

# State Medical Board of Ohio

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January 14, 2015

Matthew Reid Harris, D.O.  
700 Olde Settler Place  
Columbus, OH 43214

RE: Case No. 14-CRF-075

Dear Doctor Harris:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Ronda Shamansky, Esq., Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on January 14, 2015, including motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio, and adopting an Amended Order.

Section 119.12, Ohio Revised Code, may authorize an appeal from this Order. Any such appeal must be filed in accordance with all requirements specified in Section 119.12, Ohio Revised Code, and must be filed with the State Medical Board of Ohio and the Franklin County Court of Common Pleas within (15) days after the date of mailing of this notice.

THE STATE MEDICAL BOARD OF OHIO



Kim G. Rothermel, M.D.  
Secretary

KGM:jam  
Enclosures

CERTIFIED MAIL NO. 91 7199 9991 7033 2021 1599  
RETURN RECEIPT REQUESTED

Cc: Elizabeth Y. Collis, Esq.  
CERTIFIED MAIL NO. 91 7199 9991 7033 2021 1605  
RETURN RECEIPT REQUESTED

*Mailed 2-3-15*

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Ronda Shamansky, State Medical Board Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on January 14, 2015, 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, and adopting an amended Order; constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Matthew Reid Harris, D.O., Case No. 14-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.



  
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Kim G. Rothermel, M.D.  
Secretary

January 14, 2015  
\_\_\_\_\_  
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

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CASE NO. 14-CRF-075

MATTHEW REID HARRIS, D.O.

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ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on January 14, 2015.

Upon the Report and Recommendation of Ronda Shamansky, State Medical Board Hearing Examiner, designated in this Matter pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the modification, approval, and confirmation by vote of the Board on the above date, the following Order is hereby entered on the Journal of the State Medical Board of Ohio for the above date.

It is hereby ORDERED that:

- A. **REPRIMAND:** Matthew Reid Harris, D.O., is REPRIMANDED.
- B. **TERMS, CONDITIONS, AND LIMITATIONS OF AUGUST 2009 BOARD ORDER TO REMAIN EFFECT:** Dr. Harris' certificate shall remain subject to the terms, conditions, and limitations set forth in his August 2009 Board Order, as currently in effect.

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



Kim G. Rothermel, M.D.  
Secretary

January 14, 2015  
Date



DEC - 4 2014

BEFORE THE STATE MEDICAL BOARD OF OHIO

STATE MEDICAL BOARD  
OF OHIO

In the Matter of

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Case No. 14-CRF-075

Matthew Reid Harris, D.O.,

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Hearing Examiner Shamansky

Respondent.

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REPORT AND RECOMMENDATION

Basis for Hearing

By letter dated June 11, 2014 ("Notice"), the State Medical Board of Ohio ("Board") notified Matthew Reid Harris, D.O., that it intended to determine whether to take disciplinary action against his certificate to practice osteopathic medicine and surgery in Ohio based on his alleged violations of an August 2009 Board Order. The Board alleged that Dr. Harris failed to call in for a random urine screen on December 14, 2013, December 16, 2013, and March 1, 2014. The Board further alleged that, on February 26, 2014, Dr. Harris marked the wrong test option on the drug-testing panel.

The Board charged that Dr. Harris' acts, conduct, and/or omissions, 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 Ohio Revised Code Section ("R.C.") 4731.22(B)(15).

The Board advised Dr. Harris of his right to request a hearing, and the Board received a written request for a hearing from his counsel on March 17, 2014. (State's Exhibits ("St. Exs.") 1(a) through 1(d)).

Appearances

Mike DeWine, Attorney General, and James Wakley, Assistant Attorney General, on behalf of the State of Ohio.

Elizabeth Collis, Esq., on behalf of the Respondent.

Hearing Date: November 6, 2014

SUMMARY OF THE EVIDENCE

All evidence admitted in this matter, even if not specifically mentioned, was thoroughly reviewed and considered by the Hearing Examiner prior to preparing this Report and Recommendation.

### Medical Education and Practice

1. Matthew Harris, D.O., earned a medical degree from the Ohio University College of Osteopathic Medicine in 2002, and then completed a three-year residency in family medicine through Wright State University at Kettering Medical Center and Good Samaritan Hospital in Dayton, Ohio. (Hearing Transcript (“Tr.”) at 17-19, 53; Respondent’s Exhibit (“Resp. Ex.”) A)
2. Dr. Harris testified that he had been raised in Colorado, and after his residency, he decided he might like to move back to the western region of the country. He was recruited by a small hospital in Payson, Arizona, and in October 2005, he moved there with his first wife. Dr. Harris worked as a physician with the Payson Regional Medical Center, and also tried to open his own practice. However, he acknowledged that it is not uncommon for solo practices to fail, especially for a doctor just out of medical school, and he eventually had to close his practice. (Tr. at 19-20)
3. During this time, Dr. Harris was also having trouble with his marriage, and he was drinking heavily. (Tr. at 20-21) For the first time, he sought inpatient treatment for alcoholism<sup>1</sup>:

I closed my business down in Payson, Arizona and my marriage wasn’t going real well, but I had, you know, started drinking and having a lot of difficulty. And I knew I needed to get help, so I called a friend of the family that recommended I try to go to Hazelden, which is in Minnesota.

So I flew over to Minnesota from Arizona. I got to treatment. I was there for about a week. And my wife told me she wanted a divorce while I was in treatment, which, unfortunately, when you’re kind of screwed up in the head and trying to recover from something, having something else like that hits you real hard. It made my treatment stay fairly ineffective.

(Tr. at 21)

4. When Dr. Harris finished his treatment in Minnesota, he flew back to Dayton, where he met his family at the airport. As he was newly-divorced, he lived at that time with his mother in Dayton. Dr. Harris continued to struggle with his dependence on alcohol, and on approximately April 17, 2009, he was convicted of Driving Under the Influence (“DUI”) after causing an accident while driving impaired. (Tr. at 21, 45-47, 52) At the hearing, he acknowledged, “There was nobody injured, but, you know, that was the grace of God, too, because it could have been a whole lot different.” (Tr. at 45) Dr. Harris spent three days in jail for that offense, an experience he described as, “Not fun,” adding, “I don’t want to go there again.” (Tr. at 47)

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<sup>1</sup> The previous Report and Recommendation issued by Hearing Examiner Gretchen Petrucci noted that Dr. Harris had undergone outpatient treatment for alcohol abuse in 1993 at Edwin Shaw Hospital. (St. Ex. 6 at 36)

5. By this time, Dr. Harris realized that he needed additional treatment, and in April 2009, he sought treatment at the Cleveland Clinic. Dr. Harris explained that he knew the Ohio Board would find out about his DUI, so he chose a treatment facility that was Board-approved, and turned himself in to the Board. Dr. Harris completed a 28-day residential treatment program at the Cleveland Clinic, and then began an aftercare program at Green Hall in Dayton. He testified that, although the aftercare program was “excellent,” Kettering Medical Center closed the facility after he had completed 75 of his sessions, and participants were instructed to finish their aftercare programs at facilities in Cincinnati or Columbus. Dr. Harris explained that he was about to move to Columbus anyway, so he chose to complete the remaining 29 sessions of his aftercare contract at a Columbus facility. (Tr. at 20-24)

### **Summary Suspension of Ohio License**

6. On May 13, 2009, the Board issued a Notice of Summary Suspension and Opportunity for Hearing, alleging, *inter alia*, that Dr. Harris reported to the Board on April 24, 2009 that he had entered inpatient treatment at the Cleveland Clinic for issues related to his relapse on alcohol, and that he had been arrested for operating a motor vehicle under the influence of alcohol. (St. Ex. 6 at 6-10)
7. Dr. Harris appeared for a Board hearing on June 2, 2009, and thereafter, the Board issued an Order dated August 12, 2009. The Board’s Order suspended Dr. Harris’s license for an indefinite period of time, but not less than nine months from the date of his summary suspension, and imposed interim terms and conditions. The Order also provided a path for Dr. Harris to seek the reinstatement of his medical license, by showing compliance with the Board’s stated conditions. (St. Ex. 6 at 14-50)

