE MEDICAL BOARD OF OHIO

In the Matter of

*

Case No. 09-CRF-075

Craig Warren-Marzola, D.O.,

*

Hearing Examiner Davidson

Respondent.

*

REPORT AND RECOMMENDATION

Basis for Hearing

In a notice of opportunity for hearing dated June 10, 2009 [Notice], the State Medical Board of Ohio notified Michael Craig Warren, D.O.,¹ that it intended to determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate his certificate to practice osteopathic medicine and surgery, or to reprimand him or place him on probation for one or more of the following reasons: that he had consumed alcohol in violation of his consent agreement with the Board; that, when answering questions under oath, he had falsely stated that he had not consumed any alcohol during the relevant time period; that he had traveled outside Ohio without the Board's permission on three occasions in violation of his consent agreement; and that he had not fully complied with his contractual duty to submit documentation of attending not less than three rehabilitation-program meetings per week with respect to three specific weeks in 2008. (St. Ex. 1)

In its Notice, the Board alleged that Dr. Warren-Marzola's acts, conduct and/or omissions constitute:

- a “[v]iolation of the conditions of limitation placed by the board upon a certificate to practice,” as that language is used in Ohio Revised Code Section [R.C.] 4731.22(B)(15);
- “[m]aking a false, fraudulent, deceptive, or misleading statement * * * in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board,” as that language is used in R.C. 4731.22(B)(5); and/or
- “[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed,” as that language is used in R.C. 4731.22(B)(10), with respect to Perjury in violation of R.C. 2921.11.

In addition, the Board alleged that Dr. Warren-Marzola's acts, conduct and/or omissions establish an “impairment of ability to practice according to acceptable and prevailing standards of care

¹Since the Notice was issued, the Respondent has legally changed his name. His certificate to practice, number 34.008173, is now maintained in the name of Craig Warren-Marzola. At hearing, it was determined that the case caption would be amended to reflect the current name on the certificate. (Tr. at 6-8; Ohio eLicense Center, <<https://license.ohio.gov/lookup/default.asp>>, March 8, 2010)

because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice,” as that language is used in R.C. 4731.22(B)(26).

The Board received Dr. Warren-Marzola’s request for hearing on July 7, 2009. (St. Ex. 1)

Appearances

Richard Cordray, Attorney General, and Karen A. Unver, Assistant Attorney General, for the State.
Elizabeth Y. Collis, Esq., for the Respondent.

Hearing Date: January 19, 2010.

SUMMARY OF THE EVIDENCE

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

Step I Consent Agreement - May 2004

1. In May 2004, Craig Warren-Marzola, D.O., entered into a Step I Consent Agreement with the Board, under which his certificate to practice was suspended. In this consent agreement, Dr. Warren-Marzola admitted, among other things, that he had been arrested for drug-related conduct in April 2004 and that he anticipated seeking intervention in lieu of conviction in the event that formal criminal charges were brought against him. Further, Dr. Warren-Marzola stated that he had entered inpatient treatment for chemical dependency at the Toledo Hospital, a Board-approved treatment provider, on about April 12, 2004. (St. Ex. 2)
2. In his Step I Consent Agreement, Dr. Warren-Marzola acknowledged that his drugs of choice were Ultracet and Percocet and that he had begun abusing drugs in about March 2003 due to migraine headache pain. He admitted that he had issued false and/or unauthorized prescriptions in order to obtain controlled substances for his personal use. In addition, Dr. Warren-Marzola stated that he had falsely answered a question on his September 2003 license application with respect to his illegal use of controlled substances. (St. Ex. 2)

Step II Consent Agreement - March 2005

3. On or about March 12, 2005, Dr. Warren-Marzola entered into a Step II Consent Agreement with the Board, under which his certificate to practice was reinstated pursuant to probationary terms and conditions. (St. Ex. 2) In this agreement, the parties set forth certain factual matters, including the following:
 - Dr. Warren-Marzola had completed inpatient treatment on or about May 13, 2004, and had remained compliant with his recovery plan and aftercare contract.
 - In August 2004, a judgment entry had been filed by the Court of Common Pleas in Wood County, Ohio, for intervention in lieu of conviction with regard to the criminal charges that

were under investigation when Dr. Warren-Marzola entered his Step I Consent Agreement. In addition, a judgment entry had been filed in August 2004 by the Court of Common Pleas in Lucas County, Ohio, for intervention in lieu of conviction, with regard to two counts of illegal processing of drug documents in violation of R.C. 2925.23, and one count of attempted aggravated possession of drugs in violation of R.C. 2923.02 and 2925.11.

- Dr. Warren-Marzola is also licensed to practice in Michigan, which had summarily suspended his license in November 2004 based on the information in his Step I Consent Agreement in Ohio, but this suspension order in Michigan had been dissolved in December 2004.
 - Dr. Warren-Marzola is being treated by Lurley Archambeau, M.D., for a psychiatric condition currently diagnosed as Mild Generalized Anxiety Disorder although previously diagnosed as a bipolar disorder.
4. The Step II Consent Agreement includes a requirement that Dr. Warren-Marzola shall not request a termination of the agreement for a minimum of five years. (St. Ex. 2) In addition, Dr. Warren-Marzola agreed to an array of probationary terms, conditions, and limitations, including the following:
- 4. Dr. Warren shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed.
 - 5. In the event Dr. Warren is found by the Secretary of the Board to have failed to comply with any provision of this Consent Agreement, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Consent Agreement.

* * *

Sobriety

- 8. Dr. Warren shall abstain completely from the personal use or possession of drugs, except those prescribed, dispensed or administered to him by another so authorized by law who has full knowledge of Dr. Warren's history of chemical dependency and psychiatric history.
- 9. Dr. Warren-Marzola shall abstain completely from the use of alcohol.

* * *

Drug and Alcohol Screens/Supervising Physician

- 11. Dr. Warren shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board. * * *

Dr. Warren and the Board agree that the person or entity previously approved by the Board to serve as Dr. Warren's supervising physician pursuant to the May 2004 Step I Consent Agreement is hereby approved to continue as Dr. Warren's designated supervising physician * * * to whom Dr. Warren shall submit the required urine specimens. * * * Dr. Warren 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.

* * *

Rehabilitation Program

14. Within thirty days of the effective date of this Consent Agreement, Dr. Warren shall undertake and maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., C.A., or Caduceus, no less than three times per week. Substitution of any other specific program must receive prior Board approval. Dr. Warren 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. Warren's quarterly declarations.

(St. Ex. 2)

5. Further, the Step II Consent Agreement included terms and conditions that Dr. Warren-Marzola must complete 104 sessions of aftercare, participate in random urine screenings for alcohol and drugs, submit periodic declarations regarding his compliance with the consent agreement, make periodic appearances before the Board, maintain a log of prescriptions of controlled substances, and sign a monitoring agreement with a program such as Ohio Physicians Health Program, which was formerly known as the Ohio Physicians Effectiveness Program and is still commonly referred to as "OPEP." (St. Ex. 2; Tr. at 13, 60, 139, 180)

March 2005 to November 2007

6. Dr. Warren-Marzola's monitoring physician under his OPEP agreement is Michael L. Hooker, D.O., who testified that he was unaware of any instance in which Dr. Warren-Marzola's urine screens had come back with a positive result. Further, the Board's Compliance Supervisor, Danielle Bickers, did not mention any positive screens for drugs or alcohol. (St. Ex. 72-73, 138)
7. During his probationary period with the Board, Dr. Warren-Marzola moved from Toledo to Cleveland where he lived for a short period of time, and then moved back to Toledo. Although his OPEP monitor in Toledo was Dr. Hooker, the monitor in Cleveland was Dr. Michael Menolasino. (Tr. at 196-197, 216)

8. Dr. Warren-Marzola testified that he had undergone a traumatic event in August 2007 that caused him to experience a traumatic stress disorder. He stated that he was driving to work one morning when he saw that the driver of a car coming toward him was making a lot of unusual gestures. He thought something was wrong with her, but he later realized she had been trying to flag him down. As she drove past him, he turned and looked over his left shoulder and noticed black smoke, and thought something on the roadside was burning. However, when he looked over his other shoulder, he saw flames coming out of the back seat. He drove onto the side of the road, into a ditch, and managed to get out. Dr. Warren-Marzola testified that, as he was getting out of the car, it exploded into a huge ball of flames, "like a war scene." He explained that it was later determined that the technicians who had installed a towing apparatus on his new car had improperly spliced the wires and bound them with tape, which eventually resulted in sparks near the gas tank and caused the explosion. (St. Ex. 6 at 2-3, St. Ex. 7 at 3, Tr. at 210-212)
9. Dr. Warren-Marzola stated that he was not physically injured but sustained emotional harm, and was later diagnosed with post-traumatic stress disorder. He stated that the diagnosis was made by Lurley Archambeau, M.D., a psychiatrist specializing in addiction medicine. Other factors causing stress to Dr. Warren-Marzola during the summer and fall of 2007 had included that his grandmother was dying, and there were problems with his brother that eventually culminated in his brother's suicide on February 17, 2009. (St. Ex. 209, 212-213, 236)

Incident in November 2007 & Diagnosis of PTSD

10. Dr. Warren-Marzola testified that, on November 16, 2007, he had hosted the journal club meeting of the internal-medicine physicians, which was a regular gathering hosted by an attending physician during which residents and attendings would discuss recent articles in the medical literature. Dr. Warren-Marzola testified that they had ordered pizza, and one of the residents had brought a bottle of wine, although he himself did not consume any of the wine during the meeting. However, he stated that, after the guests left and he was cleaning up, alone in the home, he had picked up a glass that had some wine left in it. Dr. Warren-Marzola stated that, before he realized what he was doing, he had lifted the glass up to his mouth and taken a sip of wine. He stated that, when he realized what he had done, he dropped the glass to the floor. He stated that the glass shattered and he "freaked out," and it was "horrible." He testified that he had called his sponsor and had also gone to an AA meeting that night. (Tr. at 27-28, 31-32, 36-37, 197; St. Ex. 7 at 1-2)
11. Dr. Warren-Marzola testified that he was not familiar with the people at that AA meeting but had introduced himself and told the group that he had taken a sip of wine earlier in the evening while cleaning up after a party. (Tr. at 205-206)
12. Dr. Warren-Marzola further testified that, about a week later, he had contacted Dr. Stan Sateren, then the director of OPEP, and had explained what had happened. Dr. Warren-Marzola testified that Dr. Sateren had suggested that he should work with his sponsor and

his therapist. Dr. Warren-Marzola explained that, prior to this incident, he had been seeing his therapist “off and on” and had not seen him “in a while.” (Tr. at 207-210)

13. Dr. Warren-Marzola testified that, when he reported the incident to Dr. Archambeau, Dr. Archambeau had not treated the sip of wine as a relapse but as a symptom of the PTSD and had commenced exploration into the PTSD. According to Dr. Warren-Marzola, when Dr. Archambeau was informed of the sip of wine, he had commented that Dr. Warren-Marzola had done the right thing and was using his tools by calling his sponsor and going to AA meetings, and had recommended that Dr. Warren-Marzola keep doing what he was doing, and they had started working on the PTSD. (St. Ex. 208-213)
14. Dr. Warren-Marzola stated that Dr. Archambeau referred him to a psychologist, Dr. Dennis Kogut, for counseling. Dr. Warren-Marzola testified that he initially saw Dr. Kogut once a week but now sees him about every two weeks. Dr. Warren-Marzola testified that he had told Dr. Kogut about the sip of wine and that Dr. Kogut was aware of his consent agreement with the Board. (Tr. at 213-216)
15. Dr. Warren-Marzola testified that he currently sees Dr. Archambeau about every two to three months for medication adjustment, and is currently taking Lexapro, Buspar, Depakote and Ambien. (Tr. at 214)
16. In a January 2010 letter, Dr. Archambeau stated that Dr. Warren-Marzola had been under his care since August 2, 2004, although there was “a hiatus of contact between April 2006 through October 2008.” (Resp. Ex. A)

Deposition Testimony - September 2008

17. On September 12, 2008, Cheryl Pokorny, an Enforcement Attorney for the Board, asked questions of Dr. Warren-Marzola in a deposition, during which he was first “duly sworn” to tell the truth. (Tr. at 37) The following exchange took place:
 - Q. All right. While on any of these trips that you took, either the medical mission to the Caribbean or your trip to Mississippi or your trip Windsor, Canada, did you consume any alcohol?
 - A. No.
 - Q. Did you have any champagne while you were in Windsor, Canada?
 - A. No.
 - Q. Have you consumed any alcohol any time after May 2004?
 - A. No.
 - Q. Let’s look, please, at paragraph 8 of your Step II which is on page 5. “Dr. Warren shall abstain completely from the personal use or possession of drugs, except those prescribed, dispensed or administered to him by another so authorized by law who has full

knowledge of Dr. Warren's history of chemical dependency and psychiatric history."

Did I read that paragraph correctly?

A. Yes.

Q. All right. Do you believe that you have fully and completely complied with paragraph 8?

A. Absolutely.

(St. Ex. 8 at 45-46)

18. At the hearing, Dr. Warren-Marzola was asked whether, when he was answering the question about consuming alcohol, he recalled the incident in November 2007 involving the sip of wine. He answered as follows:

I think it was one of those things that I had dealt with, moved on, and it was not at the forefront of my mind at the time. Does that make sense?

(Tr. at 39) At a later point, however, when asked again why he had not disclosed the incident during the deposition, Dr. Warren-Marzola answered:

Fear. Fear of—of knowing that—of not knowing what would happen. Fear of knowing that doing the next right thing might cause my life to come to a crashing halt. The power that the Board has over that.

(Tr. at 245)

Disclosure at Caduceus Meeting and to Compliance Supervisor - 2009

19. On February 5, 2009, Dr. Warren-Marzola telephoned Danielle Bickers, the Board's Compliance Supervisor, and told her about the sip of wine he had taken in November 2007. (Tr. at 40) Ms. Bickers described the conversation:

Dr. Marzola called me—called me on that date to report that approximately two weeks prior, his Caduceus group, the topic of discussion was honesty, and it had been bothering him that he had not reported an incident that had occurred in November of 2007. And Dr. Warren explained to me that he—in November of 2007, he had basically a sip of wine. He was being treated for posttraumatic stress following a car fire in 2007 and had this sip of wine. He had—He went on to tell me that he reported the incident to his Caduceus group and to Dr. Stanley Sateren, who was the Medical Director at the Ohio Physicians Health Program at the time.

And Dr. Warren told me that it was Dr. Sateren's opinion that because it was a one-time incident, there was no patient harm involved and he was being monitored by OPEP, that he did not need to report to the Board.

(Tr. at 64)

20. Ms. Bickers testified that, prior to Dr. Warren-Marzola telephone call on February 5, 2009, she had no reason to know that he had taken the sip of alcohol in November 2007. (Tr. at 73)
21. In or about March 2009, during Dr. Warren-Marzola's next personal appearance and office conference with Board representatives, Dr. Warren-Marzola discussed the November 2007 sip of wine. (Tr. at 41)
22. At the hearing, Dr. Warren-Marzola further explained why he had not reported the November 2007 incident to the Board prior to the February 2009 call to Ms. Bickers. He testified that, at the time, he had felt it was a "slip" rather than a "relapse," and that he had dealt with it appropriately by recognizing his conduct, calling his sponsor, and attending a meeting that night, and that he had then "moved on." He said that is "how you deal with things" in recovery. He explained that chemical dependency is a "relapsing disease," and that, in recovery, "you take action when things are needed, and you deal with it, and then you go forward." He stated that he had not reviewed his Step II Consent Agreement to look at the terms and see whether he needed to do something. (Tr. at 28-30, 33)
23. Dr. Warren-Marzola further indicated did not see the incident as a relapse based on the circumstances and the amount of wine, which he felt did not demonstrate a reversion or setback in his recovery, especially given his actions during and following the event. In addition, he testified that, when he had discussed the matter with Dr. Sateren within a few days of the event, Dr. Sateren had not recommended that Dr. Warren-Marzola contact the Board, and they had not even discussed whether the incident constituted a relapse under the Board's rules and definitions. Dr. Warren-Marzola also asserted that, when he had spoken with Dr. Archambeau, a specialist in addictionology, Dr. Archambeau had not recommended reporting the incident to the Board. Similarly, when Dr. Kogut was told, he had not expressed a concern regarding chemical dependency nor suggested changing any of the practices or treatment related to chemical dependency. Further, according to Dr. Warren-Marzola, he had told his monitors, Dr. Menolasino and later Dr. Hooker, about the sip of wine in November 2007, and that neither of them had suggested self-reporting to the Board. (Tr. at 208-209, 213-219)
24. Dr. Warren-Marzola acknowledged that, when he spoke with his AA sponsor after the incident, they were "trying to figure out" whether he should report it, whether the incident had constituted a relapse. He stated that, "at that time, we did not think that it was something that should be reported to the Board" because it was not a relapse. They had been more concerned with ascertaining the underlying reasons for his conduct. He testified that, in hindsight, he

sees that reporting the incident would probably have been a wise thing to do. (Tr. at 27-30, 34-35)

25. Dr. Warren-Marzola further explained the specific events that prompted him to make the disclosure to Ms. Bickers in February 2009. He stated that he had discussed the November 2007 incident with his home group in AA, and one of the members of the home group was also in his Caduceus group. This individual had been pressuring Dr. Warren-Marzola, saying that he was not being honest because he had not discussed the matter during a Caduceus meeting. The Caduceus meetings were held at Toledo Hospital with a counselor in attendance. (Tr. at 40-41)
26. Dr. Warren-Marzola testified that he finally discussed the incident at Caduceus, and the counselor attending the meeting had told him that she was going to report it to the Board. At first, Dr. Warren-Marzola "didn't really know what to say to that," and it worried him. Accordingly, he contacted Ms. Bickers at the Board. (Tr. at 40-41)
27. Toward the end of the hearing, when Dr. Warren-Marzola admitted that he had not disclosed the 2007 incident because he feared the Board's reaction, Dr. Warren-Marzola also explained how he was able to overcome that fear when he made the disclosure to his Caduceus group and then to the Board in 2009.