### **Reinstatement of Certificate in May 2011**

8. After meeting the conditions stated in the August 2009 Board Order, Dr. Harris applied for reinstatement of his certificate to practice medicine in Ohio. The Board reinstated Dr. Harris’s license on or about May 11, 2011, but he remained subject to the probationary terms stated in the August 2009 Order for at least five years after his reinstatement. (St. Ex. 6 at 23-24; State of Ohio *eLicense* Center, <https://license.ohio.gov/lookup>, query on December 2, 2014)
9. The probationary terms required Dr. Harris’ continued compliance with the conditions in Paragraph B of the 2009 Board Order. Paragraph B contained numerous terms intended to document Dr. Harris’s continued sobriety, including a requirement at subsection B.5.a that he submit to random urine screens for drugs and alcohol at least four times per month, and that the drug-testing panel utilized each time would include Dr. Harris’ drug(s) of choice. Subsection B.5.d of that paragraph required that the screenings would be conducted using a daily call-in procedure and that they would be performed at a Board-approved collection site. (St. Ex. 6 at 14-24)
10. In a section entitled, “Tolling of Probationary Period while Out of Compliance,” the 2009 Board Order further provided that after Dr. Harris’s reinstatement and during his

probationary period, if Dr. Harris failed to comply with any provision of the Order, any periods of noncompliance would not apply to the reduction of his time on probation. (St. Ex. 6 at 24)

### **Resumption of Employment in 2011**

11. At the hearing, Dr. Harris acknowledged a “gap” of approximately three years on his curriculum vitae, from March 2008 to July 2011. (Tr. at 45-46, Resp. Ex. A) He explained that during that time, he was looking for work, but the state of the economy presented a challenge:

I tried to find alternative employment. Unfortunately, the economy was really not good at the time and I was newly sober. And all of the alternative work that I was applying for, I was horribly overqualified for. I couldn’t really find alternative employment. I was going to a lot of [AA] meetings. I ended up filing a bankruptcy, Chapter 7 bankruptcy. I was living on food stamps. Really not a fun time in my life, but I continued to do what I could to comply with the Board.

(Tr. at 47)

12. Dr. Harris testified that, while he was waiting for the Board to act on his case, before the August 2009 Order was issued, he was living in an apartment and getting rides to AA meetings from his mother or from other AA members. Eventually, he was able to get his driver’s license back so that he could drive to meetings. However, he was not able to find work again until July 2011, when he went back to the practice of medicine. Dr. Harris agreed that he had “hit bottom” when he found himself without a job, in bankruptcy, and on public assistance, and that this experience solidified his commitment to recovery. (Tr. at 47, 54)
13. Once his medical license was reinstated, Dr. Harris began working for Community Urgent Care in Springfield and Urbana, Ohio in July 2011. Although he testified that he was grateful because that position allowed him to get back to work, Dr. Harris found that the job was not ideal because he was not able to earn as much money as he needed to meet his financial obligations. After a year with that facility, he opted to look for other employment. (Tr. at 24-26; Resp. Ex. A)
14. In August 2012, Dr. Harris was dating Tina, who would later become his second wife. Since Tina lived in Columbus, he decided to move to Columbus and take a position with Arlington Urgent Care in Upper Arlington, Ohio. Dr. Harris testified that the physician who owned that facility knew about his obligation to participate in random drug and alcohol screenings at the time he was hired, and had initially told him that it was no problem; he would come in and work whenever he had to report for testing. Dr. Harris continued working there for almost two years. (Tr. at 25-26; Resp. Ex. A) However, Dr. Harris stated that eventually, the physician-owner grew tired of having to work for him:

I guess he didn't realize how often I really had to go do urine tests. So after I ended up having to call him in a couple times, he just said he really didn't want to do that any more.

(Tr. at 26)

In June 2014, when Dr. Harris was ordered to go to a testing site to submit a specimen for a screen, his employer "fired [him] on the spot," leading Dr. Harris to conclude, "I couldn't comply with my Board orders and meet my job requirements." (Tr. at 25-26)

15. In September 2014, Dr. Harris began working for ExpressMed Urgent Care, a medical facility with walk-in clinics in Gahanna and Hilliard, Ohio. Dr. Harris testified that this employer is aware that he is required to submit to two or three screens per month, and that ExpressMed is certified as a testing site, where he can submit a urine specimen whenever he is required to test. He believes this will prevent him from losing another job because of his obligation to comply with his testing requirements. (Tr. at 27-28, 53-54; Resp. Ex. A)

#### **Failure to Call FirstLab on Three Dates**

16. Dr. Harris acknowledged that, while he has been subject to random screening during his probation, he has been required to call FirstLab, the Board's testing provider, every day by 2:00 p.m. He explained that if he realizes he has missed a call, he is supposed to call the Board to speak to his compliance agent. The compliance agent then has the option to require him to do a random screen at once. He stated that for the first three years of his probation, he was required to be tested four or five times each month, but that that requirement has since been relaxed, and he is selected to test two or three times per month. (Tr. at 24, 28-30)
17. At the hearing, Dr. Harris admitted that he failed to call FirstLab on three different dates: December 14, 2013, December 16, 2013, and March 1, 2014. He recounted that on December 16, 2014, he realized after 2:00 p.m. that he might have forgotten to call in that day. He checked the website to verify whether he had logged in that day, and discovered that not only had he missed his call on December 16, but he had forgotten to call in two days earlier, on December 14, 2013, as well. Dr. Harris testified that as soon as he realized he had missed those calls, he telephoned his compliance agent, Danielle Bickers, at the Board. He stated that Ms. Bickers added two additional screens that month, and as a result, he was tested five times in December 2013. Dr. Harris asserted that all of the screens were negative. (Tr. at 29-30, 52-53)
18. Dr. Harris testified that he did not know why he forgot to call on the two dates in December, but he suggested that because of the time of year when it occurred and the fact that December 14 was on a weekend, he and his new wife, Tina, were likely out doing their Christmas shopping. In addition, Tina Harris testified that they had moved into a new home in November 2013, and were often out shopping for things for their home during that time. (Tr. at 29-30, 130-131)

19. Finally, Dr. Harris's psychiatrist, Christina Weston, M.D., testified that one of Dr. Harris's diagnoses is Attention Deficit Hyperactivity Disorder ("ADHD"), and that this condition can make it difficult for Dr. Harris to remember to call in each day:

[P]art of the diagnosis of ADHD is being disorganized, easily distracted, so it's not uncommon for adults with this specific problem to have trouble being organized and miss things that others wouldn't be as likely to miss.

I believe a fair number of the times when he missed logging in were times when he was in the middle of moving from the Dayton area to Columbus. Since that would [be] a change of regular routine, that would make him more likely to miss.

(Tr. at 79)

20. Dr. Harris also admits that he failed to call FirstLab on March 1, 2014, and he testified that he also did not remember missing that call. He explained that when he had his quarterly meeting with his compliance agent in early March 2014, he presented his Declaration of Compliance that he signed on February 27, 2014. On that document, Dr. Harris disclosed that he was not in full compliance with the Board's terms and conditions because he had missed his call-ins on December 14 and 16, 2013. (St. Ex. 3; Tr. at 30-31)
21. Dr. Harris testified that at the quarterly compliance meeting in early March 2014, his compliance agent informed him that he had also missed a call on March 1, 2014. He stated that he had no recollection of missing that call, and when he was asked if he knew why he had missed his call-in on that day, he replied, "I have no idea." (Tr. at 32) Dr. Harris explained that Ms. Bickers asked him to complete an additional Declaration of Compliance Report, and he did so, acknowledging that he had also failed to call FirstLab on March 1, 2014. At the hearing, Dr. Harris identified the additional report that he filed at that meeting. (St. Ex. 4; Tr. at 31-32)
22. Also at his March 2014 quarterly meeting with Danielle Bickers, Dr. Harris was informed that he had marked the wrong test option on the chain of custody form he completed when he was chosen to test on February 26, 2014. Dr. Harris explained that whenever he called in and was selected to submit urine for a screen, he was also advised which panel he should be tested for; then, when he arrived at the lab, he was required to check that particular option as the panel that he was to be screened for. In his case, Dr. Harris said that he was always directed to test for either Panel 1 or Panel 2. He characterized Panel 1 as a "basic kind of overall drug screen" that tests for substances such as alcohol, cocaine, benzodiazepines, and stimulants. He described Panel 2 as "more of a heavy duty type of screen where it looks for metabolites of those same things \* \* \* so it can pick up something that has been in your system longer." He emphasized that both panels test for alcohol, which has always been his drug of choice. (Tr. at 32-35)
23. Dr. Harris testified that he did not remember which option he chose when he went to the collection site to submit his sample on February 26, 2014. No evidence was presented to

show whether Dr. Harris was selected to test for the more extensive panel but chose the lesser panel, or vice-versa. Dr. Harris testified that he would often complete some of the collection form while he was waiting for his turn to be called back to be screened, and that if he did not have enough time to finish the form, a staff person sometimes completed the remainder of the form. (Tr. at 34-35, 52) Although he conceded that it was his responsibility to check the correct option on the form, Dr. Harris explained, "I'm not sure if I marked the option wrong or if the person that I did the urine drug screen with who filled out the rest of the documentation marked it wrong." (Tr. at 34-35)

24. Dr. Harris maintained that neither his failure to call FirstLab on December 14, 2013, December 16, 2013, and March 1, 2014, nor his failure to check the correct testing panel on the February 26, 2014 collection form were the result of a relapse. He insisted that he has been completely sober since April 20, 2009. Likewise, his wife, Tina Harris, and his psychiatrist, Dr. Weston, testified that they had observed no indications of relapse in him. (Tr. at 44-45, 78-79, 131)
25. In summary, Dr. Harris related that he was screened at least four times each month beginning in 2009 when his license was suspended. Then, in June 2012, that requirement was reduced, and he was screened at least twice a month from that date until the time of the hearing. Dr. Harris estimated that over the past five years, he had completed over 200 random screenings for drugs and alcohol, and he asserted that each test was negative. (Tr. at 35-36)
26. Despite the fact that there was no evidence of a positive screen, in accordance with Dr. Harris' Board Order, his failure to call FirstLab on three occasions resulted in a "tolling" of his time served on probation. On April 24, 2014, the Board issued a letter advising Dr. Harris that the Board had determined that he would be considered out of compliance for a period of 30 days for each of the three incidents when he failed to call FirstLab. Therefore, his probationary period would be extended through August 9, 2016. (St. Ex. 5; Tr. at 42-43)

#### **Testimony of Compliance Supervisor Danielle Bickers**

27. Danielle Bickers is a compliance supervisor with the Board, in charge of monitoring Dr. Harris' compliance with his Board Order. She testified that Dr. Harris' certificate to practice medicine was reinstated in May 2011, but that he remained subject to the probationary terms set out in the August 2009 Board Order. Ms. Bickers also confirmed that in 2012, the Board approved a request by Dr. Harris to reduce the probationary requirements placed upon him. This included a reduction in the number of required AA meetings to two each week, and a reduction in the number of monthly random screens to two screens per month. She explained that in order for the Board to vote to approve a modification, as it did in Dr. Harris's case, the physician must demonstrate that he or she has been in full compliance with the terms of the probation for at least one year. (Tr. at 88-96)
28. Ms. Bickers testified that under the current terms of Dr. Harris's probation, he must call or log in to FirstLab every day between 5:00 a.m. and 2:00 p.m. to find out if he has been selected to test that day. If he is selected, Dr. Harris is then advised which panel he will be tested for in that day's screening. She agreed that Dr. Harris was required to test for either

Panel 1 or Panel 2, and that both of those panels test for alcohol, Dr. Harris' drug of choice. Ms. Bickers also agreed that it was possible that Dr. Harris was not aware that he had chosen the wrong panel on his screening form on February 26, 2014, until she informed him of the mistake at his quarterly meeting in March 2014. She explained that at a physician's quarterly meeting, she can access the FirstLab report to check his or her compliance with the screening process. (Tr. at 97-100, 103-104)

29. Ms. Bickers testified that Dr. Harris' August 2009 Board Order requires him to call FirstLab every day, and therefore, the mere failure to call in on any given day is a violation of the Order. She identified the compliance declarations that Dr. Harris submitted to the Board, acknowledging that he missed three call-ins, and that he selected the wrong test option when he was screened on February 26, 2014. (Tr. at 100-104; St. Exs. 3, 4)
30. Ms. Bickers explained that the Board had advised Dr. Harris in December 2012 that there were "areas of noncompliance," and that Dr. Harris was on "verbal notice" that any further violations would be cause for an extension of his probationary period. (Tr. at 105-106) However, she stated that the previous dates of noncompliance were not addressed until the Board's letter to Dr. Harris in April 2014. She agreed that by the time Dr. Harris received this letter, all of the failed call-ins had already been missed; it was not the case that he received this letter and then continued to forget to call in. As a result of his failure to call FirstLab on the three dates specified in the Notice, Dr. Harris' probation time was "tolled," and 30 additional days of probation were added for each day that he failed to call. He is now eligible for release from probation in August 2016. (St. Ex. 5; Tr. at 104-106)
31. Ms. Bickers conceded that the Board had not received any reports that suggest that Dr. Harris has relapsed, whether from random screenings or from reports by his monitoring physician or monitoring psychiatrist. She also agreed that Dr. Harris has been "largely compliant" with the terms of his probation, and that on his current schedule, he appears fit to be released from probation in August 2016. (Tr. at 107, 110-111)

### **Plan for Future Compliance**

32. Dr. Harris testified that his call-in routine has changed over time. Initially, he logged in to FirstLab's website each morning to see if he had been selected to test, but he acknowledged that his compliance was not as effective that way. He now calls in first thing each morning. He also uses his cell phone, setting alarms at 10:00 a.m. and at noon, to remind him to call in if he has not done so by that time. His wife also has an alarm set to remind him. He concluded that he believes he now has procedures in place to make sure he does not forget to call in each day, and that his new routine "seems to be working well." (Tr. at 37) Dr. Harris acknowledged that if he misses more calls, it will likely extend his probation period even longer. (Tr. at 28-29, 36-37, 50-51)
33. Dr. Harris conceded that the Board's April 24, 2014 letter cited different dates for missed call-ins: January 1, 2013, January 6, 2013, and February 10, 2013 – dates not cited in the Notice for this hearing. He explained that he did not know that he had also missed those

calls until he received the Board's letter in April 2014. He did not continue to miss calls after receiving this notice. (St. Ex. 5; Tr. at 43, 50)