I finally have realized that, you know, regardless of what happens -- I may get emotional here -- regardless of what happens with this Board, no one can take my sobriety away from me; no one can take what I have worked for. And, you know, at the end of the day, I am a good doctor. And if I do the next right thing, everything will work out.

(Tr. at 245)

Travel Outside Ohio

28. Danielle Bickers testified that, if a probationer asks for permission to leave the state for five days or so and if the probationer is in compliance with the terms of his consent agreement, the request is generally granted. However, the Board does not generally grant waivers of AA meetings, and does not generally waive urine screens because the screens are supposed to be random, and if a probationer knows there will be no screens for two weeks, he could be tempted to use drugs or alcohol. When probationers were being monitored by OPEP, they could make arrangements with OPEP for screens out-of-state. "OPEP would know that they were leaving the state and they might make arrangements or waive the screens, but the Board would not be aware of that."² (Tr. at 67-69)

² In 2007, much of the random urine screening was managed differently than it is now. Many probationers had an OPEP volunteer who served as their monitoring physicians and who would call the licensee randomly, once a week or twice a month, to tell the licensee that he or she must report to the monitor to submit a urine specimen. (Tr. at 74)

29. Ms. Bickers testified that, in 2004, Dr. Warren-Marzola was sent a checklist that explained his obligations with regard to requirements such as AA documentation and traveling. The checklist outlined the Board's expectations when someone needs to leave the state. (Tr. at 51, 66)
30. Dr. Warren-Marzola made a trip in February 2008 as part of a medical mission to the Dominican Republic, and he did not obtain advance permission from the Board for that travel. Dr. Warren-Marzola explained that he had not undertaken any out-of-state travel in 2005 or 2006, following his entering the Step II Consent Agreement, and he had thought that he needed advance permission only when he would be gone for more than three months. He testified that he had been thinking of the language in paragraph 4 of the consent agreement, which provides that "Dr. Warren shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer * * * ." (Tr. at 69, 71, 222-223)
31. In July 2008, Dr. Warren-Marzola traveled to Mississippi to visit his grandmother, who was very ill. He did not obtain advance permission for that travel. (Tr. at 71, 226)
32. On August 25, 2008, Dr. Warren-Marzola sent an email to Danielle Bickers regarding the subject of a last-minute trip to Ft. Lauderdale, Florida. The message was as follows:

I wanted to keep you informed. I will be traveling to ft lauderdale to NOVA Southeastern for the MPH/PhD orientation. I was transfer was approved by their board at the last minute so they are going to allow me to enter this fall instead of winter quarter. I have notified my monitor and there is a contingency plan should I need to drop a urine over the weekend while I am there at occupational health. I am doing my best to keep you guys informed. If you have any questions please call me. I will have my blackberry with me at all times. I will meet with the medical board investigator when I get back on monday. We spoke earlier today.
Thanks.

(St. Ex. 6) (reproduced as in original email)

33. Although Dr. Warren-Marzola notified the Board of this travel to Florida, he did not obtain advance permission. (Tr. at 66-71, 81)
34. The notes for Dr. Warren-Marzola's probationary office conference on November 10, 2008, include this statement: "Dr. Warren was advised once again that any time he leaves the state, he must notify the Board in advance." (St. Ex. 4) Dr. Warren-Marzola testified that, when

he made the three trips in 2008, he had not realized at that time that he needed permission in advance, and had thought that his duty was only to notify the Board. (Tr. at 242)

35. Since 2008, Dr. Warren-Marzola has obtained permission in advance for travel out of state; specifically, he went on another medical mission to the Dominican Republic in 2009 for which obtained advance permission from the Board. (Tr. at 231)

Attendance at AA/Caduceus Meetings - Lack of Full Documentation

36. In its Notice, the Board has alleged that Dr. Warren-Marzola did not provide documentation that he attended three AA meetings during the following periods in 2008: the week of February 17, the week of March 16, and the week of March 23rd. During the hearing, Ms. Bickers clarified that there is documentation of attending *some* meetings during those weeks, but not three meetings for each of those weeks. (St. Ex. 1; Tr. at 100-101)

37. A review of the AA documents shows that, for the week from March 16 to March 22, inclusive, Dr. Warren-Marzola documented attendance on March 18 and March 21. (St. Ex. 3 at 11, column one)

A third attendance slip has a date that is difficult to read and could refer to March 22, 23, 24, 25, or 28.³ (St. Ex. 3 at 11, column two, first entry; Tr. at 94-96) Upon further review of these attendance slips, Ms. Bickers agreed during the hearing that this attendance slip should be read as “March 22” and that, on further consideration, she would concur that the documents show that Dr. Warren-Marzola attended three meetings that week. (Tr. at 170)

38. Dr. Warren-Marzola does not dispute that he lacks documentation for three meetings for the other two weeks as alleged by the Board. With regard to these two weeks, he argued that this lack of documenting a very few meetings presents a relatively minimal violation over the nearly five years of probation. (Tr. at 253)
39. David Sullivan, the case manager at OPEP, confirmed that, in his experience, Dr. Warren-Marzola generally does the minimum of three meetings per week and sometimes exceeds three meetings per week. (Tr. at 171)

Additional Evidence

40. In his answers to the Board’s interrogatories prior to the hearing, Dr. Warren-Marzola admitted that taking even one sip of wine constitutes a violation of his Step II Consent Agreement. (St. Ex. 6 at par. 9)

³The Hearing Examiner agrees that the writing most likely states “March 22.” Given that the burden of proof is on the State to prove its allegations and that the handwriting is unclear, the Hearing Examiner concludes that the State has not established a lack of documentation of three meetings attended during the week of March 16.

41. Dr. Archambeau stated in his January 2010 letter that Dr. Warren-Marzola had been “fully cooperative, honest and open about numerous matters,” and that his “compliance with my treatment suggestions has been full.” He further stated: “I believe that his progress for continued recovery is excellent.”⁴ (Resp. Ex. A)
42. In a January 2010 letter, Dennis W. Kogut, Ph.D., stated that his first contact with Dr. Warren-Marzola was in October 2008, pursuant to a referral from Dr. Archambeau. He stated that the “precipitating event resulting in the referral was unrelated to any substance abuse” but that he was aware of Dr. Warren-Marzola’s recovery process. Dr. Kogut commented that “seriously traumatic events” such as those experienced by Dr. Warren-Marzola will “often result in relapse, but he has not relapsed.” Dr. Kogut stated that he was aware that Dr. Warren-Marzola had “once taken a sip of wine that did not lead to intoxication” or even “lead to a second sip,” and Dr. Kogut reiterated that none of the traumatic events had “resulted in a relapse of his substance abuse.” Dr. Kogut further commented that Dr. Warren-Marzola had been candid about his history of substance abuse, had been consistent and responsible in his appointments, and had gained “insight to further his stability and self awareness.” He noted that Dr. Warren-Marzola takes his “professional commitments very seriously, understanding he has an ongoing commitment to the process of recovery.” Dr. Kogut further stated that he was not aware of any incidents of poor or impulsive judgment associated with Dr. Warren-Marzola’s professional responsibilities.⁵ (Resp. Ex. B)
43. The Step II Consent Agreement includes a Work Hour Limitation in paragraph 16, based on a medical opinion submitted to the Board. The consent agreement limits Dr. Warren-Marzola to “a combined total of no more than eighty hours of work per week, which shall be comprised of his normally scheduled work hours and his on-call hours, until otherwise approved by the Board.” (St. Ex. 2)
44. The Board’s notes for three probationary office conferences with Dr. Warren-Marzola in November 2008, May 2009, and May 2009 include the information that the work-hour limitation had been raised to 84 hours. The notes for these office conferences also include the following information: that drug screens had been reduced to two per month, that appearances before the Board had been reduced to one every six months, that the requirement for drug logs had been discontinued, that the chart review was being performed at the rate of 10 charts per month, that “psychiatric sessions” had been discontinued, that the psychiatric diagnosis is Bipolar Disorder, and that Dr. Warren-Marzola was taking certain medications at that time. (St. Ex. 4)
45. Dr. Michael Hooker, who has served as the OPEP monitoring physician for Dr. Warren-Marzola, reported that he speaks with Dr. Warren-Marzola weekly and meets with him twice a month, and that Dr. Warren-Marzola has maintained “good sobriety.” Dr. Hooker

⁴ Dr. Archambeau was not a witness during the hearing, and his statements in the letter were not subject to cross-examination.

⁵ Dr. Kogut was not a witness during the hearing, and his statements in the letter were not subject to cross-examination.

opined that Dr. Warren-Marzola shows “excellent medical judgment” and maintains current standards of medical practice. He further opined that the sip of wine in 2007 “was in no way a ‘relapse’ in his recovery.” (Resp. Ex. D) During his testimony at the hearing, Dr. Hooker explained why he thought that the sip of wine was not a relapse. However, there was no evidence at the hearing that Dr. Hooker is a specialist in addictionology, and he acknowledged that he is not familiar with the Board’s definition of the term “relapse.” (Tr. 143-144, 148-149)

46. At the hearing, Dr. Warren-Marzola asserted in his closing argument, through counsel, that “this is not a typical relapse case that requires the 90-day suspension.” He proposed two alternatives. The first is that the Board could invoke its authority under Rule 4731-13-36(G) and “acknowledge there's been a technical violation of their rules” and could choose to take no further action. The second alternative proposed by Dr. Warren-Marzola is that the Board could continue to monitor him with no suspension imposed at this time, because there “was no patient involvement, there was no further involvement on his part.” Dr. Warren-Marzola expressed the view that, at most, the evidence warrants an extension of the probationary period “for another six months so that the Board continues to monitor him, he continues to do what he's supposed to be doing, and it ensures this Board that there won't be any other issues that come up.” (Tr. at 255-256)

SELECTED STATUTES AND RULES

- R.C. 4731.22(B) provides, in pertinent part:

The board * * * shall * * * limit, revoke, or suspend an individual’s certificate to practice, refuse to register an individual, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate for one or more of the following reasons:

* * *

(26) Impairment 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.

For the purposes of this division, any individual authorized to practice by this chapter accepts the privilege of practicing in this state subject to supervision by the board. * * *

If it has reason to believe that any individual authorized to practice by this chapter or any applicant for certification to practice suffers such impairment, the board may compel the individual to submit to a mental or physical examination, or both. * * * Any mental or physical examination required under this division shall be undertaken by a treatment provider or physician who is qualified to conduct the examination and who is chosen by the board.

**** * * If the board determines that the individual's ability to practice is impaired, the board shall suspend the individual's certificate*** or deny the individual's application and shall require the individual, as a condition for initial, continued, reinstated, or renewed certification to practice, to submit to treatment. (Emphasis added)

Before being eligible to apply for reinstatement of a certificate suspended under this division, the impaired practitioner shall demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards of care under the provisions of the practitioner's certificate. The 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 the individual has successfully completed any required inpatient treatment;
- (b) Evidence of continuing full compliance with an aftercare contract or consent agreement;
- (c) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board for making the assessments and shall describe the basis for their determination.

* * *

When the impaired practitioner resumes practice, the board shall require continued monitoring of the individual. The monitoring shall include, but not be limited to, compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and * * * submission to the board for at least two years of annual written progress reports made under penalty of perjury stating whether the individual has maintained sobriety.

- Ohio Administrative Code Section [Rule] 4731-16-01(A) defines the term "impairment" as used in Revised Code 4731:

(A) "Impairment" means impairment 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. Impairment includes inability to practice in accordance with such standards, and inability to practice in accordance with such standards without appropriate treatment, monitoring or supervision.

- Rule 4731-16-01(B) defines the term “relapse” as follows:

(B) “Relapse” means ***any use of, or obtaining for the purpose of using, alcohol or a drug*** or substance that may impair ability to practice, by someone who has received a diagnosis of and treatment for chemical dependency or abuse, except pursuant to the directions of a treating physician who has knowledge of the patient’s history and of the disease of addiction, or pursuant to the direction of a physician in a medical emergency. An instance of use that occurs during detoxification treatment or inpatient or residential treatment before a practitioner’s disease of addiction has been brought into remission does not constitute a relapse. (Emphasis added)

- In addition, Rule 4731-16-02 provides in part:

(A) Should the board have reason to believe that any licensee or applicant suffers from impairment, as that term is used in * * * division (B)(26) of section 4731.22 of the Revised Code, * * * it may compel the individual to submit to a mental or physical examination, or both. * * *

(B) In cases where the only disciplinary action initiated against the individual is for violation of * * * division (B)(26) of section 4731.22 of the Revised Code, the following general pattern of action shall be followed:

(1) Upon identification by the board of reason to believe that a licensee or applicant is impaired it may compel an examination or examinations as set forth in paragraph (A) of this rule. * * *

* * *

(b) If the examination or examinations disclose impairment, or if the board has other reliable, substantial and probative evidence demonstrating impairment, the board shall initiate proceedings to suspend the license or deny the applicant. * * *

(2) ***The presence of one or more of the following circumstances shall constitute independent proof of impairment and shall support license suspension or denial without the need for an examination:***

(a) The individual has relapsed during or following treatment;
(Emphasis added)

* * *

(3) Before being eligible to apply for reinstatement of a license suspended under this paragraph the impaired individual must demonstrate to the board that the individual can resume practice in compliance with acceptable and prevailing standards of care under the provisions of the individual’s

certificate. Such demonstrations 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 the individual has successfully completed all required treatment, as follows:

(i) Except as provided in paragraph (B)(3)(a)(ii) of this rule, the required treatment shall include inpatient or residential treatment that extends a minimum of twenty-eight days with the following exception: ***If the individual has previously completed an inpatient or residential treatment program of at least twenty-eight days and maintained sobriety for at least one year following completion of that inpatient or residential treatment, the treatment required shall be determined by the treatment provider.*** (Emphasis added)

* * *

(b) Evidence of continuing full compliance with an aftercare contract that meets the requirements of rule 4731-16-10 of the Administrative Code, and with any consent agreement or order of the board then in effect;

(c) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board for making such assessments and shall describe the basis for this determination. A physician who is the medical director of a treatment provider approved under section 4731.25 of the Revised Code and this chapter of the Administrative Code may perform such an assessment without prior board approval.

(4) Subject to the provisions of paragraph (D) of this rule, the board may reinstate a license suspended under this paragraph after the demonstration described in paragraph (B)(3) of this rule and after the individual has entered into a written consent agreement which conforms to the requirements set forth in rule 4731-16-06 of the Administrative Code, or after the board has issued a final order in lieu of a consent agreement.

(5) When the impaired individual resumes practice after license reinstatement, the board shall require continued monitoring of the individual. This monitoring shall include but not be limited to compliance with the written consent agreement entered into before reinstatement or compliance with conditions imposed by board order after a hearing, and, upon termination of the consent agreement, submission by the individual to the board, for at least two years, of annual written progress reports made

under penalty of perjury stating whether the license holder has maintained sobriety.

(C) In cases where the board has initiated a disciplinary action for violations of any provisions of Chapter 4731 * * * or any of its rules in addition to division (B)(26) of section 4731.22 of the Revised Code, the general pattern of action described in paragraph (B) of this rule will be followed with the following exceptions:

- (1) If the board permanently revokes a license, the individual shall not be eligible for further consideration for licensure or license reinstatement;
- (2) If the board imposes a period of ineligibility for licensure, the individual shall not be eligible for licensure or license reinstatement until the period of ineligibility has lapsed;
- (3) If the board imposes an indefinite period of ineligibility, licensure or license reinstatement shall depend upon successful completion of the requirements in paragraphs (B)(3) and (B)(4) of this rule and determination by the board that the period of suspension or ineligibility served is commensurate with the violations found.

(D) Except as provided in this paragraph, ***an individual who has relapsed during or following treatment shall be ineligible to apply for reinstatement for at least ninety days following the date of license suspension for a first relapse * * ****. An individual who suffers a relapse, as that term is defined in paragraph (B) of rule 4731-16-01 of the Administrative Code, will not be subjected to suspension or other board discipline based on that relapse if all of the following conditions are met:⁶

- (1) The relapse was the first ever suffered by the individual;
- (2) The relapse occurred under circumstances that the board finds minimized the probability that the individual would either provide patient care while under influence of alcohol or drugs or leave patients without necessary care while under the influence of alcohol or drugs;
- (3) The relapse involved a single occasion of use for less than one day;
- (4) ***The individual self-reported the relapse within forty-eight hours in accordance with rule 4731-15-01 of the Administrative Code;***
- (5) The individual does not thereafter suffer another relapse;
- (6) ***The board does not obtain evidence of acts, conduct or omissions that would support the imposition of discipline, apart from the relapse itself;***

⁶Subsection D is sometimes referred to as the “slip rule.” (Tr. at 249) The language of the rule makes clear that a slip still constitutes a relapse, but the consequences are different if all the listed conditions are met.