### **Treatment for Mental Health Concerns**

34. In his testimony at the hearing, Dr. Harris acknowledged that in addition to his alcoholism, he has also struggled with mental health issues including depression, anxiety and mild ADHD. He stated that he began seeing his psychiatrist, Christina Weston, M.D., around the same time that he turned himself in to the Board in 2009. Dr. Weston has been board-certified in adult and child psychiatry since 1999, and is the psychiatry training director at Wright State University where she instructs residents in a child psychiatry program. Dr. Harris testified that, for a short time when he was newly sober and still unemployed, he could not afford to attend his aftercare meetings. (Tr. at 38, 72-74) Dr. Weston suggested that he try cognitive behavioral therapy ("CBT") through Wright State University, where she is a faculty member. He testified that it "turned out to be fantastic" because it helped him understand why he thinks the way he does and helped him better understand his depression and anxiety. (Tr. at 48)
35. Dr. Harris has continued seeing Dr. Weston for treatment and for medication management. He remains under her care, seeing her once every three months. Dr. Weston also provides quarterly reports to the Board as his monitoring psychiatrist. (Tr. at 38-39, 76-77)
36. Dr. Weston testified by telephone at the hearing, confirming that Dr. Harris' diagnoses include alcohol dependence in remission, depression, generalized anxiety disorder, and ADHD. Dr. Weston related that, after treating Dr. Harris for the past five years, she believes he has been doing very well, so she sees him only once every three months in order to manage his medications. She added that she had seen Dr. Harris as recently as a few days before the hearing, and she attested that he continues to be well. Dr. Weston provided a letter summarizing Dr. Harris' treatment and progress, which was admitted under seal. In her letter, Dr. Weston wrote that Dr. Harris' mood and anxiety were greatly improved after finding the right anti-depressant medication and participating in cognitive behavioral therapy. She also wrote that in the five years she has worked with Dr. Harris, she has never had any suspicion that he had relapsed or that he had been untruthful with her. (Tr. at 74-78; Resp. Ex. B)
37. When Dr. Weston was asked if she had any reservation about Dr. Harris' ability to practice medicine safely and competently, she promptly responded, "No, none at all." (Tr. at 79-80) She expressed that she has confidence in his sobriety because he is doing the right things to maintain it:

He's completely sober and he's very involved in AA. His wife who is also sober and involved in AA, and I think is a good support for him. I'm more confident in his ability since he's been in treatment and in recovery than, frankly, other doctors who are drinking.

(Tr. at 80)

38. Dr. Weston testified that when Dr. Harris first began seeing her, he made her aware of the Board's action and what had happened as a result of his alcohol dependence. She agreed to be his monitoring psychiatrist, and she confirmed that he has been fully compliant with his plan of treatment. Dr. Weston stated that Dr. Harris has always been very motivated to improve his condition. She testified that in his weekly psychotherapy that he attended early in his treatment, he learned techniques for dealing with his anxiety and depression that "helped him tremendously," and that he still uses those techniques today. (Tr. at 83) Dr. Weston stated that she has discussed with Dr. Harris the fact that he will eventually be released from his probation requirements with the Board, and she believes he realizes that he should continue with his medication regimen. She believes Dr. Harris intends to continue seeing her for long-term treatment, and she concluded that she has no concerns about Dr. Harris's ability to maintain his sobriety and his mental stability. In his testimony at the hearing, Dr. Harris agreed that he intends to continue to take care of his mental health by remaining in treatment with Dr. Weston. (Tr. at 49-50, 81-85)

#### Recovery Status

39. At the hearing, Dr. Harris characterized his recovery as "very solid." (Tr. at 39) He attends two or three AA meetings per week and meets regularly with his sponsor. Dr. Harris testified that when moved from Dayton to Columbus, he found it necessary to change sponsors. He explained that he worked very well with his sponsor in Dayton, but that it is hard to be that far away from one's sponsor, as he could not go to meetings with him or visit with him as often as he wanted to. As a result, he stated that he found himself "drifting away" from his sponsor. Once he was settled in Columbus, Dr. Harris found a new sponsor, and has worked with him for the past six months. (Tr. at 40-41, 49)
40. Dr. Harris gave convincing testimony that he appreciates the value of the AA program in his recovery, and that it is helping him to stay sober:

I have a good relationship with my sponsor. I enjoy the AA meetings. I live a recovery lifestyle. I just – my body does not metabolize alcohol appropriately, period. It will kill me if I touch it. So that's what I have to do to manage my disease. I feel like I'm doing extremely well.

(Tr. at 40)

41. Dr. Harris testified that he is now employed full-time with ExpressMed in Gahanna, and that although he works four days per week, he does not intend to seek other employment on the days when he is not on duty. (Tr. at 51-55) He explained that he realizes the importance of balance in his life, adding, "That's plenty of work for me. If you get overworked and you're too stressed out, that's not a real nice life." (Tr. at 56)
42. Dr. Harris emphasized that he intends to continue participating in the AA program even after he is released from his probation with the Board, and that he realizes the danger that alcohol presents to his health and his quality of life:

**Q: -- and I'm assuming that you will be, do you intend to continue with AA?**

A: Absolutely. Unfortunately, alcoholism is – it's a disease. It's categorized that way medically. It also has a strong genetic component. A lot of my family members – I really only have one sibling that's still actively drinking. The others are in recovery. What I'm getting at is I believe I'm a genetic alcoholic. I haven't done the genetic testing to prove it but it runs in my family, and I know if I try to drink, it will kill me, guaranteed. So I fully intend to stay in AA and continue to – I mean, it's a much easier life. It's very nice. So, yes, I fully intend to never drink again.

(Tr. at 49)

#### Testimony of AA Sponsor

43. "Christopher" has been Dr. Harris's AA sponsor for at least six months.<sup>2</sup> He has been sober since April 29, 1982. He testified that he met Dr. Harris at a Friday night AA meeting when Dr. Harris moved to Columbus about eighteen months ago. Since becoming his sponsor, Christopher has seen Dr. Harris at least once a week, and often twice a week at AA meetings. He testified that they try to arrive at meetings 15 minutes early so they can talk before the meeting begins, and they talk during the week on the telephone. (Tr. at 60-62, 66)
44. Christopher recounted that he has sponsored many people in the AA program over the years, and has observed that some people are serious about the program, while others attend only to meet requirements that have been imposed upon them:

Some of them work very diligently and stay sober and some of them get a sponsor so they can get out of House of Hope and talk to their lawyer about it. And they ask you and you never see them again.

(Tr. at 61)

45. Christopher explained that when he is asked to be a sponsor, he gives serious consideration to whether the person asking is someone he can help, based on the individual's seriousness about his sobriety. He stated that he believes Dr. Harris takes his sobriety very seriously, and that he realizes he cannot drink alcohol at all. Christopher testified that he believes Dr. Harris has picked up the wisdom of AA, and that when he has a problem, he has the tools to come up with a resolution that will be a good sober choice. (Tr. at 62-63, 66-67)
46. Christopher stated that he is aware that Dr. Harris is required to participate in random screenings, and that Dr. Harris has told him he missed several calls. He testified that he

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<sup>2</sup> Christopher's full name appears in the transcript. At the hearing, he was offered the opportunity to keep his last name confidential, but he declined anonymity, stating, "Just use my name." (Tr. at 65)

believes Dr. Harris simply forgot to call and that he had not purposefully failed to call. Christopher related that he had not seen any signs of relapse, that that he had no reservations about Dr. Harris's sobriety. (Tr. at 63-64)

47. On cross-examination, Christopher acknowledged that Dr. Harris was under a Board order to attend AA meetings, but he said that he still believes Dr. Harris is genuine in his desire to participate in the meetings. He stated that he believes Dr. Harris will continue to attend AA even when he is no longer under an obligation to do so. When asked if he believes Dr. Harris will be able to remain sober, he paused and acknowledged that many people do not "continue on that path." However, he said that if Dr. Harris continues to do the things he is doing now, he believes he can have a lasting sobriety. Christopher identified a letter that he wrote in support of Dr. Harris, attesting to his dedication to the AA program. (Tr. at 67-69; Resp. Ex. C at 3-4)

#### Testimony of Tina Harris

48. Tina Harris has been married to Dr. Harris since August 2013. She is employed as a financial analyst with OhioHealth, and she is also a recovering person, with 13 years of sobriety. Mrs. Harris testified that she is aware of her husband's responsibilities under his monitoring agreement with the Board and she tries to support his efforts to comply, but that he understands it is his responsibility to remember to call in each day. (Tr. at 123-124, 126-127, 131)
49. Mrs. Harris corroborated Dr. Harris' testimony that he lost his last job because his testing responsibilities interfered with his employer's expectations of him. She stated that she believes that his new job with ExpressMed will be a better fit for him, and will allow him enough time to attend AA and meet his obligations to comply with random testing. She added that he could have been employed three months earlier with another company, but he waited until he found an employer that was supportive of him in fulfilling his obligations to the Board. (Tr. at 125-126, 129)
50. Mrs. Harris stated that she believes her husband is "putting his sobriety first," and that he is doing very well. (Tr. at 126) She testified that during the times when her husband missed daily calls to FirstLab, she had no concerns whatsoever that he had relapsed. And, as a recovering person herself, she agreed that she would likely be aware of the signs of a relapse. (Tr. at 129, 131)
51. Mrs. Harris emphasized that her husband has a good attitude about complying with the Board's requirements. She stated that he realizes that if he wants to continue in his career, he must comply with the terms designed to help him maintain his sobriety. (Tr. at 127-128) She summarized that Dr. Harris is doing what he needs to do to stay sober, and that he is doing very well:

I think he's doing fantastic. He's gone through a lot of adversity. He does what he's supposed to do. He's always home when he's supposed to be

home. He helps out around the house. He's a responsible human being. He's happy and healthy and I'm thankful for him.

(Tr. at 126)

52. Mrs. Harris identified a letter that she wrote in support of Dr. Harris, in which she described him as "one of the most honest people [she knows.]" She wrote that he is a "warm, caring and loving husband" and that he tries to help other alcoholics by sharing his experience, strength, and hope. In her letter, Mrs. Harris emphasized, "Matt knows that his recovery program is the most important thing he does every day. He knows that without his sobriety he will have nothing." (St. Ex. C at 1)

Testimony of Donata Rechnitzer, M.D.

53. Donna Rechnitzer, M.D. is Dr. Harris's monitoring physician under the conditions of the Board's August 2009 Order. Dr. Rechnitzer is also the medical director of ExpressMed, the Urgent Care facility where Dr. Harris has been employed since September 2014. At one time she was required to do "chart reviews" of Dr. Harris's cases, but that requirement has been relaxed, and now she monitors him to determine if he is well and maintaining his sobriety. Dr. Rechnitzer submits quarterly reports to the Board, advising it of Dr. Harris's progress. (Tr. at 27, 37-38, 115-116, 118)
54. Dr. Rechnitzer testified that she did not know Dr. Harris before hiring him several months ago. She stated that at the time of his interview, Dr. Harris fully disclosed the fact that he was under a monitoring agreement and provided a copy of his Board Order. She stated that she has read the Order, and that she does not believe his employment at her clinic will interfere with his ability to comply with the Board's terms, adding that ExpressMed has been registered as a testing site for several years prior to Dr. Harris's employment there. She expressed awareness that he must be available for random testing about twice a month under the current terms of his Order, and that she must submit quarterly reports to the Board, as his monitoring physician. (Tr. at 117-118, 120-121)
55. Dr. Rechnitzer testified that Dr. Harris is contracted to work four days a week, on a ten-hour shift each day. She stated that Dr. Harris has demonstrated his ability to provide competent care to patients, and that she has heard no complaints from patients or from staff about his services. (Tr. at 118-119) While Dr. Rechnitzer stated that she is aware of Dr. Harris' history of alcoholism, she maintained that she has had no reason to believe that he is not maintaining his sobriety:

Dr. Harris has been on time for his shifts. He hasn't had any unnecessary or outlandish requests regarding his shifts in the nature of the services we provide here. He's been easy to work with, and I have no doubt that it will continue.

(Tr. at 119)

### FINDINGS OF FACT

1. On or about May 13, 2009, the Board summarily suspended Dr. Harris's certificate to practice osteopathic medicine based upon his violations of R.C. 4731.22(B)(26) and 4731.22(B)(19). On or about August 12, 2009, the Board issued an Order that, *inter alia*, suspended Dr. Harris' certificate to practice for an indefinite period of time, but not less than nine months from the date of his summary suspension, and imposed interim and probationary terms and conditions. Dr. Harris' certificate to practice was reinstated on or about May 11, 2011, and Dr. Harris remains subject to the probationary terms and conditions set forth in the August 2009 Board Order.
2. Paragraph B.5.d. and Paragraph D.2 of the August 2009 Board Order required Dr. Harris to submit to random urine screenings for drugs and alcohol through a Board-approved drug testing facility and collection site that required a daily call-in procedure. Despite that requirement, Dr. Harris failed to call in on or about December 14, 2013, December 16, 2013, and March 1, 2014.
3. Paragraph B.5.a. and Paragraph D.2. of the August 2009 Board Order required Dr. Harris to submit to the drug-testing panel acceptable to the Secretary of the Board and required that the panel would include Dr. Harris's drug(s) of choice. Despite those requirements, on or about February 26, 2014, Dr. Harris marked the wrong test option.

### CONCLUSION OF LAW

Dr. Harris's acts, conduct, and/or omissions, as set forth in Findings of Fact 1 through 3, , 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 R.C. 4731.22(B)(15).

### DISCUSSION OF THE PROPOSED ORDER

There is no dispute that Dr. Harris violated the terms of his probation under the August 2009 Board Order by failing to call FirstLab on three separate dates, and by checking an incorrect option for the test panel on February 26, 2014 when he was selected to test. Despite these clear violations of the terms of his probation, Dr. Harris presented convincing testimony that he has consistently maintained his sobriety since 2009. In addition, there was no evidence that he has ever had a positive screen, or that he failed to test when he was selected to do so. The evidence supported Dr. Harris's assertion that he simply forgot to call in on a few particular dates during the five years that he has been subject to the terms of the Board's Order.

Dr. Harris gave very credible, persuasive testimony that he is deeply committed to maintaining his sobriety, and that his participation in AA is active and sincere. Likewise, his AA sponsor, Christopher, gave compelling testimony that in his many years of sponsoring fellow AA members, he has come to know which participants are sincere in their dedication to the program, and which participants are motivated only by a requirement imposed on them by the courts or by an administrative agency. His testimony that he believes Dr. Harris has acquired the wisdom of the AA program and that he values his sobriety above all else was convincing.

For the violations of his probation, Dr. Harris has already had the term of his probation extended by 90 days. He appears to be truly motivated to avoid additional violations, because he understands that he will likely remain on probation even longer, if there are any further issues with his compliance. Neither Dr. Harris nor any of those who testified or wrote letters on his behalf showed a begrudging or dismissive attitude towards the probationary terms imposed by the Board's Order. To the contrary, Dr. Harris exhibited a respect for the Board's authority and an understanding that the terms of his probation are designed to assist him in maintaining his sobriety and his good health, thereby enabling him to provide the highest level of care to his patients.

Both Dr. Harris's counsel and the Assistant Attorney General agreed that a reprimand is the most appropriate action in this case, as any other penalty would be unwarranted and counterproductive, given that Dr. Harris has already been sanctioned by the extension of his probation. The hearing examiner is in full agreement with that assessment.

### **PROPOSED ORDER**

It is hereby ORDERED that:

Matthew Reid Harris, D.O., is REPRIMANDED.

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

  
Ronda Shamansky, Esq.  
Hearing Examiner

# State Medical Board of Ohio

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

(614) 466-3934

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## EXCERPT FROM THE DRAFT MINUTES OF JANUARY 14, 2015

### REPORTS AND RECOMMENDATIONS AND PROPOSED FINDINGS AND PROPOSED ORDERS

Mr. Kenney announced that the Board would now consider the Reports and Recommendations appearing on its agenda.

Mr. Kenney asked whether each member of the Board had received, read and considered the hearing records, the Findings of Fact, Conclusions of Law, Proposed Orders, and any objections filed in the matters of: Kevin Scott Balter, M.D.; Allan Belcher, D.O.; Bryan David Borland, D.O.; Matthew Aaron Colflesh, M.D.; Lyndsay Elizabeth Bruner Cook; Kurt William Froehlich, M.D.; Matthew Reid Harris, D.O.; Timothy Michael Hickey, M.D.; Lillian F. Lewis, M.D.; and Joshua Long.

A roll call was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Ramprasad	- aye
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Dr. Soin	- aye
	Mr. Giacalone	- aye

Mr. Kenney 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. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Ramprasad	- aye
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Dr. Soin	- aye
	Mr. Giacalone	- aye

Mr. Kenney noted that, in accordance with the provision in section 4731.22(F)(2), Ohio 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 any disciplinary matters. In the matters before the Board today, Dr. Rothermel served as Secretary and Dr. Saferin served as Supervising Member.