- (7) The relapse does not lead to the individual being charged with any criminal offense;
- (8) The individual reported the relapse to an approved treatment provider within forty-eight hours, submitted to evaluation as requested by the approved treatment provider, and obtained any additional treatment recommended;
- (9) *The individual suspended practice* until the approved treatment provider reported in writing to the board that it had made a clear determination that the individual was capable of practicing according to acceptable and prevailing standards of care; and
- (10) *The approved treatment provider provides the board a full report* of the evaluation, and the board's secretary and supervising member decide that there are not circumstances warranting the initiation of disciplinary action.

- Rule 4731-15-01 provides:

- (A) Licensees of the board shall be required to report as listed below:
 - (1) Subject to paragraph (B) of this rule, any individual licensed under Chapter 4731 * * * shall report to the board a belief that a violation of * * * Chapter 4731 * * * of the Revised Code, or any rule of the board has occurred.

* * *

- (6) For purposes of this paragraph *any individual licensed under * * * Chapter 4731 of the Revised Code * * * shall report a practitioner who has, at any time during or following treatment, experienced a relapse, as that term is defined in rule 4731-16-01 of the Administrative Code. The relapsing practitioner shall self-report the relapse.*

* * *

- Further, Rule 4731-16-06(A), regarding the Board's requirements for reinstatement of impaired practitioners' certificates, requires among other things the following:

- (18) Minimum probationary term of at least five years, except that a practitioner who first applies for licensure or license restoration after receiving treatment for impairment may be given probation of less than five years if the practitioner demonstrates continuous current sobriety of more than one year but less than five years, and a practitioner who first applies for licensure or license restoration after receiving treatment for impairment may be licensed without probation if the practitioner demonstrates continuous current sobriety of at least five years;

* * *

- Rule 4731-13-36(G) provides:

“No Further Action” means that the board finds that a violation occurred but declines to impose any disciplinary sanction. No further action shall be ordered by the board under circumstances where the board finds that all necessary remedial measures have been completed by the certificate holder, future monitoring is unnecessary and reprimand is not warranted.

FINDINGS OF FACT

1. On or about May 12, 2004, Craig Warren-Marzola (formerly Michael Craig Warren), D.O., entered into a Step I Consent Agreement with the Board, pursuant to which his certificate to practice osteopathic medicine and surgery was suspended for an indefinite period of time, but not less than 270 days. The Step I Consent Agreement was based in part upon Dr. Warren-Marzola’s admitted chemical dependence on prescription pain medications and his arrest upon drug-related criminal charges, for which he subsequently received Intervention in Lieu of Conviction.
2. On or about March 10, 2005, Dr. Warren-Marzola entered into a Step II Consent Agreement with the Board, pursuant to which his certificate to practice osteopathic medicine and surgery was reinstated, subject to probationary terms, conditions and limitations. This agreement, which remains in effect to date, includes the following provision in Paragraph 9: “Dr. Warren shall abstain completely from the use of alcohol.”

In addition, Paragraph 1 of the Step II Consent Agreement requires him to obey all federal, state, and local laws. Paragraph 4 requires Dr. Warren-Marzola to obtain permission from the Board for departures or absences from Ohio, and Paragraph 14 requires Dr. Warren-Marzola to maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., C.A. or Caduceus, no less than three times per week and to submit to the Board documentary evidence of continuing compliance no later than the due date for his quarterly declarations.

3. On or about November 16, 2007, Dr. Warren-Marzola consumed a sip of wine.

On February 5, 2009, he admitted to a Board representative that he had consumed a sip of wine in November 2007. In March 2009, during a probationary conference with Board representatives, he again admitted that he had consumed a sip of wine in November 2007. Further, in his answers to interrogatories and during the hearing, Dr. Warren-Marzola admitted that he had taken a sip of wine in November 2007.
4. Previously, on September 12, 2008, when questioned by a Board representative during a deposition, Dr. Warren-Marzola stated under oath that he had not consumed any alcohol at any time after May 2004.

5. In February 2008, Dr. Warren-Marzola traveled to the Dominican Republic. In July 2008, he traveled to Mississippi. Further, in August 2008, Dr. Warren-Marzola traveled to Florida. He did not obtain permission from the Board for any of these departures and absences from Ohio.
6. Dr. Warren-Marzola did not submit documentation to the Board demonstrating that he had attended three meetings of A.A., N.A., or Caduceus per week for the following periods: the week of February 17, 2008, and the week of March 23, 2008.

CONCLUSIONS OF LAW

1. The acts, conduct, and/or omissions of Craig Warren-Marzola (formerly Michael Craig Warren), D.O., as set forth above in Findings of Fact 1 through 6, individually and/or collectively, constitute a “[v]iolation of the conditions of limitation placed by the board upon a certificate to practice,” as that language is used in R.C. 4731.22(B)(15).
2. Dr. Warren-Marzola’s acts, conduct, and/or omissions as set forth in Findings of Fact 1 through 4, individually and/or collectively, demonstrate “[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 language is used in R.C. 4731.22(B)(26).
3. Dr. Warren-Marzola’s acts, conduct, and/or omissions as set forth above in Findings of Fact 3 and 4 constitute “[m]aking a false, fraudulent, deceptive, or misleading statement * * * in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board,” as that language is used in R.C. 4731.22(B)(5).
4. Dr. Warren-Marzola’s acts, conduct, and/or omissions as set forth in Findings of Fact 3 and 4 above constitute the “[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed,” as that language is used in R.C. 4731.22(B)(10), with respect to Perjury in violation of R.C. 2921.11.

Discussion of Credibility and Proposed Order

Whether a Relapse Occurred. The record includes no evidence that Dr. Warren-Marzola ingested more than a small amount of wine in November 2007, other than the credibility evidence that he was not truthful with the Board during his deposition and on a renewal application, which a finder of fact could view as indicating that he was also untruthful with regard to the extent of his consumption of wine in November 2007.

However, in the State’s closing argument, the State’s counsel stated: “And we have this alcohol consumption. It was just a sip.” (Tr. at 249) The Hearing Examiner accepts that the amount

consumed was no more than one mouthful of wine on one occasion during a very stressful period in Dr. Warren-Marzola's life. Nonetheless, given the admission of consuming alcohol, albeit a small amount, the Hearing Examiner must conclude that Dr. Warren-Marzola experienced a relapse in November 2007. The Board's rules require that "any use" of alcohol following treatment must be deemed a "relapse." Further, the conclusion of relapse is bolstered by the surrounding circumstances, including that the consumption of wine was accompanied by a failure to tell the Caduceus group and the Board about the incident, and the giving of false testimony during a deposition.⁷ Once it is determined that a relapse occurred, then the Board's statutes and rules impose certain requirements, as discussed more fully below.

Mitigating Factors and Required Terms, Conditions and Limitations. With respect to mitigating factors, the Hearing Examiner accepts that, when the incident of wine-consumption occurred in November 2007, Dr. Warren-Marzola called his sponsor immediately, attended an AA meeting that same evening, disclosed the incident within a week or so to Dr. Sateren at OPEP, and disclosed it to Dr. Archambeau in about October 2008 when he resumed contact with that psychiatrist. In addition, the evidence at the hearing did not include any lab results regarding a positive urine screen during the nearly five years of probation. Further, the Hearing Examiner accepts that Dr. Warren-Marzola disclosed the 2007 incident voluntarily at a Caduceus meeting, which was admirable and shows his commitment to full recovery. However, his subsequent disclosure to the Board was not truly voluntary because it was prompted by the threat of disclosure by another person. Also, it is important that Dr. Warren-Marzola made a false statement under oath.

There is a significant difference between the failure to report the incident to the Board and the absolute denial during the deposition. Although it may be debated as to whether Dr. Warren-Marzola genuinely was unsure as to whether he had experienced a relapse in November 2007 that must be reported, it is clear that Dr. Warren-Marzola knew without any doubt that he had consumed some alcohol in November 2007, and that he lied during his deposition. Overall, his actions and omissions show that his recovery process was beset by some significant difficulties. Although Dr. Warren-Marzola asserts that he did everything necessary and appropriate after the November 2007 incident and then moved on successfully, the Hearing Examiner is not convinced that all is well and little more is needed.

Moreover, the Board's rules require specific administrative actions whenever a relapse occurs. Under Rule 4731-16-02(D), an individual who has relapsed for the first time after treatment is ineligible for reinstatement for at least 90 days after his license is suspended.

⁷ Dr. Warren-Marzola's failure to report this event to the Board demonstrates that the event was far more significant than he acknowledged at the hearing. Dr. Warren-Marzola described the event as a "horrible" incident that had him "freaking out." He admitted that, immediately afterwards, in a discussion with his sponsor, he was concerned about whether he should report the incident to the Board, but he did not review the consent agreement. Although Dr. Warren-Marzola asserted that he made disclosures to many people (his sponsor, the OPEP director, his psychiatrist, etc.), and further asserted that none of them recommended reporting the incident to the Board, the Hearing Examiner noted that none of these individuals testified at the hearing to corroborate his testimony on this subject. Moreover, when asked directly, under oath, whether he had consumed alcohol between 2004 and September 2008, he answered No. His fear of the Board's reaction to the truth suggests that in fact he had not received the comfortable blessing from Dr. Archambeau and/or Dr. Sateren regarding non-disclosure to the Board.

However, in this case it is *not* necessary to require an additional 28 days of inpatient treatment. Under Rule 4731-16-02(B)(3)(a), when a licensee has previously completed an inpatient treatment program of at least 28 days *and* has maintained sobriety for at least one year following completion of that treatment, “the treatment required shall be determined by the treatment provider.” Thus, further inpatient treatment is not mandated and the approved treatment provider shall determine the type and duration of treatment for Dr. Warren-Marzola. Although it may seem impractical to start treatment in 2010 for a relapse in November 2007, the Hearing Examiner notes that the delay was caused primarily by Dr. Warren-Marzola’s failure to make a timely disclosure to the Board.

The Issues Regarding Failure to Disclose and False Testimony Under Oath. The Hearing Examiner believes that Dr. Warren-Marzola has made commendable efforts in his recovery but is convinced that his inability to be honest with his Caduceus group and with the Board for more than a year after the 2007 incident reflects that his recovery from the relapse was not as prompt or as thorough as Dr. Warren-Marzola would like to believe.

While the Hearing Examiner acknowledges that Dr. Warren-Marzola’s lack of honesty with himself and others is to some extent a symptom of his disease of chemical dependence, it is clear that the disease process was only a contributing factor and that Dr. Warren-Marzola must accept the consequences of giving false testimony while under oath. A suspension is warranted for this conduct, which is far from a “technical” violation.

Failure to Document Requisite AA Meetings. Over the course of almost five years, a deficiency was found with respect to only two weeks. This deficiency is *de minimus*.

Additional Recommendations. The Proposed Order preserves the current rate of urine screens and preserves the status quo with respect to the work-hour limitation. However, the requirement of drug logs, which had been discontinued, is included in the Proposed Order, due to the relapse and false statement, together with the history of unlawful prescribing. Last, with regard to the question of a suspension, the Hearing Examiner acknowledges that the evidence indicates that the relapse was comparatively mild and further indicates that Dr. Warren-Marzola has now maintained sobriety for more than two years; however, the Board’s rules do not provide the Hearing Examiner with discretion to propose a suspension of less than 90 days or to waive a suspension altogether. The Board does have discretion, however, to reduce the period of probation upon granting reinstatement/restoration, and it may also, after the probation has progressed successfully, reduce probationary requirements such as the number of appearances and rehabilitation meetings, and other obligations.

PROPOSED ORDER

- A. **SUSPENSION OF CERTIFICATE, STAYED; PROBATION:** The certificate of Craig Warren-Marzola, D.O., to practice osteopathic medicine and surgery in the State of Ohio shall be SUSPENDED for an indefinite period of time, but not less than 90 days.
- B. **INTERIM MONITORING:** During the period that Dr. Warren-Marzola's certificate to practice in Ohio is suspended, he shall comply with the following terms, conditions, and limitations:
1. **Obey the Law:** Dr. Warren-Marzola shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.
 2. **Declarations of Compliance:** Dr. Warren-Marzola shall submit quarterly declarations under penalty of Board disciplinary action and/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 or before the date his quarterly declaration would have been due pursuant to his Step II Consent Agreement, or as otherwise directed by the Board. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
 3. **Personal Appearances:** Dr. Warren-Marzola shall appear in person for interviews before the Board or its designated representative. The first such appearance shall take place on or before the date his appearance would have been scheduled pursuant to his Step II Consent Agreement, or as otherwise directed by the Board. Subsequent personal appearances shall occur every three months thereafter and/or as otherwise directed 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.
 4. **Sobriety**
 - a. **Abstention from Drugs:** Dr. Warren-Marzola shall abstain completely from the personal use or personal possession of drugs, except those prescribed, dispensed, or administered to him by another so authorized by law who has full knowledge of Dr. Warren-Marzola's history of chemical dependency and/or abuse and who may lawfully prescribe for him (for example, a physician who is not a family member).

Further, in the event that Dr. Warren-Marzola is so prescribed, dispensed, or administered any controlled substance, carisoprodol, or tramadol, Dr. Warren-Marzola shall notify the Board in writing within seven days, providing the Board with the identity of the prescriber, the name of the drug Dr. Warren-Marzola received, the medical purpose for which he received the drug, the date the drug was initially received, and the dosage, amount, number of refills, and directions for use.

Further, within 30 days of the date said drug is so prescribed, dispensed, or administered to him, Dr. Warren-Marzola shall provide the Board with either a copy of the written prescription or other written verification from the prescriber, including the dosage, amount, number of refills, and directions for use.

- b. **Abstinence from Alcohol**: Dr. Warren-Marzola shall abstain completely from the use of alcohol.

5. **Drug and Alcohol Screens; Drug Testing Facility and Collection Site**

- a. Dr. Warren-Marzola shall submit to random urine screenings for drugs and alcohol at least two times per month, or as otherwise directed by the Board. Dr. Warren-Marzola 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, and shall include Dr. Warren-Marzola's drugs of choice.
- b. Dr. Warren-Marzola shall submit, at his expense and on the day selected, urine specimens for drug and/or alcohol analysis. (The term "toxicology screen" may also be used herein for "urine screen" and/or "drug screen.")

All specimens submitted by Dr. Warren-Marzola shall be negative, except for those substances prescribed, administered, or dispensed to him in conformance with the terms, conditions and limitations set forth in this Order.

Refusal to submit such specimen, or failure to submit such specimen on the day he is selected or in such manner as the Board may request, shall constitute a violation of this Order.

- c. Dr. Warren-Marzola shall abstain from the use of any substance that may produce a positive result on a toxicology screen, including the consumption of poppy seeds or other food or liquid that may produce a positive result on a toxicology screen.

Dr. Warren-Marzola shall be held to an understanding and knowledge that the consumption or use of various substances, including but not limited to mouthwashes, hand-cleaning gels, and cough syrups, may cause a positive toxicology screen, and that unintentional ingestion of a substance is not distinguishable from intentional ingestion on a toxicology screen, and that, therefore, consumption or use of substances that may produce a positive result on a toxicology screen is prohibited under this Order.

- d. All urine screenings for drugs and alcohol shall be conducted through a Board-approved drug-testing facility and Board-approved collection site pursuant to the global contract between the approved facility and the Board, which provides for the Board to maintain ultimate control over the urine-screening process and to preserve the confidentiality of positive screening results in accordance with Ohio

Revised Code Section 4731.22(F)(5). The screening process for random testing shall require a daily call-in procedure. Further, in the event that the Board exercises its discretion, as provided in Paragraph 6, below, to approve urine screenings to be conducted at an alternative drug-testing facility, collection site, and/or supervising physician, such approval shall be expressly contingent upon the Board's retaining ultimate control over the urine-screening process in a manner that preserves the confidentiality of positive screening results.

- e. Within 30 days of the effective date of this Order, Dr. Warren-Marzola shall enter into the necessary financial and/or contractual arrangements with the Board-approved drug-testing facility and/or collection site ("DFCS") in order to facilitate the screening process in the manner required by this Order.

Further, within 30 days of making such arrangements, Dr. Warren-Marzola shall provide to the Board written documentation of completion of such arrangements, including a copy of any contract entered into between Dr. Warren-Marzola and the Board-approved DFCS. Dr. Warren-Marzola's failure to timely complete such arrangements, or failure to timely provide written documentation to the Board of completion of such arrangements, shall constitute a violation of this Order.

- f. Dr. Warren-Marzola shall ensure that the urine-screening process performed through the Board-approved DFCS requires a daily call-in procedure, 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, Dr. Warren-Marzola and the Board-approved DFCS shall ensure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening result.