Mr. Kenney 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.

.....  
MATTHEW REID HARRIS, D.O.  
.....

**Dr. Steinbergh moved to approve and confirm Ms. Shamansky's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Matthew Reid Harris, D.O. Dr. Ramprasad seconded the motion.**

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

Dr. Sethi stated that Dr. Harris is before the board due to allegations that he violated the terms of his Board Order. Dr. Sethi stated that there is no dispute that Dr. Harris violated his Board Order by failing to call in for a random urine drug screen on three occasions, as well as marking the incorrect test option on one occasion. Dr. Sethi briefly recounted the events that led to Dr. Harris' 2009 Board Order due to alcohol dependence. Dr. Sethi stated that there are a myriad of ways that someone can arrange reminders of important things, including on their cellular phones. Dr. Sethi opined that Dr. Harris should stop making excuses and admit his errors; otherwise he could begin to think the he can excuse himself to drink alcohol again. Dr. Sethi stated that Dr. Harris should accept this and work hard at staying sober.

Dr. Sethi observed that Dr. Harris has already had his term of probation extended by 90 days due to violations of his probationary terms. Dr. Sethi offered an amendment to the Proposed Order that, in addition to a reprimand, clarifies that the Order does not supersede Dr. Harris' 2009 Board Order.

**Dr. Sethi moved to amend the Proposed Order to add the stipulation that the Order does not supersede Dr. Harris' 2009 Board Order, that the terms and conditions of the 2009 Board Order remain in effect, and acknowledges that those terms and conditions have been extended by 90 days. Dr. Steinbergh seconded the motion.**

Dr. Steinbergh stated that it is obvious that Dr. Harris violated the terms of his Board Order. Dr. Steinbergh stated that by taking this action today, the Board is showing support for Dr. Harris' continued healing. Dr. Steinbergh strongly advised Dr. Harris to not violate his Board Order again under any circumstances.

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

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Ramprasad	- aye
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Dr. Soin	- aye
	Mr. Giacalone	- aye

The motion to amend carried.

**Dr. Steinbergh moved to approve and confirm Ms. Shamansky's Findings of Fact, Conclusions of Law, and Proposed Order, as amended, in the matter of Matthew Reid Harris, D.O. Mr. Gonidakis seconded the motion.** A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Ramprasad	- aye
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Dr. Soin	- aye
	Mr. Giacalone	- aye

The motion to approve carried.

# State Medical Board of Ohio

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

(614) 466-3934

med.ohio.gov

June 11, 2014

Case number: 14-CRF- 075

Matthew Reid Harris, D.O.  
700 Olde Settler Place  
Columbus, OH 43214

Dear Doctor Harris:

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 13, 2009, the Board summarily suspended your certificate to practice osteopathic medicine and surgery based upon violations of Sections 4731.22(B)(26) and 4731.22(B)(19), Ohio Revised Code. On or about August 12, 2009, the Board issued an Order [August 2009 Board Order] that, *inter alia*, suspended your certificate to practice for an indefinite period of time, but not less than nine months from the date of the summary suspension, and imposed interim and probationary terms and conditions. Your certificate to practice was reinstated on or about May 11, 2011. You remain subject to probationary terms and conditions set forth in the August 2009 Board Order.

Paragraph B.5.d. together with Paragraph D.2. of the August 2009 Board Order requires that you submit to random urine screenings for drugs and alcohol through a Board-approved drug testing facility and collection site that requires a daily call in procedure. Despite this requirement, you failed to call in on or about December 14, 2013, December 16, 2013, and March 1, 2014.

Further, Paragraph B.5.a. together with Paragraph D.2. of the August 2009 Board Order requires that you submit to the drug-testing panel acceptable to the Secretary of the Board and shall include your drugs of choice. Despite this requirement, on or about February 26, 2014, you marked the wrong test option.

*mailed 6-12-14*

Your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitutes “[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.

Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty days of the time of mailing of this notice.

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

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

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, provides that “[w]hen the board refuses to grant a certificate to an applicant, revokes an individual’s certificate to practice, refuses to register an applicant, or refuses to reinstate an individual’s certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.”

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Mark A. Bechtel, M.D.  
Acting Secretary

MAB/khm/pev  
Enclosures

CERTIFIED MAIL #91 7199 9991 7033 2383 4016  
RETURN RECEIPT REQUESTED

Matthew Reid Harris, D.O.

Page 3

cc: Eric Plinke, Esq.  
Dinsmore and Shohl  
191 West Nationwide Boulevard, Suite 300  
Columbus, Ohio 43215

CERTIFIED MAIL #91 7199 9991 7033 2383 4023  
RETURN RECEIPT REQUESTED

# 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

August 12, 2009

Matthew Reid Harris, D.O.  
2904 Vista View Drive, Apt. 7  
Beavercreek, OH 45431

RE: Case No. 09-CRF-058

Dear Doctor Harris:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Gretchen L. Petrucci, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on August 12, 2009, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order.

Section 119.12, Ohio Revised Code, may authorize an appeal from this Order. Such an appeal must be taken to the Franklin County Court of Common Pleas.

Such an appeal setting forth the Order appealed from and the grounds of the appeal must be commenced by the filing of an original Notice of Appeal with the State Medical Board of Ohio and a copy of the Notice of Appeal with the Franklin County Court of Common Pleas. Any such appeal must be filed within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12, Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO

*Lance A. Talmage MD*  
Lance A. Talmage, M.D.  
Secretary

LAT:jam  
Enclosures

CERTIFIED MAIL NO. 91 7108 2133 3934 3690 8099  
RETURN RECEIPT REQUESTED

Cc: Eric J. Plinke, Esq.  
CERTIFIED MAIL NO. 91 7108 2133 3934 3690 8105  
RETURN RECEIPT REQUESTED

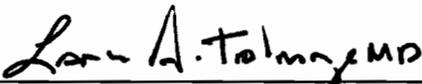
*Mailed 9.3.09*

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Gretchen L. Petrucci, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on August 12, 2009, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order; constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Matthew Reid Harris, D.O., Case No. 09-CRF-058, 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.

(SEAL)

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

August 12, 2009  
\_\_\_\_\_  
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

\*

\*

CASE NO. 09-CRF-058

MATTHEW REID HARRIS, D.O.

\*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on August 12, 2009.

Upon the Report and Recommendation of Gretchen L. Petrucci, State Medical Board Attorney Hearing Examiner, designated in this Matter pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the modification, approval and confirmation by vote of the Board on the above date, the following Order is hereby entered on the Journal of the State Medical Board of Ohio for the above date.

It is hereby **ORDERED** that:

- A. **SUSPENSION OF CERTIFICATE:** The certificate of Matthew Reid Harris, D.C., to practice osteopathic medicine and surgery in the State of Ohio shall be **SUSPENDED** for an indefinite period of time, but not less than nine months from the May 13, 2009, Notice of Summary Suspension and Opportunity for Hearing.
- B. **INTERIM MONITORING:** During the period that Dr. Harris' certificate to practice osteopathic medicine and surgery in Ohio is suspended, Dr. Harris shall comply with the following terms, conditions, and limitations:
  1. **Obey the Law:** Dr. Harris shall obey all federal, state, and local laws, and all rules governing the practice of osteopathic medicine and surgery in Ohio.
  2. **Quarterly Appearances:** Dr. Harris 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 Order, or as otherwise requested by the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

3. **Quarterly Declarations:** Dr. Harris 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 first day of the third month following the month in which this Order becomes effective, or as otherwise requested by the Board. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
  
4. **Sobriety**
  - a. **Abstention from Drugs:** Dr. Harris 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. Harris' history of chemical dependency. Further, in the event that Dr. Harris is so prescribed, dispensed or administered any controlled substance, carisoprodol, or tramadol, Dr. Harris shall notify the Board in writing within seven days, providing the Board with the identity of the prescriber; the name of the drug Dr. Harris 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. Harris 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. Harris shall abstain completely from the use of alcohol.
  