- g. Dr. Warren-Marzola shall ensure that the Board-approved DFCS provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Order, and whether all urine screens have been negative.
- h. In the event that the Board-approved DFCS becomes unable or unwilling to serve as required by this Order, Dr. Warren-Marzola shall immediately notify the Board in writing, and make arrangements acceptable to the Board, pursuant to Paragraph 6, below, as soon as practicable. Dr. Warren-Marzola shall further ensure that the Board-approved DFCS also notifies the Board directly of its inability to continue to serve and the reasons therefor.
- i. The Board, in its sole discretion, may withdraw its approval of any DFCS in the event that the Secretary and Supervising Member of the Board determine that the

DFCS has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

6. **Alternative Drug-testing Facility and/or Collection Site:** It is the intent of this Order that Dr. Warren-Marzola shall submit urine specimens to the Board-approved DFCS chosen by the Board. However, in the event that using the Board-approved DFCS creates an extraordinary hardship on Dr. Warren-Marzola, as determined in the sole discretion of the Board, then, subject to the following requirements, the Board may approve an alternative DFCS or a supervising physician to facilitate the urine-screening process for Dr. Warren-Marzola.

- a. Within 30 days of the date on which Dr. Warren-Marzola is notified of the Board's determination that utilizing the Board-approved DFCS constitutes an extraordinary hardship on Dr. Warren-Marzola, he shall submit to the Board in writing for its prior approval the identity of either an alternative DFCS or the name of a proposed supervising physician to whom Dr. Warren-Marzola shall submit the required urine specimens.

In approving a facility, entity, or an individual to serve in this capacity, the Board will give preference to a facility located near Dr. Warren-Marzola's residence or employment location, or to a physician who practices in the same locale as Dr. Warren-Marzola. Dr. Warren-Marzola shall ensure that the urine-screening process performed through the alternative DFCS or through the supervising physician requires a daily call-in procedure, 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, Dr. Warren-Marzola shall ensure that the alternative DFCS or the supervising physician maintains appropriate control over the specimen and immediately informs the Board of any positive screening result.

- b. Dr. Warren-Marzola shall ensure that the alternative DFCS or the supervising physician provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Order, and whether all urine screens have been negative.
- c. In the event that the designated alternative DFCS or the supervising physician becomes unable or unwilling to so serve, Dr. Warren-Marzola shall immediately notify the Board in writing. Dr. Warren-Marzola shall further ensure that the previously designated alternative DFCS or the supervising physician also notifies the Board directly of the inability to continue to serve and the reasons therefor. Further, in the event that the approved alternative DFCS or supervising physician becomes unable to serve, Dr. Warren-Marzola shall, in order to ensure that there will be no interruption in his urine-screening process, immediately commence urine screening at the Board-approved DFCS chosen by the Board, until such time, if any, that the Board approves a different DFCS or supervising physician, if requested by Dr. Warren-Marzola.

- d. The Board, in its sole discretion, may disapprove any entity or facility proposed to serve as Dr. Warren-Marzola's designated alternative DFCS or any person proposed to serve as his supervising physician, or may withdraw its approval of any entity, facility or person previously approved to so serve in the event that the Secretary and Supervising Member of the Board determine that any such entity, facility or person has demonstrated a lack of cooperation in providing information to the Board or for any other reason.
7. **Reports Regarding Drug and Alcohol Screens:** All screening reports required under this Order from the Board-approved DFCS, the alternative DFCS and/or supervising physician must be received in the Board's offices no later than the due date for Dr. Warren-Marzola's declarations of compliance. It is Dr. Warren-Marzola's responsibility to ensure that reports are timely submitted.
8. **Additional Screening Without Prior Notice:** Upon the Board's request and without prior notice, Dr. Warren-Marzola shall provide a specimen of his blood, breath, saliva, urine, and/or hair for screening for drugs and alcohol, for analysis of therapeutic levels of medications that may be prescribed for Dr. Warren-Marzola, or for any other purpose, at Dr. Warren-Marzola's expense. Dr. Warren-Marzola's refusal to submit a specimen upon the request of the Board shall result in a minimum of one year of actual license suspension. Further, the collection of such specimens shall be witnessed by a representative of the Board, or another person acceptable to the Secretary and Supervising Member of the Board.
9. **Rehabilitation Program:** Dr. Warren-Marzola shall undertake and maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., or C.A., no less than three times per week, or as otherwise ordered by the Board. Substitution of any other specific program must receive prior Board approval.

Dr. Warren-Marzola shall submit acceptable documentary evidence of continuing compliance with this program, including submission to the Board of meeting attendance logs, which must be received in the Board's offices no later than the due date for Dr. Warren-Marzola's declarations of compliance.
10. **Releases:** Dr. Warren-Marzola shall provide 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. Warren-Marzola's chemical dependency and/or related conditions, or for purposes of complying with this Order, whether such treatment or evaluation occurred before or after the effective date of this Order. To the extent permitted by law, the above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43, Ohio Revised Code, and are confidential pursuant to statute.

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

11. **Comply with the Terms of Aftercare Contract:** Dr. Warren-Marzola shall maintain continued compliance with the terms of any aftercare contract entered into with his treatment provider(s), provided that, where terms of an aftercare contract conflict with terms of this Order, the terms of this Order shall control.
12. **Absences from Ohio:** Dr. Warren-Marzola shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the suspension/probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed. Further, the Secretary and Supervising Member of the Board shall have discretion to waive part or all of the monitoring terms set forth in this Order for occasional periods of absence of 14 days or less.

In the event that Dr. Warren-Marzola resides and/or is employed at a location that is within 50 miles of the geographic border of Ohio and a contiguous state, Dr. Warren-Marzola may travel between Ohio and that contiguous state without seeking prior approval of the Secretary or Supervising Member provided that Dr. Warren-Marzola is otherwise able to maintain full compliance with all other terms, conditions and limitations set forth in this Order.

13. **Required Reporting of Change of Address:** Dr. Warren-Marzola shall notify the Board in writing of any change of residence address and/or principal practice address within 30 days of the change.
- C. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Warren-Marzola's certificate to practice osteopathic medicine and surgery until all of the following conditions have been met:
1. **Application for Reinstatement or Restoration:** Dr. Warren-Marzola shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
 2. **Compliance with Interim Conditions:** Dr. Warren-Marzola 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. Warren-Marzola shall demonstrate to the satisfaction of the Board that he can practice in compliance with acceptable and prevailing standards of care. Such demonstration shall include but shall not be limited to the following:

- a. Certification from a treatment provider approved under Section 4731.25, Ohio Revised Code, that Dr. Warren-Marzola has successfully completed any required treatment for chemical dependency as determined by a Board-approved treatment provider pursuant to Ohio Administrative Code Section [Rule] Rule 4731-16-02(B)(3)(a).
- b. Evidence of continuing full compliance with an aftercare contract, if any, with a treatment provider approved under Section 4731.25. Such evidence shall include, but shall not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with Rule 4731-16-10, Ohio Administrative Code.
- c. Evidence of continuing full compliance with this Order.
- d. Two written reports indicating that Dr. Warren-Marzola's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care, with respect to chemical dependency/abuse.

The reports shall have been made by physicians knowledgeable in the area of addictionology and who are either affiliated with a current Board-approved treatment provider or otherwise have been approved in advance by the Board to provide an assessment of Dr. Warren-Marzola. Further, the two aforementioned physicians shall not be affiliated with the same treatment provider or medical group practice. Prior to the assessments, Dr. Warren-Marzola shall provide the assessors with copies of patient records from any evaluation and/or treatment that he has received, and a copy of this Order. The reports of the assessors shall include any recommendations for treatment, monitoring, or supervision of Dr. Warren-Marzola, and any conditions, restrictions, or limitations that should be imposed on Dr. Warren-Marzola's practice. The reports shall also describe the basis for the assessor's determinations.

All reports required pursuant to this paragraph shall be based upon examinations occurring within the three months immediately preceding any application for reinstatement or restoration. Further, at the discretion of the Secretary and Supervising Member of the Board, the Board may request an updated assessment and report if the Secretary and Supervising Member determine that such updated assessment and report is warranted for any reason.

4. **Additional Evidence of Fitness To Resume Practice:** In the event that Dr. Warren-Marzola has not been engaged in the practice of osteopathic medicine as an active practitioner for a period in excess of two years prior to his 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. Warren-Marzola's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years, unless the minimum period of probation is reduced as set forth in paragraph (D)(2) below:

1. **Terms, Conditions, and Limitations Continued from Suspension Period:** Dr. Warren-Marzola shall continue to be subject to the terms, conditions, and limitations specified in Paragraph B of this Order.
2. **Minimum Period of Probation.** The Board may grant reinstatement or restoration subject to a reduced minimum term of probation of less than five years if Dr. Warren-Marzola demonstrates continuous current sobriety of more than one year at the time of his application for reinstatement or restoration.
3. **Monitoring Physician:** Within 30 days of the date of reinstatement or restoration, Dr. Warren-Marzola shall submit to the Board in writing the name and curriculum vitae of a monitoring physician for prior written approval by the Secretary and Supervising Member of the Board. In approving an individual to serve in this capacity, the Secretary and Supervising Member will give preference to a physician who practices in the same locale as Dr. Warren-Marzola and who is engaged in the same or similar practice specialty.

The monitoring physician shall monitor Dr. Warren-Marzola and his medical practice, and shall review Dr. Warren-Marzola'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. Warren-Marzola's medical practice, and on the review of Dr. Warren-Marzola's patient charts. Dr. Warren-Marzola 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. Warren-Marzola's declaration of compliance.

In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Warren-Marzola shall immediately so notify the Board in writing. In addition, Dr. Warren-Marzola shall make arrangements acceptable to the Board for another monitoring physician within 30 days after the previously designated monitoring physician becomes unable or unwilling to serve, unless otherwise determined by the Board. Dr. Warren-Marzola shall further ensure that the previously designated monitoring physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefor.

The Board, in its sole discretion, may disapprove any physician proposed to serve as Dr. Warren-Marzola's monitoring physician, or may withdraw its approval of any physician previously approved to serve as Dr. Warren-Marzola's monitoring physician, in the event that the Secretary and Supervising Member of the Board determine that any

such monitoring physician has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

4. **Controlled Substances Log**: Dr. Warren-Marzola shall keep a log of all controlled substances he prescribes, orders, administers, or personally furnishes. Such log shall be submitted in a format of Dr. Warren-Marzola's choosing and approved in advance by the Board. All such logs required under this paragraph must be received in the Board's offices no later than the due date for Dr. Warren-Marzola's declarations of compliance, or as otherwise directed by the Board. Further, Dr. Warren-Marzola shall make his/her patient records with regard to such controlled substances available for review by an agent of the Board upon request.
5. **Work Hour Limitation**: Dr. Warren shall limit his actual work hours to a combined total of no more than 84 hours of work per week, which shall be comprised of his normally scheduled work hours and his on-call hours, until otherwise approved by the Board. Dr. Warren shall keep a log reflecting the dates, times, and facilities and/or locations at which he works. Dr. Warren shall submit his work log for receipt in the Board's offices no later than the due date for Dr. Warren's quarterly declaration.

Any request by Dr. Warren for modification of the limitation on work hours and/or on-call hours set forth in this paragraph shall be accompanied by documentation from a physician affiliated with a Board approved treatment provider, or other physician approved by the Board for this purpose, who has evaluated Dr. Warren, indicating that such physician supports Dr. Warren's request for modification.

6. **Modification of Terms**: Dr. Warren-Marzola shall not request modification of the terms, conditions, or limitations of probation for at least 180 days after imposition of these probationary terms, conditions, and limitations.
 7. **Tolling of Probationary Period While Out of Compliance**: In the event Dr. Warren-Marzola is found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Order.
- E. **TERMINATION OF PROBATION**: Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Warren-Marzola's certificate will be fully restored.
- F. **VIOLATION OF THE TERMS OF THIS ORDER**: If Dr. Warren-Marzola violates the terms of this Order 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.

G. **REQUIRED REPORTING WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS ORDER:**

1. **Required Reporting to Employers and Others:** Within 30 days of the effective date of this Order, Dr. Warren-Marzola shall provide a copy of this Order to all employers or entities with which he is under contract to provide healthcare services (including but not limited to third-party payors), or is receiving training; and the Chief of Staff at each hospital or healthcare center where he has privileges or appointments. Further, Dr. Warren-Marzola shall promptly provide a copy of this Order to all employers or entities with which he contracts in the future to provide healthcare services (including but not limited to third-party payors), or applies for or receives training, and the Chief of Staff at each hospital or healthcare center where he applies for or obtains privileges or appointments. This requirement shall continue until Dr. Warren-Marzola receives from the Board written notification of the successful completion of his probation.

In the event that Dr. Warren-Marzola provides any healthcare services or healthcare direction or medical oversight to any emergency medical services organization or emergency medical services provider in Ohio, within 30 days of the effective date of this Order, he shall provide a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services. This requirement shall continue until Dr. Warren-Marzola receives from the Board written notification of the successful completion of his probation.

2. **Required Reporting to Other State Licensing Authorities:** Within 30 days of the effective date of this Order, Dr. Warren-Marzola shall provide a copy of this Order to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which he currently holds any license or certificate. Also, Dr. Warren-Marzola shall provide a copy of this Order at the time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement/restoration of any professional license. This requirement shall continue until Dr. Warren-Marzola receives from the Board written notification of the successful completion of his probation.
3. **Required Reporting to Treatment Providers/Monitors:** Within 30 days of the effective date of this Order, Dr. Warren-Marzola shall provide a copy of this Order to all persons and entities that provide chemical dependency/abuse treatment to or monitoring of Dr. Warren-Marzola. This requirement shall continue until Dr. Warren-Marzola receives from the Board written notification of the successful completion of his probation.

4. **Required Documentation of the Reporting Required by Paragraph G:** Dr. Warren-Marzola shall provide this Board with **one** of the following documents as proof of each required notification within 30 days of the date of each such notification: (1) the return receipt of certified mail within 30 days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Order was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Order to the person or entity to whom a copy of the Order was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the e-mail transmission of a copy of the Order to the person or entity to whom a copy of the Order was e-mailed.

EFFECTIVE DATE: This Order shall become effective immediately upon the mailing of the notification of approval by the Board, at which time this Order will supersede Dr. Warren-Marzola's Step II Consent Agreement.



Patricia A. Davidson
Hearing Examiner

State Medical Board of Ohio

30 E. Broad Street, 3rd Floor, Columbus, OH 43215-6127

Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
med.ohio.gov

EXCERPT FROM THE DRAFT MINUTES OF APRIL 14, 2010

REPORTS AND RECOMMENDATIONS AND PROPOSED FINDINGS AND PROPOSED ORDERS

Dr. Amato announced that the Board would now consider the Reports and Recommendations, and the Proposed Findings and Proposed Order appearing on its agenda.

Dr. Amato asked whether each member of the Board had received, read and considered the hearing records; the Findings of Fact, Conclusions of Law and Proposed Orders, and any objections filed in the matters of: George D. J. Griffin, III, M.D.; Narendra Kumar Gupta, M.D.; Daniel M. Moshos, D.O.; Joseph P. Sitarik, D.O.; Craig Warren-Marzola, D.O. A roll call was taken:

ROLL CALL:	Dr. Strafford	- aye
	Mr. Hairston	- aye
	Dr. Madia	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Amato	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Suppan	- aye

Dr. Amato 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:	Dr. Strafford	- aye
	Mr. Hairston	- aye
	Dr. Madia	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Amato	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Suppan	- aye

Dr. Amato 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. In the matters before the Board today, Dr. Talmage

served as Secretary and Mr. Albert served as Supervising Member.

Dr. Amato reminded all parties that no oral motions may be made during these proceedings.

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

.....

CRAIG WARREN-MARZOLA, D.O.

.....

DR. MADIA MOVED TO APPROVE AND CONFIRM MS. DAVIDSON’S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF CRAIG WARREN-MARZOLA, D.O. DR. VARYANI SECONDED THE MOTION.

.....

A vote was taken on Dr. Madia’s motion to approve and confirm:

ROLL CALL:	Dr. Strafford	- aye
	Mr. Hairston	- aye
	Dr. Madia	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Amato	- aye
	Dr. Varyani	- aye
	Dr. Talmage	- abstain
	Dr. Suppan	- nay

The motion carried.

State Medical Board of Ohio

30 E. Broad Street, 3rd Floor, Columbus, OH 43215-6127



Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
med.ohio.gov

June 10, 2009

Case number: 09-CRF- 075

Michael Craig Warren, D.O.
2626 Sigsher Drive
Toledo, Ohio 43615

Dear Doctor Warren:

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 12, 2004, you entered into a Step I Consent Agreement with the Board [May 2004 Step I Consent Agreement], pursuant to which your certificate to practice osteopathic medicine and surgery was suspended for an indefinite period of time, but not less than 270 days. The May 2004 Step I Consent Agreement was based in part upon your admitted addiction to prescription pain medications and your arrest for drug-related criminal charges, for which you received Intervention in Lieu of Conviction.

On or about March 10, 2005, you entered into a Step II Consent Agreement with the Board [March 2005 Step II Consent Agreement], a copy of which is attached hereto and fully incorporated herein, pursuant to which your certificate to practice osteopathic medicine and surgery was reinstated, subject to certain probationary terms, conditions and limitations.

To date, you remain subject to the March 2005 Step II Consent Agreement, which includes the following provision in Paragraph 9:

Dr. Warren shall abstain completely from the use of alcohol.

Additionally, Paragraph 1 of the March 2005 Step II Consent Agreement requires you to obey all federal, state, and local laws.

Mailed 6-11-09

- (2) On or about February 5, 2009, you spoke with a Board representative, at which time you admitted that you had consumed alcohol in or around November 2007. On or about March 11, 2009, you admitted to another Board representative that you had consumed alcohol in or around November 2007.
- (3) Previously, on or about September 12, 2008, when questioned by a Board representative, you stated under oath that you had not consumed any alcohol anytime after May 2004, when in fact you had consumed alcohol in or around November 2007.
- (4) Paragraph 4 of the March 2005 Step II Consent Agreement requires you to obtain permission from the Board for departures or absences from Ohio. In or around February 2008, you traveled to the Dominican Republic and were absent from Ohio for approximately ten days. Additionally, in or around July 2008, you left the state and traveled to Mississippi. Further, in or around August 2008, you again left the state and traveled to Florida. You did not obtain permission from the Board for any of these departures.
- (5) Paragraph 14 of the March 2005 Step II Consent Agreement requires you to maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., C.A. or Caduceus, no less than three times per week and to submit to the Board documentary evidence of continuing compliance no later than the due date for your quarterly declarations. The documentation you submitted to the Board on or about April 23, 2008, demonstrated that you had not fully complied with the provisions of this paragraph for the weeks of February 17, 2008; March 16, 2008 and March 23, 2008.

Section 4731.22(B)(26), Ohio Revised Code, provides that if the Board determines that an individual's ability to practice is impaired, the Board shall suspend the individual's certificate and shall require the individual, as a condition for continued, reinstated, or renewed certification to practice, to submit to treatment and, before being eligible to apply for reinstatement, to demonstrate to the Board the ability to resume practice in compliance with acceptable and prevailing standards of care, including completing required treatment, providing evidence of compliance with an aftercare contract or written consent agreement, and providing written reports indicating that the individual's ability to practice has been assessed by individuals or providers approved by the Board and that the individual has been found capable of practicing according to acceptable and prevailing standards of care.

Further, Rule 4731-16-02(B)(3), Ohio Administrative Code, provides that if an examination discloses impairment, or if the Board has other reliable, substantial and probative evidence demonstrating impairment, the Board shall initiate proceedings to suspend the license. Additionally, Rule 4731-16-02(B)(2), Ohio Administrative Code,

further provides that an individual's relapse following treatment constitutes independent proof of impairment and shall support license suspension without the need for an examination.

Your acts, conduct, and/or omissions as alleged in paragraphs (1), (2), (3), (4), and (5) above, individually and/or collectively, constitute a "[v]iolation of the conditions of limitation placed by the board upon a certificate to practice," as that clause is used in Section 4731.22(B)(15), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (1) and (2) 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.

Additionally, your acts, conduct, and/or omissions as alleged in paragraph (3) above constitutes "[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

Furthermore, your acts, conduct, and/or omissions as alleged in paragraph (3) above constitutes "[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed," as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Perjury, in violation of Section 2921.11, 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

Michael Craig Warren, D.O.

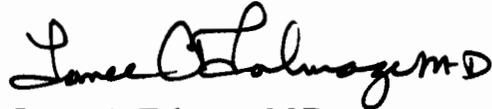
Page 4

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/CDP/flb
Enclosures

CERTIFIED MAIL #91 7108 2133 3936 3071 2225
RETURN RECEIPT REQUESTED

cc: Elizabeth Y. Collis
Collis, Smiles & Collis
1650 Lake Shore Drive
Suite 225
Columbus, Ohio 43204

CERTIFIED MAIL # 91 7108 2133 3936 3071 2218
RETURN RECEIPT REQUESTED

STEP II
CONSENT AGREEMENT
BETWEEN
MICHAEL CRAIG WARREN, D.O.
AND
THE STATE MEDICAL BOARD OF OHIO

OHIO STATE MEDICAL BOARD

MAR 0 1 2005

This Consent Agreement is entered into by and between Michael Craig Warren, D.O. [Dr. Warren], and the State Medical Board of Ohio [Board], a state agency charged with enforcing Chapter 4731., Ohio Revised Code.

Dr. Warren enters into this Consent Agreement being fully informed of his rights under Chapter 119., Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudicative hearing on the issues considered herein.

BASIS FOR ACTION

This Consent Agreement is entered into on the basis of the following stipulations, admissions and understandings:

- A. The Board is empowered by Section 4731.22(B), Ohio Revised Code, to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for violation(s) of Section 4731.22(B)(26), Ohio Revised Code, "impairment 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;" Section 4731.22(B)(9), Ohio Revised Code, "[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;" Section 4731.22(B)(10), Ohio Revised Code, "[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;" and/or Section 4731.22(B)(5), Ohio Revised Code, "[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board."
- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violations of Sections 4731.22(B)(5), Ohio Revised Code, 4731.22(B)(26), Ohio Revised Code, and 4731.22(B)(10), Ohio Revised Code, to wit: Sections 2925.22, Ohio Revised Code, and/or 2925.23, Ohio Revised Code, as set forth in the Step I Consent Agreement Between Michael Craig Warren, D.O., and The State Medical Board of Ohio that became effective on May 12, 2004, [May 2004 Step I Consent Agreement], a copy of which is attached hereto and fully incorporated herein,

MAR 01 2005

and violation of Section 4731.22(B)(9), Ohio Revised Code, to wit: Sections 2925.23, 2923.02 and 2925.11, Ohio Revised Code, as set forth in Paragraph E below. The Board expressly reserves the right to institute formal proceedings based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Consent Agreement.

- C. Dr. Warren is applying for reinstatement of his certificate to practice osteopathic medicine and surgery in the State of Ohio, License # 34-008173, which was suspended pursuant to the aforementioned May 2004 Step I Consent Agreement.
- D. Dr. Warren states that he is also licensed to practice osteopathic medicine and surgery in the State of Michigan. Dr. Warren admits that based upon the information contained in the aforementioned May 2004 Step I Consent Agreement, on or about November 19, 2004, the Michigan Board of Osteopathic Medicine and Surgery issued an Order of Summary Suspension against his license in that state, and that such Order of Summary Suspension was subsequently dissolved on or about December 28, 2004.
- E. Dr. Warren admits that after entering residential treatment for chemical dependency on or about April 12, 2004, at The Toledo Hospital, a Board-approved treatment provider, he was discharged, treatment complete, on or about May 13, 2004. Dr. Warren states, and the Board acknowledges receipt of information to support, that since being discharged from The Toledo Hospital, he has remained compliant with his recovery plan, including participating in at least three A.A. meetings per week and submitting to random urine screens on a weekly basis. Dr. Warren states, and the Board acknowledges receipt of information to support, that Dr. Warren entered into an aftercare contract with Toledo Hospital, on May 3, 2004, as amended during or about February 2005, and that he is in compliance with such aftercare contract.

Dr. Warren admits that on or about August 30, 2004, a Judgment Entry and Order for Intervention in Lieu of Conviction, which set forth certain probationary terms, was entered by the Court of Common Pleas for Wood County, Ohio, related to the drug-related criminal charges that were pending against him in that county at the time he entered into the aforementioned May 2004 Step I Consent Agreement. Dr. Warren further admits that contemporaneous with the time he entered into the May 2004 Step I Consent Agreement, he was indicated in Lucas County, Ohio, on two counts of Illegal Processing of Drug Documents, in violation of Section 2925.23, Ohio Revised Code, and one count of Attempted Aggravated Possession of Drugs, in violation of Sections 2923.02 and 2925.11, Ohio Revised Code. Dr. Warren further admits that on or about August 13, 2004, a Judgment Entry and Order for Intervention in Lieu of Conviction, which set forth certain probationary terms, was entered by the Court of Common Pleas for Lucas County in that matter.

Dr. Warren states, and the Board acknowledges, that Christine Ellis, M.D., Medical Director of Compass, a Board-approved treatment provider, has provided a written

MAR 01 2005

report indicating that Dr. Warren's ability to practice osteopathic medicine has been assessed, as related to his chemical dependency status, and that he has been found capable of practicing according to acceptable and prevailing standards of care, so long as certain treatment and monitoring conditions are in place, including that Dr. Warren not work excessive on-call hours. Dr. Warren further states, and the Board further acknowledges, that Kenneth Adler, M.D., a physician approved by the Board for the purpose of evaluating Dr. Warren, as related to his chemical dependency status, has provided a written report indicating that Dr. Warren's ability to practice osteopathic medicine has been assessed, and that he has been found capable of practicing according to acceptable and prevailing standards of care, so long as certain treatment and monitoring conditions are in place, including that Dr. Warren maintain his currently ongoing psychotherapy treatment.

Dr. Warren further states, and the Board further acknowledges, that Lurley Archambeau, M.D., Dr. Warren's treating psychiatrist pursuant to the May 2004 Step I Consent Agreement, has provided to the Board a written report indicating that Dr. Warren's ability to practice osteopathic medicine has been assessed, as related to his psychiatric status, and that he has been found capable of practicing according to acceptable and prevailing standards of care, so long as certain treatment and monitoring conditions are in place, including that Dr. Warren continue psychiatric treatment at least once every three months. The Board further acknowledges that Dr. Archambeau has also verbally opined that although he is aware that a prior psychiatrist diagnosed Dr. Warren as having Bipolar Disorder, Dr. Warren has manifested no indicators of this condition during the course of his treatment with Dr. Archambeau. Accordingly, Dr. Archambeau has further stated that although he remains attuned to the possibility of this diagnosis, at this time he believes the prior diagnosis may have been influenced by factors related to Dr. Warren's prior narcotic abuse, and that Dr. Warren's current clinical presentation more accurately supports the diagnosis of Mild Generalized Anxiety Disorder.

Accordingly, Dr. Warren states, and the Board acknowledges receipt of information to support, that Dr. Warren has fulfilled the conditions for reinstatement of his certificate to practice osteopathic medicine and surgery in the State of Ohio as established in the May 2004 Step I Consent Agreement.

AGREED CONDITIONS

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, the certificate of Dr. Warren to practice osteopathic medicine and surgery in the State of Ohio shall be reinstated, and Dr. Warren knowingly and voluntarily agrees with the Board to the following PROBATIONARY terms, conditions and limitations:

MAR 01 2005

1. Dr. Warren shall obey all federal, state, and local laws, and all rules governing the practice of osteopathic medicine in Ohio, and all terms of probation imposed by the Court of Common Pleas for Wood County, Ohio, in criminal case number 04-CR-165, and all terms of probation imposed by the Court of Common Pleas for Lucas County, Ohio, in criminal case number G-4801-CR-200401963.
2. Dr. Warren shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Consent Agreement. The first quarterly declaration must be received in the Board's offices on the date his quarterly declaration would have been due pursuant to his May 2004 Step I Consent Agreement with the Board. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
3. Dr. Warren shall appear in person for an interview before the full Board or its designated representative. The first such appearance shall take place on the date his appearance would have been scheduled pursuant to his May 2004 Step I Consent Agreement with 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.
4. Dr. Warren shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed.
5. In the event Dr. Warren is found by the Secretary of the Board to have failed to comply with any provision of this Consent Agreement, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Consent Agreement.

MONITORING OF REHABILITATION AND TREATMENT

Drug Associated Restrictions

6. Dr. Warren shall keep a log of all controlled substances prescribed. Such log shall be submitted, in the format approved by the Board, thirty days prior to Dr. Warren's personal appearance before the Board or its designated representative, or as otherwise directed by the Board. Further, Dr. Warren shall make his patient records with regard to such prescribing available for review by an agent of the Board upon request.

MAR 01 2005

7. Dr. Warren shall not, without prior Board approval, administer, personally furnish, or possess (except as allowed under Paragraph 8 below) any controlled substances as defined by state or federal law. In the event that the Board agrees at a future date to modify this Consent Agreement to allow Dr. Warren to administer or personally furnish controlled substances, Dr. Warren shall keep a log of all controlled substances prescribed, administered or personally furnished. Such log shall be submitted in the format approved by the Board thirty days prior to Dr. Warren's personal appearance before the Board or its designated representative, or as otherwise directed by the Board. Further, Dr. Warren shall make his patient records with regard to such prescribing, administering, or personally furnishing available for review by an agent of the Board upon request.

Sobriety

8. Dr. Warren shall abstain completely from the personal use or possession of drugs, except those prescribed, dispensed or administered to him by another so authorized by law who has full knowledge of Dr. Warren's history of chemical dependency and psychiatric history.
9. Dr. Warren shall abstain completely from the use of alcohol.

Psychiatric Treatment

10. Dr. Warren and the Board agree that the person previously approved by the Board to serve as Dr. Warren's treating psychiatrist pursuant to the May 2004 Step I Consent Agreement is hereby approved by the Board to serve as Dr. Warren's treating psychiatrist under this Consent Agreement, unless within thirty days of the effective date of this Consent Agreement, Dr. Warren shall submit to the Board for its prior approval the name and qualifications of an alternative psychiatrist of his choice.

Dr. Warren shall undergo and continue psychiatric treatment at least once every twelve weeks, or as otherwise directed by the Board. Dr. Warren shall comply with his psychiatric treatment plan, including taking medications as prescribed and/or ordered for his psychiatric disorder. Dr. Warren shall ensure that psychiatric reports are forwarded by his treating psychiatrist to the Board on a quarterly basis, or as otherwise directed by the Board. The psychiatric reports shall contain information describing Dr. Warren's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Warren's compliance with his treatment plan; Dr. Warren's mental status; Dr. Warren's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Warren shall ensure that his treating psychiatrist immediately notifies the Board of his failure to comply with his psychiatric treatment plan and/or any determination that Dr. Warren is unable to practice due to his psychiatric disorder. It is Dr. Warren's

MAR 01 2005

responsibility to ensure that quarterly reports are received in the Board's offices no later than the due date for Dr. Warren's quarterly declaration.

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

The Board expressly reserves the right to disapprove any psychiatrist proposed to serve as Dr. Warren's designated treating psychiatrist, or to withdraw approval of any psychiatrist previously approved to serve as Dr. Warren's designated treating psychiatrist, in the event that the Secretary and Supervising Member of the Board determine that any such psychiatrist has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

Drug and Alcohol Screens/Supervising Physician

11. Dr. Warren shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board. Dr. Warren 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.

Dr. Warren shall abstain from consumption of poppy seeds or any other food or liquid that may produce false results in a toxicology screen.

Dr. Warren and the Board agree that the person or entity previously approved by the Board to serve as Dr. Warren's supervising physician pursuant to the May 2004 Step I Consent Agreement is hereby approved to continue as Dr. Warren's designated supervising physician under this Consent Agreement, unless within thirty days of the effective date of this Consent Agreement, Dr. Warren submits to the Board for its prior approval the name and curriculum vitae of an alternative supervising physician to whom Dr. Warren shall submit the required urine 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. Warren. Dr. Warren 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.

The Board expressly reserves the right to disapprove any person or entity proposed to serve as Dr. Warren's designated supervising physician, or to withdraw approval of any person or entity previously approved to serve as Dr. Warren's designated supervising physician, in the event that the Secretary and Supervising Member of the Board determine that any such supervising physician has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

Dr. Warren 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 Consent Agreement, 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. Warren must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Dr. Warren 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. Warren's quarterly declaration. It is Dr. Warren's responsibility to ensure that reports are timely submitted.

12. The Board retains the right to require, and Dr. Warren agrees to submit, blood or urine specimens for screenings for drugs and alcohol, for analysis of medications that may be prescribed for Dr. Warren, or for any other purpose, at Dr. Warren's expense upon the Board's request and without prior notice. Dr. Warren's refusal to submit a blood or urine specimen upon request of the Board shall result in a minimum of one year of actual license suspension.

Monitoring Physician

13. Before engaging in any medical practice, Dr. Warren shall 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 and Supervising Member will give preference to a physician who practices in the same locale as Dr. Warren and who is engaged in the same or similar practice specialty.

The monitoring physician shall monitor Dr. Warren and his medical practice, and shall review Dr. Warren's patient charts. The chart review may be done on a random

MAR 01 2005

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. Warren and his medical practice, and on the review of Dr. Warren's patient charts. Dr. Warren 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. Warren's quarterly declaration.

In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Warren must immediately so notify the Board in writing. In addition, Dr. Warren 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. Warren 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.

While Dr. Warren participates in a residency program accredited by the ACGME or AOA, the Board shall accept a quarterly statement from the director of Dr. Warren's residency program, or alternatively, from the attending physician specifically designated by the residency director as the person having responsibility to directly oversee Dr. Warren's clinical rotations, addressing Dr. Warren's performance (clinical and otherwise) in the residency program, as well as his progress and status, if timely submitted, as satisfaction of the requirements of this paragraph. Should Dr. Warren desire to utilize this option in lieu of having a monitoring physician while he participates in a residency program, Dr. Warren shall so notify the Board by providing a writing, signed by both himself and his residency director, and, if applicable, by the attending physician specifically designated by the residency director as the person having responsibility to directly oversee Dr. Warren's clinical rotations, to the Board before participating in the residency program. Further, should Dr. Warren cease participation in an accredited residency and desire to practice outside his residency, or should his residency director or the designated attending physician become unable or unwilling to serve, Dr. Warren must immediately so notify the Board in writing and within 30 days make arrangements for a monitoring physician, as discussed above.