5. **Drug & Alcohol Screens; Drug Testing Facility and Collection Site**
  - a. Dr. Harris shall submit to random urine screenings for drugs and alcohol at least four times per month, or as otherwise directed by the Board. Dr. Harris 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. Harris' drug(s) of choice.
  
  - b. Dr. Harris shall submit, at his expense and on the day selected, urine specimens for drug and/or alcohol analysis. (The term "toxicology screen" is also used herein for "urine screen" and/or "drug screen.")

All specimens submitted by Dr. Harris 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. Harris 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. Harris 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 in a toxicology screen is prohibited under this Order.

- d. All screenings for drugs and alcohol shall be conducted through a Board-approved drug-testing facility and a Board-approved collection site, except as provided in Paragraph 6 below (“Alternative Drug-testing and/or Collection Site”). Further, the screening process shall require a daily call-in procedure.
- e. Within 30 days of the effective date of this Order, Dr. Harris 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. Harris shall provide to the Board written documentation of completion of such arrangements, including a copy of any contract entered into between Dr. Harris and the Board-approved DFCS. Dr. Harris’ 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. Harris 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. Harris 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 results.

- g. Dr. Harris 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. Harris must immediately notify the Board in writing, and make arrangements acceptable to the Board, pursuant to Paragraph 6 below, as soon as practicable. Dr. Harris 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. Dr. Harris acknowledges that the Board expressly reserves the right to 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. Harris 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. Harris, 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. Harris.

- a. Within 30 days of the date on which Dr. Harris is notified of the Board's determination that utilizing the Board-approved DFCS constitutes an extraordinary hardship on Dr. Harris, 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. Harris 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. Harris' residence or employment location, or to a

physician who practices in the same locale as Dr. Harris. Dr. Harris 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. Harris acknowledges that the alternative DFCS or the supervising physician shall ensure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

- b. Dr. Harris 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. Harris must immediately notify the Board in writing. Dr. Harris 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. Harris 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. Harris.
- d. The Board expressly reserves the right to disapprove any entity or facility proposed to serve as Dr. Harris' designated alternative DFCS or any person proposed to serve as her supervising physician, or to withdraw 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 & 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. Harris' quarterly declaration. It is Dr. Harris' responsibility to ensure that reports are timely submitted.

8. **Additional Screening without Prior Notice:** On the Board's request and without prior notice, Dr. Harris must 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. Harris, or for any other purpose, at Dr. Harris' expense. Dr. Harris' refusal to submit a specimen on 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 or Supervising Member of the Board.
9. **Rehabilitation Program:** Dr. Harris shall 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. Harris 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. Harris' quarterly declarations.

10. **Psychiatric Assessment/Treatment:** Within 30 days of the effective date of this Order, unless otherwise determined by the Board, Dr. Harris shall submit to the Board for its prior approval the name and curriculum vitae of a psychiatrist of Dr. Harris' choice.

Upon approval by the Board, Dr. Harris shall obtain from the approved psychiatrist an assessment of Dr. Harris' current psychiatric status. The assessment shall take place no more than sixty days thereafter, unless otherwise determined by the Board. Prior to the initial assessment, Dr. Harris shall furnish the approved psychiatrist copies of the Board's Order, including the Summary of the Evidence, Findings of Fact, and Conclusions, and any other documentation from the hearing record which the Board may deem appropriate or helpful to that psychiatrist.

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

- a. A detailed report of the evaluation of Dr. Harris' current psychiatric status and condition;
- b. A detailed plan of recommended psychiatric treatment, if any, based upon the psychiatrist's informed assessment of Dr. Harris' current needs;

- c. A statement regarding any recommended limitations upon his practice, and
- d. Any reports upon which the treatment recommendation is based, including reports of physical examination and psychological or other testing.

Dr. Harris shall undergo and continue psychiatric treatment at the recommended rate of visits or as otherwise directed by the Board. The sessions shall be in person and may not be conducted by telephone or other electronic means. Dr. Harris shall comply with his psychiatric treatment plan, including taking medications as prescribed for his psychiatric disorder and submitting to periodic tests of his blood and/or urine.

Dr. Harris shall continue in psychiatric treatment until such time as the Board determines that no further treatment is necessary. To make this determination, the Board shall require reports from the approved treating psychiatrist. The psychiatric reports shall contain information describing Dr. Harris' current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Harris' compliance with the treatment plan; his psychiatric status; his progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Harris 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. Harris' quarterly declaration.

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

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

11. **Releases:** Dr. Harris 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. Harris' chemical dependency and impairment, his psychiatric disorder, 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. Harris further shall 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 Order.

12. **Absences from Ohio:** Dr. Harris 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.

Further, the Secretary and Supervising Member of the Board shall have the discretion to grant a waiver of part or all of the monitoring terms set forth in this Order for occasional periods of absence of fourteen days or less. In the event that Dr. Harris resides and/or is employed at a location that is within fifty miles of the geographic border of Ohio and a contiguous state, Dr. Harris may travel between Ohio and that contiguous state without seeking prior approval of the Secretary or Supervising Member provided that Dr. Harris 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. Harris shall notify the Board in writing of any change of residence address and/or principal practice address within 30 days of the change.
14. **Comply with the Terms of Treatment and Aftercare Contract:** Dr. Harris shall maintain continued compliance with: (a) the terms of any treatment or aftercare contract entered into with Greene Hall; (b) the aftercare contract entered into with the Cleveland Clinic; and (c) the terms of any other executed treatment or aftercare contract, provided that, where terms of the treatment and aftercare contracts conflict with terms of this Order, the terms of this Order shall control.

C. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Harris' certificate to practice as a physician assistant in Ohio until all of the following conditions have been met:

1. **Application for Reinstatement or Restoration:** Dr. Harris shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
2. **Compliance with Interim Conditions:** Dr. Harris shall have maintained compliance with all the terms, conditions and limitations set forth in Paragraph B of this Order.

3. **Evidence of Unrestricted Licensure in Other States:** At the time he submits his application for reinstatement or restoration, Dr. Harris shall provide written documentation acceptable to the Board verifying that Dr. Harris otherwise holds a full and unrestricted license to practice osteopathic medicine and surgery in all other states in which he is licensed at the time of application or has been in the past licensed, or that he would be entitled to such license but for the nonpayment of renewal fees.
  
4. **Demonstration of Ability to Resume Practice:** Dr. Harris shall demonstrate to the satisfaction of the Board that he can resume practice in compliance with acceptable and prevailing standards of care under the provisions of his certificate. Such demonstration shall include but shall not be limited to the following:
  - a. Certification from a treatment provider approved under Section 4731.25, Ohio Revised Code, that Dr. Harris has successfully completed any required inpatient treatment, including at least 28 days of inpatient or residential treatment (completed consecutively) for chemical abuse/dependence at a treatment provider approved by the Board.
  
  - b. Evidence of continuing full compliance with an aftercare contract with a treatment provider approved under Section 4731.25, Ohio 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, Ohio Administrative Code.
  
  - c. Evidence of continuing full compliance with this Order.
  
  - d. Two written reports indicating that Dr. Harris' ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care.

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. Harris. Further, the two aforementioned physicians shall not be affiliated with the same treatment provider or medical group practice. Prior to the assessments, Dr. Harris shall provide the evaluators 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 evaluators shall include any recommendations for treatment, monitoring, or supervision of Dr. Harris, and any conditions,

restrictions, or limitations that should be imposed on Dr. Harris' practice. The reports shall also describe the basis for the evaluator'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.

- e. Two written reports of evaluation by two psychiatrists acceptable to the Board indicating that Dr. Harris' ability to practice has been assessed and that he has been found capable of practicing in accordance with acceptable and prevailing standards of care. Such evaluations shall have been performed within the three months immediately preceding Harris' application for reinstatement or restoration. The reports of evaluation shall describe with particularity the bases for the determination that Dr. Harris has been found capable of practicing according to acceptable and prevailing standards of care and shall include any recommended limitations upon his practice.