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

Rehabilitation Program

14. Within thirty days of the effective date of this Consent Agreement, Dr. Warren shall undertake and maintain participation in an alcohol and drug rehabilitation program,

such as A.A., N.A., C.A., or Caduceus, no less than three times per week. Substitution of any other specific program must receive prior Board approval. Dr. Warren 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. Warren's quarterly declarations.

Aftercare / Physicians Health Program

15. Dr. Warren shall maintain continued compliance with the terms of the aftercare contract entered into with his treatment provider, and with his Advocacy Contract with the Ohio Physicians Health Program (formerly known as the Ohio Physicians Effectiveness Program), or another physician health program approved in advance by the Board, provided that, where terms of the aftercare contract and/or advocacy contract conflict with terms of this Consent Agreement, the terms of this Consent Agreement shall control.

Work Hour Limitation

16. Dr. Warren shall limit his actual work hours to a combined total of no more than eighty hours of work per week, which shall be comprised of his normally scheduled work hours and his on-call hours, until otherwise approved by the Board. Dr. Warren shall keep a log reflecting the dates, times, and facilities and/or locations at which he works. Dr. Warren shall submit his work log for receipt in the Board's offices no later than the due date for Dr. Warren's quarterly declaration.

Any request by Dr. Warren for modification of the limitation on work hours and/or on-call hours set forth in this paragraph shall be accompanied by documentation from a physician affiliated with a Board approved treatment provider, or other physician approved by the Board for this purpose, who has evaluated Dr. Warren, indicating that such physician supports Dr. Warren's request for modification.

Practice Plan / Employment Restriction

17. During the time period(s) in which Dr. Warren is affiliated with a residency training program, Dr. Warren shall not engage in any other employment as a physician.

In the event that Dr. Warren should cease participation in an accredited residency, Dr. Warren shall not engage in the practice of osteopathic medicine unless and until such time that the Board has approved a practice plan, and thereafter, his practice shall be only in accordance with such practice plan. The Board shall consider, among other factors, the adequacy and continuity of supervision and the feasibility of restricted access to controlled substances, which will ensure the protection of the public, prior to approval or disapproval of the proposed employment. Further, Dr. Warren shall

MAR 01 2005

submit a revised practice plan to the Board and obtain the prior approval of the Board should he desire modification to any previously approved practice plan(s).

Releases

18. Dr. Warren shall provide continuing authorization, through appropriate written consent forms, for disclosure by his treatment provider to the Board, to treating and monitoring physicians, and to others involved in the monitoring process, of information necessary for them to fulfill their respective duties and obligations.

Required Reporting by Licensee

19. Within thirty days of the effective date of this Consent Agreement, Dr. Warren shall provide a copy of this Consent Agreement 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. Warren shall provide a copy of this Consent Agreement 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.
20. Within thirty days of the effective date of this Consent Agreement, Dr. Warren shall provide a copy of this Consent Agreement 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. Warren further agrees to provide a copy of this Consent Agreement 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 for reinstatement of any professional license. Further, Dr. Warren shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.
21. Dr. Warren shall provide a copy of this Consent Agreement to all persons and entities that provide Dr. Warren treatment, evaluation, or monitoring for his chemical dependency, psychiatric illness or mental health, or any related conditions.

FAILURE TO COMPLY

If, in the discretion of the Secretary and Supervising Member of the Board, Dr. Warren appears to have violated or breached any term or condition of this Consent Agreement, the Board reserves the right to institute formal disciplinary proceedings for any and all possible violations or breaches, including, but not limited to, alleged violations of the laws of Ohio occurring before the effective date of this Consent Agreement.

If the Secretary and Supervising Member of the Board determine that there is clear and

MAR 01 2005

convincing evidence that Dr. Warren has violated any term, condition or limitation of this Consent Agreement, Dr. Warren agrees that the violation, as alleged, also constitutes clear and convincing evidence that his continued practice presents a danger of immediate and serious harm to the public for purposes of initiating a summary suspension pursuant to Section 4731.22(G), Ohio Revised Code.

DURATION/MODIFICATION OF TERMS

Dr. Warren shall not request termination of this Consent Agreement for a minimum of five years. In addition, Dr. Warren shall not request modification to the probationary terms, limitations, and conditions contained herein for at least one year. Otherwise, the above-described terms, limitations and conditions may be amended or terminated in writing at any time upon the agreement of both parties.

ACKNOWLEDGMENTS/LIABILITY RELEASE

Dr. Warren acknowledges that he has had an opportunity to ask questions concerning the terms of this Consent Agreement and that all questions asked have been answered in a satisfactory manner.

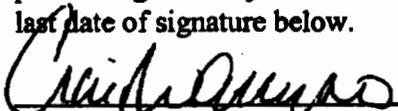
Any action initiated by the Board based on alleged violations of this Consent Agreement shall comply with the Administrative Procedure Act, Chapter 119., Ohio Revised Code.

Dr. Warren hereby releases the Board, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

This Consent Agreement 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. Dr. Warren acknowledges that his social security number will be used if this information is so reported and agrees to provide his social security number to the Board for such purposes.

EFFECTIVE DATE

It is expressly understood that this Consent Agreement is subject to ratification by the Board prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.

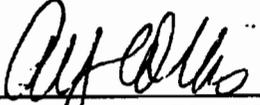

MICHAEL CRAIG WARREN, D.O.


LANCE A. TALMAGE, M.D.
Secretary

2/28/05
DATE

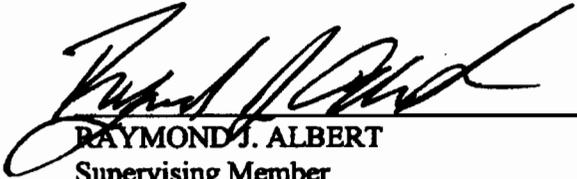
3-10-05
DATE

MAR 01 2005



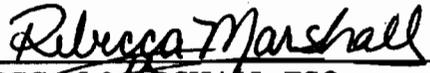
ELIZABETH COLLIS, ESQ.
Attorney for Dr. Warren
3/1/05

DATE



RAYMOND J. ALBERT
Supervising Member
3/10/05

DATE



REBECCA J. MARSHALL, ESQ.
Enforcement Attorney
March 2, 2005

DATE

**STEP I
CONSENT AGREEMENT
BETWEEN
MICHAEL CRAIG WARREN, D.O.,
AND
THE STATE MEDICAL BOARD OF OHIO**

This Consent Agreement is entered into by and between Michael Craig Warren, D.O. [Dr. Warren], and the State Medical Board of Ohio [Board], a state agency charged with enforcing Chapter 4731., Ohio Revised Code.

Dr. Warren enters into this Consent Agreement being fully informed of his rights under Chapter 119., Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudicative hearing on the issues considered herein.

BASIS FOR ACTION

This Consent Agreement is entered into on the basis of the following stipulations, admissions and understandings:

- A. The Board is empowered by Section 4731.22(B), Ohio Revised Code, to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for violation(s) of Section 4731.22(B)(26), Ohio Revised Code, "impairment 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;" Section 4731.22(B)(10), Ohio Revised Code, "[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed," to wit: Deception to Obtain a Dangerous Drug, Section 2925.22, Ohio Revised Code, and/or Illegal Processing of Drug Documents, Section 2925.23, Ohio Revised Code; and/or Section 4731.22(B)(5), Ohio Revised Code, "[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board."
- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violations of Sections 4731.22(B)(5), Ohio Revised Code, 4731.22(B)(26), Ohio Revised Code, and 4731.22(B)(10), Ohio Revised Code, to wit: Section 2925.22, Ohio Revised Code, and/or 2925.23, Ohio Revised Code, as set forth in Paragraph E below, and expressly reserves the right to institute formal proceedings based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Agreement. Such express

reservation includes, but is not limited to, violations based on any methods used by Dr. Warren to obtain controlled substances for self-use other than those particularly described in Paragraph E herein and/or any criminal acts other than those specifically referenced in Paragraph E herein.

- C. Dr. Warren is licensed to practice osteopathic medicine and surgery in the State of Ohio, License # 34-008173.
- D. Dr. Warren states that he is also licensed to practice osteopathic medicine and surgery in the State of Michigan.
- E. Dr. Warren admits that on or about April 1, 2004, he was arrested related to drug-seeking behavior that occurred in Wood County, Ohio, and asserts that he anticipates seeking intervention in lieu of conviction in the event that formal criminal charges are brought against him in that jurisdiction. Dr. Warren further admits that, thereafter, he initially entered treatment for chemical dependency at the Toledo Hospital, a Board approved treatment provider, on or about April 12, 2004. Dr. Warren further admits that his drugs of choice are Ultracet and Percocet, and that he began abusing such controlled substances during or about March 2003 related to migraine headache pain. Dr. Warren further admits that during the time period from in or about March 2003 through in or about April 2004, he obtained controlled substances for self-use exclusively through five methods: Dr. Warren issued prescriptions using a variation of his own name as the patient name and identifying himself as the prescribing physician; Dr. Warren issued prescriptions using his domestic partner's name as the patient name and identifying Dr. Warren as the prescribing physician; Dr. Warren issued prescriptions using his own name as the patient name and identifying his domestic partner's name as the prescribing physician without that physician's knowledge or consent; Dr. Warren issued prescriptions using the name of one patient under his care and identifying himself as the prescribing physician; and Dr. Warren stole from office stock. Dr. Warren specifically denies obtaining any controlled substances for self-use by any other methods and attests that, other than using one patient's name for prescriptions as described above, he never directly or indirectly involved patients in any of his efforts to obtain controlled substances for self-use.

Dr. Warren further admits that during or about September 2003 when completing his application to practice osteopathic medicine in Ohio, he falsely provided a negative answer to Question 25 that asked, "Are you currently engaged in the illegal use of controlled substances?" when, in fact, he was at that time engaged in the illegal use of controlled substances, as described above.

Dr. Warren further admits that he has been previously diagnosed with bipolar disorder and with epilepsy, and that he remains under the care of a physician for these conditions.

AGREED CONDITIONS

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, Dr. Warren knowingly and voluntarily agrees with the Board to the following terms, conditions and limitations:

SUSPENSION OF CERTIFICATE

1. The certificate of Dr. Warren to practice osteopathic medicine and surgery in the State of Ohio shall be **SUSPENDED** for an indefinite period of time, but not less than 270 days.

Sobriety

2. Dr. Warren shall abstain completely from the personal use or possession of drugs, except those prescribed, dispensed or administered to him by another so authorized by law who has full knowledge of Dr. Warren's history of chemical dependency.
3. Dr. Warren shall abstain completely from the use of alcohol.

Releases; Quarterly Declarations and Appearances

4. Dr. Warren shall provide 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. Warren's chemical dependency or related conditions, or for purposes of complying with this Consent Agreement, whether such treatment or evaluation occurred before or after the effective date of this Consent Agreement. 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. Warren further agrees to provide the Board written consent permitting any treatment provider from whom he obtains treatment to notify the Board in the event he fails to agree to or comply with any treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Consent Agreement.
5. Dr. Warren shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Consent Agreement. 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 Consent Agreement becomes effective, provided that if the effective date is on or after the sixteenth day of the month, the first quarterly declaration must be received in the Board's offices on the first day of the fourth month following.

Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

6. Dr. Warren shall appear in person for an interview before the full Board or its designated representative during the third month following the effective date of this Consent Agreement. 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.

Drug & Alcohol Screens; Supervising Physician

7. Dr. Warren shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board. Dr. Warren 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.

Dr. Warren shall abstain from consumption of poppy seeds or any other food or liquid that may produce false results in a toxicology screen.

Within thirty days of the effective date of this Consent Agreement, Dr. Warren shall submit to the Board for its prior approval the name of a supervising physician to whom Dr. Warren shall submit the required urine 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. Warren. Dr. Warren 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. Warren 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 Consent Agreement, 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. Warren must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Dr. Warren 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. Warren's quarterly declaration. It is Dr. Warren's responsibility to ensure that reports are timely submitted.

Rehabilitation Program

8. Within thirty days of the effective date of this Consent Agreement, Dr. Warren shall undertake and maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., C.A., or Caduceus, no less than three times per week. Substitution of any other specific program must receive prior Board approval.

Dr. Warren 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. Warren's quarterly declarations.

Psychiatric Treatment

9. Within thirty days of the effective date of this Consent Agreement, Dr. Warren shall submit to the Board for its prior approval the name and qualifications of a psychiatrist of his choice. Upon approval by the Board, Dr. Warren shall undergo and continue psychiatric treatment at least once every four weeks or as otherwise directed by the Board. Dr. Warren shall comply with his psychiatric treatment plan, including taking medications as prescribed and/or ordered for his psychiatric disorder. Dr. Warren shall ensure that psychiatric reports are forwarded by his treating psychiatrist to the Board on a quarterly basis, or as otherwise directed by the Board. The psychiatric reports shall contain information describing Dr. Warren's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Warren's compliance with his treatment plan; Dr. Warren's mental status; Dr. Warren's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Warren shall ensure that his treating psychiatrist immediately notifies the Board of his failure to comply with his psychiatric treatment plan and/or any determination that Dr. Warren is unable to practice due to his psychiatric disorder. It is Dr. Warren's responsibility to ensure that quarterly reports are received in the Board's offices no later than the due date for Dr. Warren's quarterly declaration.

In the event that the designated treating psychiatrist becomes unable or unwilling to serve in this capacity, Dr. Warren must immediately so notify the Board in writing. In addition, Dr. Warren shall make arrangements acceptable to the Board for another treating psychiatrist within thirty days after the previously designated treating psychiatrist becomes unable or unwilling to serve, unless otherwise determined by the Board. Furthermore, Dr. Warren shall ensure that the previously designated treating

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

CONDITIONS FOR REINSTATEMENT

10. The Board shall not consider reinstatement of Dr. Warren's certificate to practice osteopathic medicine and surgery until all of the following conditions are met:
 - a. Dr. Warren shall submit an application for reinstatement, accompanied by appropriate fees, if any.
 - b. Dr. Warren 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:
 - i. Certification from a treatment provider approved under Section 4731.25 of the Revised Code that Dr. Warren has successfully completed any required inpatient treatment.
 - ii. 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.
 - iii. Evidence of continuing full compliance with this Consent Agreement.
 - iv. Three written reports indicating that Dr. Warren's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care. Two of the written reports shall be made by physicians knowledgeable in the area of addictionology and who are either affiliated with a current Board-approved treatment provider or otherwise have been approved in advance by the Board to provide an assessment of Dr. Warren. Prior to the assessments, Dr. Warren shall provide the evaluators with copies of patient records from any evaluations and/or treatment that he has received, and a copy of this Consent Agreement. The reports from the evaluators shall include any recommendations for treatment, monitoring, or supervision of Dr. Warren, and any conditions, restrictions, or limitations that should be imposed on Dr. Warren's practice. The reports shall also describe the basis for the evaluator's determinations.

One of the written reports shall be made by the treating psychiatrist referenced in Paragraph 9 of this Consent Agreement, who shall conduct an evaluation of Dr. Warren regarding his psychiatric status.

All reports required pursuant to this paragraph shall be based upon examinations occurring within the three months immediately preceding any application for reinstatement.

- c. Dr. Warren shall enter into a written consent agreement including probationary terms, conditions and limitations as determined by the Board or, if the Board and Dr. Warren are unable to agree on the terms of a written Consent Agreement, then Dr. Warren further agrees to abide by any terms, conditions and limitations imposed by Board Order after a hearing conducted pursuant to Chapter 119. of the Ohio Revised Code.

Further, upon reinstatement of Dr. Warren's certificate to practice osteopathic medicine and surgery in this state, the Board shall require continued monitoring which shall include, but not be limited to, compliance with the written consent agreement entered into before reinstatement or with conditions imposed by Board Order after a hearing conducted pursuant to Chapter 119. of the Revised Code. Moreover, upon termination of the consent agreement or Board Order, Dr. Warren shall submit to the Board for at least two years annual progress reports made under penalty of Board disciplinary action or criminal prosecution stating whether Dr. Warren has maintained sobriety.

11. In the event that Dr. Warren has not been engaged in the active practice of osteopathic medicine and surgery for a period in excess of two years prior to application for reinstatement, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of Dr. Warren's fitness to resume practice.

REQUIRED REPORTING BY LICENSEE

12. Within thirty days of the effective date of this Consent Agreement, Dr. Warren shall provide a copy of this Consent Agreement 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. Warren further agrees to provide a copy of this Consent Agreement 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 of any professional license. Further, Dr. Warren shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

13. Within thirty days of the effective date of this Consent Agreement, Dr. Warren shall provide a copy of this Consent Agreement 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. Warren shall provide a copy of this Consent Agreement 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.

The above-described terms, conditions and limitations may be amended or terminated in writing at any time upon the agreement of both parties.

FAILURE TO COMPLY

If, in the discretion of the Secretary and Supervising Member of the Board, Dr. Warren appears to have violated or breached any term or condition of this Consent Agreement, the Board reserves the right to institute formal disciplinary proceedings for any and all possible violations or breaches, including but not limited to, alleged violations of the laws of Ohio occurring before the effective date of this Consent Agreement.

ACKNOWLEDGMENTS/LIABILITY RELEASE

Dr. Warren acknowledges that he has had an opportunity to ask questions concerning the terms of this Consent Agreement and that all questions asked have been answered in a satisfactory manner.

Any action initiated by the Board based on alleged violations of this Consent Agreement shall comply with the Administrative Procedure Act, Chapter 119., Ohio Revised Code.

Dr. Warren hereby releases the Board, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

This Consent Agreement 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. Dr. Warren acknowledges that his social security number will be used if this information is so reported and agrees to provide his social security number to the Board for such purposes.

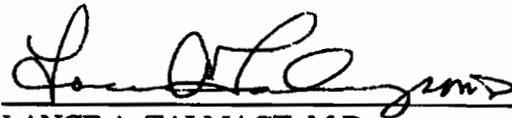
EFFECTIVE DATE

It is expressly understood that this Consent Agreement is subject to ratification by the Board prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.

STEP I CONSENT AGREEMENT
MICHAEL CRAIG WARREN, D.O.
PAGE 9


MICHAEL CRAIG WARREN, D.O.

5/4/2004
DATE


LANCE A. TALMAGE, M.D.
Secretary

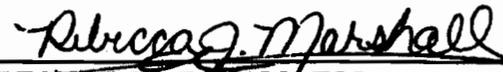
5-12-04
DATE


Elizabeth Y. Collis
Atty for Dr. Warren

5-6-04
date


RAYMOND J. ALBERT
Supervising Member

5/12/04
DATE


REBECCA J. MARSHALL, ESQ.
Enforcement Attorney

May 7, 2004
DATE

STEP II
CONSENT AGREEMENT
BETWEEN
MICHAEL CRAIG WARREN, D.O.
AND
THE STATE MEDICAL BOARD OF OHIO

OHIO STATE MEDICAL BOARD

MAR 0 1 2005

This Consent Agreement is entered into by and between Michael Craig Warren, D.O. [Dr. Warren], and the State Medical Board of Ohio [Board], a state agency charged with enforcing Chapter 4731., Ohio Revised Code.

Dr. Warren enters into this Consent Agreement being fully informed of his rights under Chapter 119., Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudicative hearing on the issues considered herein.

BASIS FOR ACTION

This Consent Agreement is entered into on the basis of the following stipulations, admissions and understandings:

- A. The Board is empowered by Section 4731.22(B), Ohio Revised Code, to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for violation(s) of Section 4731.22(B)(26), Ohio Revised Code, "impairment 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;" Section 4731.22(B)(9), Ohio Revised Code, "[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;" Section 4731.22(B)(10), Ohio Revised Code, "[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;" and/or Section 4731.22(B)(5), Ohio Revised Code, "[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board."

- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violations of Sections 4731.22(B)(5), Ohio Revised Code, 4731.22(B)(26), Ohio Revised Code, and 4731.22(B)(10), Ohio Revised Code, to wit: Sections 2925.22, Ohio Revised Code, and/or 2925.23, Ohio Revised Code, as set forth in the Step I Consent Agreement Between Michael Craig Warren, D.O., and The State Medical Board of Ohio that became effective on May 12, 2004, [May 2004 Step I Consent Agreement], a copy of which is attached hereto and fully incorporated herein,

MAR 01 2005

and violation of Section 4731.22(B)(9), Ohio Revised Code, to wit: Sections 2925.23, 2923.02 and 2925.11, Ohio Revised Code, as set forth in Paragraph E below. The Board expressly reserves the right to institute formal proceedings based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Consent Agreement.

- C. Dr. Warren is applying for reinstatement of his certificate to practice osteopathic medicine and surgery in the State of Ohio, License # 34-008173, which was suspended pursuant to the aforementioned May 2004 Step I Consent Agreement.
- D. Dr. Warren states that he is also licensed to practice osteopathic medicine and surgery in the State of Michigan. Dr. Warren admits that based upon the information contained in the aforementioned May 2004 Step I Consent Agreement, on or about November 19, 2004, the Michigan Board of Osteopathic Medicine and Surgery issued an Order of Summary Suspension against his license in that state, and that such Order of Summary Suspension was subsequently dissolved on or about December 28, 2004.
- E. Dr. Warren admits that after entering residential treatment for chemical dependency on or about April 12, 2004, at The Toledo Hospital, a Board-approved treatment provider, he was discharged, treatment complete, on or about May 13, 2004. Dr. Warren states, and the Board acknowledges receipt of information to support, that since being discharged from The Toledo Hospital, he has remained compliant with his recovery plan, including participating in at least three A.A. meetings per week and submitting to random urine screens on a weekly basis. Dr. Warren states, and the Board acknowledges receipt of information to support, that Dr. Warren entered into an aftercare contract with Toledo Hospital, on May 3, 2004, as amended during or about February 2005, and that he is in compliance with such aftercare contract.

Dr. Warren admits that on or about August 30, 2004, a Judgment Entry and Order for Intervention in Lieu of Conviction, which set forth certain probationary terms, was entered by the Court of Common Pleas for Wood County, Ohio, related to the drug-related criminal charges that were pending against him in that county at the time he entered into the aforementioned May 2004 Step I Consent Agreement. Dr. Warren further admits that contemporaneous with the time he entered into the May 2004 Step I Consent Agreement, he was indicated in Lucas County, Ohio, on two counts of Illegal Processing of Drug Documents, in violation of Section 2925.23, Ohio Revised Code, and one count of Attempted Aggravated Possession of Drugs, in violation of Sections 2923.02 and 2925.11, Ohio Revised Code. Dr. Warren further admits that on or about August 13, 2004, a Judgment Entry and Order for Intervention in Lieu of Conviction, which set forth certain probationary terms, was entered by the Court of Common Pleas for Lucas County in that matter.

Dr. Warren states, and the Board acknowledges, that Christine Ellis, M.D., Medical Director of Compass, a Board-approved treatment provider, has provided a written

MAR 01 2005

report indicating that Dr. Warren's ability to practice osteopathic medicine has been assessed, as related to his chemical dependency status, and that he has been found capable of practicing according to acceptable and prevailing standards of care, so long as certain treatment and monitoring conditions are in place, including that Dr. Warren not work excessive on-call hours. Dr. Warren further states, and the Board further acknowledges, that Kenneth Adler, M.D., a physician approved by the Board for the purpose of evaluating Dr. Warren, as related to his chemical dependency status, has provided a written report indicating that Dr. Warren's ability to practice osteopathic medicine has been assessed, and that he has been found capable of practicing according to acceptable and prevailing standards of care, so long as certain treatment and monitoring conditions are in place, including that Dr. Warren maintain his currently ongoing psychotherapy treatment.

Dr. Warren further states, and the Board further acknowledges, that Lurley Archambeau, M.D., Dr. Warren's treating psychiatrist pursuant to the May 2004 Step I Consent Agreement, has provided to the Board a written report indicating that Dr. Warren's ability to practice osteopathic medicine has been assessed, as related to his psychiatric status, and that he has been found capable of practicing according to acceptable and prevailing standards of care, so long as certain treatment and monitoring conditions are in place, including that Dr. Warren continue psychiatric treatment at least once every three months. The Board further acknowledges that Dr. Archambeau has also verbally opined that although he is aware that a prior psychiatrist diagnosed Dr. Warren as having Bipolar Disorder, Dr. Warren has manifested no indicators of this condition during the course of his treatment with Dr. Archambeau. Accordingly, Dr. Archambeau has further stated that although he remains attuned to the possibility of this diagnosis, at this time he believes the prior diagnosis may have been influenced by factors related to Dr. Warren's prior narcotic abuse, and that Dr. Warren's current clinical presentation more accurately supports the diagnosis of Mild Generalized Anxiety Disorder.

Accordingly, Dr. Warren states, and the Board acknowledges receipt of information to support, that Dr. Warren has fulfilled the conditions for reinstatement of his certificate to practice osteopathic medicine and surgery in the State of Ohio as established in the May 2004 Step I Consent Agreement.

AGREED CONDITIONS

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, the certificate of Dr. Warren to practice osteopathic medicine and surgery in the State of Ohio shall be reinstated, and Dr. Warren knowingly and voluntarily agrees with the Board to the following PROBATIONARY terms, conditions and limitations:

MAR 01 2005

1. Dr. Warren shall obey all federal, state, and local laws, and all rules governing the practice of osteopathic medicine in Ohio, and all terms of probation imposed by the Court of Common Pleas for Wood County, Ohio, in criminal case number 04-CR-165, and all terms of probation imposed by the Court of Common Pleas for Lucas County, Ohio, in criminal case number G-4801-CR-200401963.
2. Dr. Warren shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Consent Agreement. The first quarterly declaration must be received in the Board's offices on the date his quarterly declaration would have been due pursuant to his May 2004 Step I Consent Agreement with the Board. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
3. Dr. Warren shall appear in person for an interview before the full Board or its designated representative. The first such appearance shall take place on the date his appearance would have been scheduled pursuant to his May 2004 Step I Consent Agreement with 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.
4. Dr. Warren shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed.
5. In the event Dr. Warren is found by the Secretary of the Board to have failed to comply with any provision of this Consent Agreement, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Consent Agreement.

MONITORING OF REHABILITATION AND TREATMENT

Drug Associated Restrictions

6. Dr. Warren shall keep a log of all controlled substances prescribed. Such log shall be submitted, in the format approved by the Board, thirty days prior to Dr. Warren's personal appearance before the Board or its designated representative, or as otherwise directed by the Board. Further, Dr. Warren shall make his patient records with regard to such prescribing available for review by an agent of the Board upon request.

MAR 01 2005

7. Dr. Warren shall not, without prior Board approval, administer, personally furnish, or possess (except as allowed under Paragraph 8 below) any controlled substances as defined by state or federal law. In the event that the Board agrees at a future date to modify this Consent Agreement to allow Dr. Warren to administer or personally furnish controlled substances, Dr. Warren shall keep a log of all controlled substances prescribed, administered or personally furnished. Such log shall be submitted in the format approved by the Board thirty days prior to Dr. Warren's personal appearance before the Board or its designated representative, or as otherwise directed by the Board. Further, Dr. Warren shall make his patient records with regard to such prescribing, administering, or personally furnishing available for review by an agent of the Board upon request.

Sobriety

8. Dr. Warren shall abstain completely from the personal use or possession of drugs, except those prescribed, dispensed or administered to him by another so authorized by law who has full knowledge of Dr. Warren's history of chemical dependency and psychiatric history.
9. Dr. Warren shall abstain completely from the use of alcohol.

Psychiatric Treatment

10. Dr. Warren and the Board agree that the person previously approved by the Board to serve as Dr. Warren's treating psychiatrist pursuant to the May 2004 Step I Consent Agreement is hereby approved by the Board to serve as Dr. Warren's treating psychiatrist under this Consent Agreement, unless within thirty days of the effective date of this Consent Agreement, Dr. Warren shall submit to the Board for its prior approval the name and qualifications of an alternative psychiatrist of his choice.

Dr. Warren shall undergo and continue psychiatric treatment at least once every twelve weeks, or as otherwise directed by the Board. Dr. Warren shall comply with his psychiatric treatment plan, including taking medications as prescribed and/or ordered for his psychiatric disorder. Dr. Warren shall ensure that psychiatric reports are forwarded by his treating psychiatrist to the Board on a quarterly basis, or as otherwise directed by the Board. The psychiatric reports shall contain information describing Dr. Warren's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Warren's compliance with his treatment plan; Dr. Warren's mental status; Dr. Warren's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Warren shall ensure that his treating psychiatrist immediately notifies the Board of his failure to comply with his psychiatric treatment plan and/or any determination that Dr. Warren is unable to practice due to his psychiatric disorder. It is Dr. Warren's

MAR 01 2005

responsibility to ensure that quarterly reports are received in the Board's offices no later than the due date for Dr. Warren's quarterly declaration.

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

The Board expressly reserves the right to disapprove any psychiatrist proposed to serve as Dr. Warren's designated treating psychiatrist, or to withdraw approval of any psychiatrist previously approved to serve as Dr. Warren's designated treating psychiatrist, in the event that the Secretary and Supervising Member of the Board determine that any such psychiatrist has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

Drug and Alcohol Screens/Supervising Physician

11. Dr. Warren shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board. Dr. Warren 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.

Dr. Warren shall abstain from consumption of poppy seeds or any other food or liquid that may produce false results in a toxicology screen.

Dr. Warren and the Board agree that the person or entity previously approved by the Board to serve as Dr. Warren's supervising physician pursuant to the May 2004 Step I Consent Agreement is hereby approved to continue as Dr. Warren's designated supervising physician under this Consent Agreement, unless within thirty days of the effective date of this Consent Agreement, Dr. Warren submits to the Board for its prior approval the name and curriculum vitae of an alternative supervising physician to whom Dr. Warren shall submit the required urine 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. Warren. Dr. Warren 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.

MAR 01 2005

The Board expressly reserves the right to disapprove any person or entity proposed to serve as Dr. Warren's designated supervising physician, or to withdraw approval of any person or entity previously approved to serve as Dr. Warren's designated supervising physician, in the event that the Secretary and Supervising Member of the Board determine that any such supervising physician has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

Dr. Warren 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 Consent Agreement, 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. Warren must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Dr. Warren 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. Warren's quarterly declaration. It is Dr. Warren's responsibility to ensure that reports are timely submitted.

12. The Board retains the right to require, and Dr. Warren agrees to submit, blood or urine specimens for screenings for drugs and alcohol, for analysis of medications that may be prescribed for Dr. Warren, or for any other purpose, at Dr. Warren's expense upon the Board's request and without prior notice. Dr. Warren's refusal to submit a blood or urine specimen upon request of the Board shall result in a minimum of one year of actual license suspension.

Monitoring Physician

13. Before engaging in any medical practice, Dr. Warren shall 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 and Supervising Member will give preference to a physician who practices in the same locale as Dr. Warren and who is engaged in the same or similar practice specialty.

The monitoring physician shall monitor Dr. Warren and his medical practice, and shall review Dr. Warren's patient charts. The chart review may be done on a random

MAR 01 2005

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. Warren and his medical practice, and on the review of Dr. Warren's patient charts. Dr. Warren 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. Warren's quarterly declaration.

In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Warren must immediately so notify the Board in writing. In addition, Dr. Warren 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. Warren 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.

While Dr. Warren participates in a residency program accredited by the ACGME or AOA, the Board shall accept a quarterly statement from the director of Dr. Warren's residency program, or alternatively, from the attending physician specifically designated by the residency director as the person having responsibility to directly oversee Dr. Warren's clinical rotations, addressing Dr. Warren's performance (clinical and otherwise) in the residency program, as well as his progress and status, if timely submitted, as satisfaction of the requirements of this paragraph. Should Dr. Warren desire to utilize this option in lieu of having a monitoring physician while he participates in a residency program, Dr. Warren shall so notify the Board by providing a writing, signed by both himself and his residency director, and, if applicable, by the attending physician specifically designated by the residency director as the person having responsibility to directly oversee Dr. Warren's clinical rotations, to the Board before participating in the residency program. Further, should Dr. Warren cease participation in an accredited residency and desire to practice outside his residency, or should his residency director or the designated attending physician become unable or unwilling to serve, Dr. Warren must immediately so notify the Board in writing and within 30 days make arrangements for a monitoring physician, as discussed above.

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

Rehabilitation Program

14. Within thirty days of the effective date of this Consent Agreement, Dr. Warren shall undertake and maintain participation in an alcohol and drug rehabilitation program,

such as A.A., N.A., C.A., or Caduceus, no less than three times per week. Substitution of any other specific program must receive prior Board approval. Dr. Warren 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. Warren's quarterly declarations.

Aftercare / Physicians Health Program

15. Dr. Warren shall maintain continued compliance with the terms of the aftercare contract entered into with his treatment provider, and with his Advocacy Contract with the Ohio Physicians Health Program (formerly known as the Ohio Physicians Effectiveness Program), or another physician health program approved in advance by the Board, provided that, where terms of the aftercare contract and/or advocacy contract conflict with terms of this Consent Agreement, the terms of this Consent Agreement shall control.

Work Hour Limitation

16. Dr. Warren shall limit his actual work hours to a combined total of no more than eighty hours of work per week, which shall be comprised of his normally scheduled work hours and his on-call hours, until otherwise approved by the Board. Dr. Warren shall keep a log reflecting the dates, times, and facilities and/or locations at which he works. Dr. Warren shall submit his work log for receipt in the Board's offices no later than the due date for Dr. Warren's quarterly declaration.

Any request by Dr. Warren for modification of the limitation on work hours and/or on-call hours set forth in this paragraph shall be accompanied by documentation from a physician affiliated with a Board approved treatment provider, or other physician approved by the Board for this purpose, who has evaluated Dr. Warren, indicating that such physician supports Dr. Warren's request for modification.

Practice Plan / Employment Restriction

17. During the time period(s) in which Dr. Warren is affiliated with a residency training program, Dr. Warren shall not engage in any other employment as a physician.

In the event that Dr. Warren should cease participation in an accredited residency, Dr. Warren shall not engage in the practice of osteopathic medicine unless and until such time that the Board has approved a practice plan, and thereafter, his practice shall be only in accordance with such practice plan. The Board shall consider, among other factors, the adequacy and continuity of supervision and the feasibility of restricted access to controlled substances, which will ensure the protection of the public, prior to approval or disapproval of the proposed employment. Further, Dr. Warren shall

MAR 01 2005

submit a revised practice plan to the Board and obtain the prior approval of the Board should he desire modification to any previously approved practice plan(s).

Releases

18. Dr. Warren shall provide continuing authorization, through appropriate written consent forms, for disclosure by his treatment provider to the Board, to treating and monitoring physicians, and to others involved in the monitoring process, of information necessary for them to fulfill their respective duties and obligations.

Required Reporting by Licensee

19. Within thirty days of the effective date of this Consent Agreement, Dr. Warren shall provide a copy of this Consent Agreement 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. Warren shall provide a copy of this Consent Agreement 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.
20. Within thirty days of the effective date of this Consent Agreement, Dr. Warren shall provide a copy of this Consent Agreement 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. Warren further agrees to provide a copy of this Consent Agreement 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 for reinstatement of any professional license. Further, Dr. Warren shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.
21. Dr. Warren shall provide a copy of this Consent Agreement to all persons and entities that provide Dr. Warren treatment, evaluation, or monitoring for his chemical dependency, psychiatric illness or mental health, or any related conditions.

FAILURE TO COMPLY

If, in the discretion of the Secretary and Supervising Member of the Board, Dr. Warren appears to have violated or breached any term or condition of this Consent Agreement, the Board reserves the right to institute formal disciplinary proceedings for any and all possible violations or breaches, including, but not limited to, alleged violations of the laws of Ohio occurring before the effective date of this Consent Agreement.

If the Secretary and Supervising Member of the Board determine that there is clear and

MAR 01 2005

convincing evidence that Dr. Warren has violated any term, condition or limitation of this Consent Agreement, Dr. Warren agrees that the violation, as alleged, also constitutes clear and convincing evidence that his continued practice presents a danger of immediate and serious harm to the public for purposes of initiating a summary suspension pursuant to Section 4731.22(G), Ohio Revised Code.

DURATION/MODIFICATION OF TERMS

Dr. Warren shall not request termination of this Consent Agreement for a minimum of five years. In addition, Dr. Warren shall not request modification to the probationary terms, limitations, and conditions contained herein for at least one year. Otherwise, the above-described terms, limitations and conditions may be amended or terminated in writing at any time upon the agreement of both parties.

ACKNOWLEDGMENTS/LIABILITY RELEASE

Dr. Warren acknowledges that he has had an opportunity to ask questions concerning the terms of this Consent Agreement and that all questions asked have been answered in a satisfactory manner.

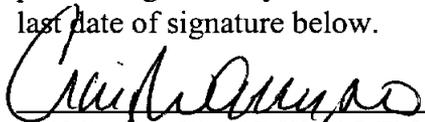
Any action initiated by the Board based on alleged violations of this Consent Agreement shall comply with the Administrative Procedure Act, Chapter 119., Ohio Revised Code.

Dr. Warren hereby releases the Board, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

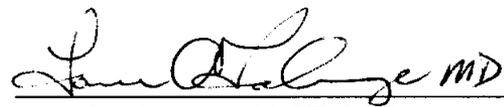
This Consent Agreement shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code. Further, this information may be reported to appropriate organizations, data banks and governmental bodies. Dr. Warren acknowledges that his social security number will be used if this information is so reported and agrees to provide his social security number to the Board for such purposes.

EFFECTIVE DATE

It is expressly understood that this Consent Agreement is subject to ratification by the Board prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.



MICHAEL CRAIG WARREN, D.O.



LANCE A. TALMAGE, M.D.
Secretary

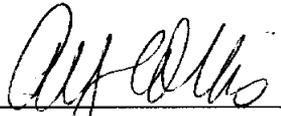
2/28/05

DATE

3-10-05

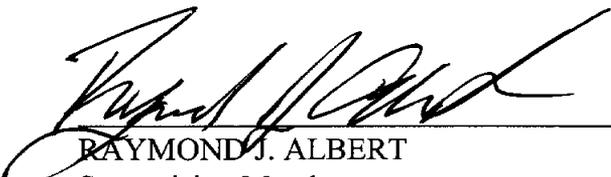
DATE

MAR 01 2005



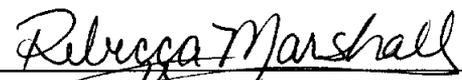
ELIZABETH COLLIS, ESQ.
Attorney for Dr. Warren
3/1/05

DATE



RAYMOND J. ALBERT
Supervising Member
3/10/05

DATE



REBECCA J. MARSHALL, ESQ.
Enforcement Attorney
March 2, 2005

DATE

**STEP I
CONSENT AGREEMENT
BETWEEN
MICHAEL CRAIG WARREN, D.O.,
AND
THE STATE MEDICAL BOARD OF OHIO**

This Consent Agreement is entered into by and between Michael Craig Warren, D.O. [Dr. Warren], and the State Medical Board of Ohio [Board], a state agency charged with enforcing Chapter 4731., Ohio Revised Code.

Dr. Warren enters into this Consent Agreement being fully informed of his rights under Chapter 119., Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudicative hearing on the issues considered herein.

BASIS FOR ACTION

This Consent Agreement is entered into on the basis of the following stipulations, admissions and understandings:

- A. The Board is empowered by Section 4731.22(B), Ohio Revised Code, to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for violation(s) of Section 4731.22(B)(26), Ohio Revised Code, "impairment 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;" Section 4731.22(B)(10), Ohio Revised Code, "[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed," to wit: Deception to Obtain a Dangerous Drug, Section 2925.22, Ohio Revised Code, and/or Illegal Processing of Drug Documents, Section 2925.23, Ohio Revised Code; and/or Section 4731.22(B)(5), Ohio Revised Code, "[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board."
- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violations of Sections 4731.22(B)(5), Ohio Revised Code, 4731.22(B)(26), Ohio Revised Code, and 4731.22(B)(10), Ohio Revised Code, to wit: Section 2925.22, Ohio Revised Code, and/or 2925.23, Ohio Revised Code, as set forth in Paragraph E below, and expressly reserves the right to institute formal proceedings based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Agreement. Such express

reservation includes, but is not limited to, violations based on any methods used by Dr. Warren to obtain controlled substances for self-use other than those particularly described in Paragraph E herein and/or any criminal acts other than those specifically referenced in Paragraph E herein.

- C. Dr. Warren is licensed to practice osteopathic medicine and surgery in the State of Ohio, License # 34-008173.
- D. Dr. Warren states that he is also licensed to practice osteopathic medicine and surgery in the State of Michigan.
- E. Dr. Warren admits that on or about April 1, 2004, he was arrested related to drug-seeking behavior that occurred in Wood County, Ohio, and asserts that he anticipates seeking intervention in lieu of conviction in the event that formal criminal charges are brought against him in that jurisdiction. Dr. Warren further admits that, thereafter, he initially entered treatment for chemical dependency at the Toledo Hospital, a Board approved treatment provider, on or about April 12, 2004. Dr. Warren further admits that his drugs of choice are Ultracet and Percocet, and that he began abusing such controlled substances during or about March 2003 related to migraine headache pain. Dr. Warren further admits that during the time period from in or about March 2003 through in or about April 2004, he obtained controlled substances for self-use exclusively through five methods: Dr. Warren issued prescriptions using a variation of his own name as the patient name and identifying himself as the prescribing physician; Dr. Warren issued prescriptions using his domestic partner's name as the patient name and identifying Dr. Warren as the prescribing physician; Dr. Warren issued prescriptions using his own name as the patient name and identifying his domestic partner's name as the prescribing physician without that physician's knowledge or consent; Dr. Warren issued prescriptions using the name of one patient under his care and identifying himself as the prescribing physician; and Dr. Warren stole from office stock. Dr. Warren specifically denies obtaining any controlled substances for self-use by any other methods and attests that, other than using one patient's name for prescriptions as described above, he never directly or indirectly involved patients in any of his efforts to obtain controlled substances for self-use.

Dr. Warren further admits that during or about September 2003 when completing his application to practice osteopathic medicine in Ohio, he falsely provided a negative answer to Question 25 that asked, "Are you currently engaged in the illegal use of controlled substances?" when, in fact, he was at that time engaged in the illegal use of controlled substances, as described above.

Dr. Warren further admits that he has been previously diagnosed with bipolar disorder and with epilepsy, and that he remains under the care of a physician for these conditions.

AGREED CONDITIONS

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, Dr. Warren knowingly and voluntarily agrees with the Board to the following terms, conditions and limitations:

SUSPENSION OF CERTIFICATE

1. The certificate of Dr. Warren to practice osteopathic medicine and surgery in the State of Ohio shall be **SUSPENDED** for an indefinite period of time, but not less than 270 days.

Sobriety

2. Dr. Warren shall abstain completely from the personal use or possession of drugs, except those prescribed, dispensed or administered to him by another so authorized by law who has full knowledge of Dr. Warren's history of chemical dependency.
3. Dr. Warren shall abstain completely from the use of alcohol.

Releases; Quarterly Declarations and Appearances

4. Dr. Warren shall provide 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. Warren's chemical dependency or related conditions, or for purposes of complying with this Consent Agreement, whether such treatment or evaluation occurred before or after the effective date of this Consent Agreement. 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. Warren further agrees to provide the Board written consent permitting any treatment provider from whom he obtains treatment to notify the Board in the event he fails to agree to or comply with any treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Consent Agreement.
5. Dr. Warren shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Consent Agreement. 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 Consent Agreement becomes effective, provided that if the effective date is on or after the sixteenth day of the month, the first quarterly declaration must be received in the Board's offices on the first day of the fourth month following.

Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

6. Dr. Warren shall appear in person for an interview before the full Board or its designated representative during the third month following the effective date of this Consent Agreement. 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.

Drug & Alcohol Screens; Supervising Physician

7. Dr. Warren shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board. Dr. Warren 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.

Dr. Warren shall abstain from consumption of poppy seeds or any other food or liquid that may produce false results in a toxicology screen.

Within thirty days of the effective date of this Consent Agreement, Dr. Warren shall submit to the Board for its prior approval the name of a supervising physician to whom Dr. Warren shall submit the required urine 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. Warren. Dr. Warren 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. Warren 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 Consent Agreement, 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. Warren must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Dr. Warren 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. Warren's quarterly declaration. It is Dr. Warren's responsibility to ensure that reports are timely submitted.

Rehabilitation Program

8. Within thirty days of the effective date of this Consent Agreement, Dr. Warren shall undertake and maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., C.A., or Caduceus, no less than three times per week. Substitution of any other specific program must receive prior Board approval.

Dr. Warren 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. Warren's quarterly declarations.

Psychiatric Treatment

9. Within thirty days of the effective date of this Consent Agreement, Dr. Warren shall submit to the Board for its prior approval the name and qualifications of a psychiatrist of his choice. Upon approval by the Board, Dr. Warren shall undergo and continue psychiatric treatment at least once every four weeks or as otherwise directed by the Board. Dr. Warren shall comply with his psychiatric treatment plan, including taking medications as prescribed and/or ordered for his psychiatric disorder. Dr. Warren shall ensure that psychiatric reports are forwarded by his treating psychiatrist to the Board on a quarterly basis, or as otherwise directed by the Board. The psychiatric reports shall contain information describing Dr. Warren's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Warren's compliance with his treatment plan; Dr. Warren's mental status; Dr. Warren's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Warren shall ensure that his treating psychiatrist immediately notifies the Board of his failure to comply with his psychiatric treatment plan and/or any determination that Dr. Warren is unable to practice due to his psychiatric disorder. It is Dr. Warren's responsibility to ensure that quarterly reports are received in the Board's offices no later than the due date for Dr. Warren's quarterly declaration.

In the event that the designated treating psychiatrist becomes unable or unwilling to serve in this capacity, Dr. Warren must immediately so notify the Board in writing. In addition, Dr. Warren shall make arrangements acceptable to the Board for another treating psychiatrist within thirty days after the previously designated treating psychiatrist becomes unable or unwilling to serve, unless otherwise determined by the Board. Furthermore, Dr. Warren shall ensure that the previously designated treating

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

CONDITIONS FOR REINSTATEMENT

10. The Board shall not consider reinstatement of Dr. Warren's certificate to practice osteopathic medicine and surgery until all of the following conditions are met:
 - a. Dr. Warren shall submit an application for reinstatement, accompanied by appropriate fees, if any.
 - b. Dr. Warren 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:
 - i. Certification from a treatment provider approved under Section 4731.25 of the Revised Code that Dr. Warren has successfully completed any required inpatient treatment.
 - ii. 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.
 - iii. Evidence of continuing full compliance with this Consent Agreement.
 - iv. Three written reports indicating that Dr. Warren's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care. Two of the written reports shall be made by physicians knowledgeable in the area of addictionology and who are either affiliated with a current Board-approved treatment provider or otherwise have been approved in advance by the Board to provide an assessment of Dr. Warren. Prior to the assessments, Dr. Warren shall provide the evaluators with copies of patient records from any evaluations and/or treatment that he has received, and a copy of this Consent Agreement. The reports from the evaluators shall include any recommendations for treatment, monitoring, or supervision of Dr. Warren, and any conditions, restrictions, or limitations that should be imposed on Dr. Warren's practice. The reports shall also describe the basis for the evaluator's determinations.

One of the written reports shall be made by the treating psychiatrist referenced in Paragraph 9 of this Consent Agreement, who shall conduct an evaluation of Dr. Warren regarding his psychiatric status.

All reports required pursuant to this paragraph shall be based upon examinations occurring within the three months immediately preceding any application for reinstatement.

- c. Dr. Warren shall enter into a written consent agreement including probationary terms, conditions and limitations as determined by the Board or, if the Board and Dr. Warren are unable to agree on the terms of a written Consent Agreement, then Dr. Warren further agrees to abide by any terms, conditions and limitations imposed by Board Order after a hearing conducted pursuant to Chapter 119. of the Ohio Revised Code.

Further, upon reinstatement of Dr. Warren's certificate to practice osteopathic medicine and surgery in this state, the Board shall require continued monitoring which shall include, but not be limited to, compliance with the written consent agreement entered into before reinstatement or with conditions imposed by Board Order after a hearing conducted pursuant to Chapter 119. of the Revised Code. Moreover, upon termination of the consent agreement or Board Order, Dr. Warren shall submit to the Board for at least two years annual progress reports made under penalty of Board disciplinary action or criminal prosecution stating whether Dr. Warren has maintained sobriety.

11. In the event that Dr. Warren has not been engaged in the active practice of osteopathic medicine and surgery for a period in excess of two years prior to application for reinstatement, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of Dr. Warren's fitness to resume practice.

REQUIRED REPORTING BY LICENSEE

12. Within thirty days of the effective date of this Consent Agreement, Dr. Warren shall provide a copy of this Consent Agreement 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. Warren further agrees to provide a copy of this Consent Agreement 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 of any professional license. Further, Dr. Warren shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

13. Within thirty days of the effective date of this Consent Agreement, Dr. Warren shall provide a copy of this Consent Agreement 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. Warren shall provide a copy of this Consent Agreement 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.

The above-described terms, conditions and limitations may be amended or terminated in writing at any time upon the agreement of both parties.

FAILURE TO COMPLY

If, in the discretion of the Secretary and Supervising Member of the Board, Dr. Warren appears to have violated or breached any term or condition of this Consent Agreement, the Board reserves the right to institute formal disciplinary proceedings for any and all possible violations or breaches, including but not limited to, alleged violations of the laws of Ohio occurring before the effective date of this Consent Agreement.

ACKNOWLEDGMENTS/LIABILITY RELEASE

Dr. Warren acknowledges that he has had an opportunity to ask questions concerning the terms of this Consent Agreement and that all questions asked have been answered in a satisfactory manner.

Any action initiated by the Board based on alleged violations of this Consent Agreement shall comply with the Administrative Procedure Act, Chapter 119., Ohio Revised Code.

Dr. Warren hereby releases the Board, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

This Consent Agreement 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. Dr. Warren acknowledges that his social security number will be used if this information is so reported and agrees to provide his social security number to the Board for such purposes.

EFFECTIVE DATE

It is expressly understood that this Consent Agreement is subject to ratification by the Board prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.


MICHAEL CRAIG WARREN, D.O.

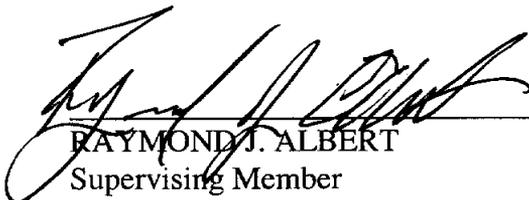
5/4/2004
DATE


LANCE A. TALMAGE, M.D.
Secretary

5-12-04
DATE


Elizabeth Y. Collis
att'y for Dr. Warren

5-6-04
date


RAYMOND J. ALBERT
Supervising Member

5/12/04
DATE


REBECCA J. MARSHALL, ESQ.
Enforcement Attorney

May 7, 2004
DATE