5. **Additional Evidence of Fitness To Resume Practice:** In the event that Dr. Harris has not been engaged in active practice of osteopathic medicine and surgery for a period in excess of two year prior to application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of his fitness to resume practice.

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

1. **Obey the Law:** Dr. Harris shall obey all federal, state, and local laws, and all rules governing the practice as a physician assistant in Ohio.
2. **Terms, Conditions, and Limitations Continued from Suspension Period:** Dr. Harris shall continue to be subject to the terms, conditions, and limitations specified in Paragraph B of this Order.
3. **Practice Plan:** Prior to Dr. Harris' commencement of practice in Ohio, or as otherwise determined by the Board, Dr. Harris shall submit to the Board and receive its approval for a plan of practice in Ohio. The practice plan, unless

otherwise determined by the Board, shall be limited to a supervised structured environment in which Dr. Harris' activities will be directly supervised and overseen by a monitoring physician approved by the Board. Dr. Harris shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

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

The monitoring physician shall monitor Dr. Harris and his medical practice, and shall review Dr. Harris' 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. Harris and his practice, and on the review of Dr. Harris' patient charts. Dr. Harris 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. Harris' quarterly declaration.

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

4. **Tolling of Probationary Period while Out of Compliance:** In the event Dr. Harris 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. Harris' certificate will be fully restored.
- F. **VIOLATION OF THE TERMS OF THIS ORDER:** If Dr. Harris 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. Harris shall provide a copy of this Order to all employers or entities with which he is under contract to provide health-care services (including but not limited to third-party payors), or is receiving training, and the chief of staff at each hospital or health-care center where he has privileges or appointments.

In the event that Dr. Harris provides any health-care services or health-care direction or medical oversight to any emergency medical services organization or emergency medical services provider, Dr. Harris shall provide a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services.

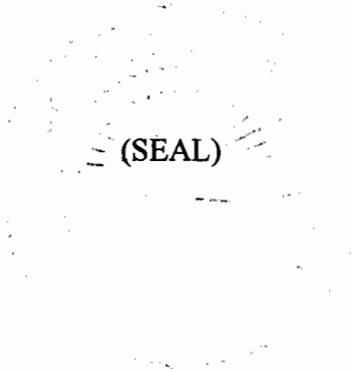
2. **Required Reporting To Other Licensing Authorities:** Within 30 days of the effective date of this Order, Dr. Harris shall provide a copy of this Order to the proper licensing authority of any State or jurisdiction in which he currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which he currently holds any license or certificate.

Dr. Harris further shall provide a copy of this Order at the time of application to the proper licensing authority of any State or jurisdiction in which he applies for any professional license or reinstatement/restoration of any professional license. This requirement shall continue until Dr. Harris received from the Board written notification of the successful completion of the probation.

3. **Required Reporting to Treatment Providers/Monitors:** Within 30 days of the effective date of this Order, Dr. Harris shall promptly provide a copy of this Order to all persons and entities that provide chemical-dependency treatment to or monitoring of Dr. Harris and to all persons and entities that provide psychiatric treatment to or monitoring of Dr. Harris.

4. **Required Documentation of the Reporting Required by Paragraph G:** Dr. Harris shall provide the 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.

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



Lance A. Talmage MD  
Lance A. Talmage, M.D. RW  
Secretary

August 12, 2009  
Date

2009 JUL 14 PM 5: 22

BEFORE THE STATE MEDICAL BOARD OF OHIO

In the Matter of

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Case No. 09-CRF-058

Matthew Reid Harris, D.O.,

\*

Hearing Examiner Petrucci

Respondent.

\*

REPORT AND RECOMMENDATION

Basis for Hearing

By letter dated May 13, 2009, the State Medical Board of Ohio [Board] notified Matthew Reid Harris, D.O., that it had adopted an order summarily suspending his certificate to practice medicine and surgery in Ohio. The Board stated that it had taken that action based on a determination that there was clear and convincing evidence that Dr. Harris had violated Sections 4731.22(B)(26) and (19), Ohio Revised Code, and that his continued practice presented a danger of immediate and serious harm to the public. Furthermore, the Board notified Dr. Harris that it had proposed to take disciplinary action against his certificate to practice medicine and surgery in Ohio. The Board's actions were based on allegations that: (a) Dr. Harris had relapsed on alcohol and entered inpatient treatment, (b) the treatment provider had opined that Dr. Harris was impaired in his ability to practice, (c) Dr. Harris had not completed the recommended/required treatment and had not entered into an aftercare contract, and (d) Dr. Harris had falsely answered a question on his 2008 certificate renewal application. Moreover, the Board alleged that Dr. Harris' acts, conduct, and/or omissions constitute:

- (a) "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," as set forth in Section 4731.22(B)(26), Ohio Revised Code;
- (b) "Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills," as set forth in Section 4731.22(B)(19), Ohio Revised Code; and
- (c) "Making a false, fraudulent, deceptive, or misleading statement in \* \* \* relation to the practice of medicine and surgery, \* \* \*; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board," as set forth in Section 4731.22(B)(5), Ohio Revised Code.

Accordingly, the Board advised Dr. Harris of his right to request a hearing. On May 21, 2009, Dr. Harris filed a written hearing request. (State's Exhibits 1A, 1B)

### Appearances

Richard Cordray, Attorney General, by Kyle C. Wilcox, Assistant Attorney General, on behalf of the State of Ohio.

Eric J. Plinke, Esq., on behalf of Dr. Harris.

Hearing Date: June 2, 2009

## **PROCEDURAL MATTER**

The State was granted further time to present an additional exhibit in this matter. (Hearing Transcript [Tr.] at 115, 126-127) That additional exhibit, State's Exhibit 10, was timely submitted and no objections were raised. The Hearing Examiner admitted State's Exhibit 10, and the hearing record closed on June 19, 2009.

## **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.

### **Background**

1. Matthew Reid Harris, D.O., obtained his undergraduate degree from Purdue University in 1992. Thereafter, Dr. Harris decided to attend medical school, and, to prepare, he took post-baccalaureate courses in biology and chemistry at Kent State University. He entered the osteopathic medicine program at Ohio University in 1997, and obtained his medical degree in 2002. (Tr. at 17-20)
2. Dr. Harris initially participated in an osteopathic, family-medicine residency at Grandview Hospital in Dayton, Ohio, for one year. He stated that that residency program was in shambles, and he therefore switched to an allopathic family-practice residency at Wright State University, which he completed in 2005. Altogether, he completed three years of residency training. (Tr. at 20-21, 80)
3. After his residency, Dr. Harris moved to Arizona, and worked for two and one-half years in Payson, Arizona. He closed that medical practice in March 2008 and has not practiced medicine since. (Tr. at 22)
4. Dr. Harris has medical licenses in Ohio and Arizona. His Ohio medical license is suspended, pursuant to the Board's May 13, 2009 summary suspension order. (Tr. at 16-17, 42)

### **Dr. Harris' Impairment History, 1980s - 2007<sup>1</sup>**

5. Dr. Harris testified as follows regarding his early years of alcohol consumption and treatment:
  - He first began drinking alcohol on a regular basis during high school. He acknowledged that, at that time, he drank to get drunk, as a means of self-medication. He was suspended during high school for being intoxicated at a school event. (Tr. at 25-26)
  - He drank beer and hard alcohol on a daily basis during his undergraduate years. He was reprimanded during his undergraduate years for having alcohol in his dorm room, and he had blackouts “probably a couple times a week.” (Tr. at 26-28)
  - After earning his undergraduate degree, Dr. Harris moved home with his parents. He was required to stop drinking alcohol, as part of his parents’ agreement to allow him to live there. Sometime thereafter, Dr. Harris suffered a seizure and was evaluated by a psychiatrist. He did not abstain from alcohol and the psychiatrist recommended out-patient treatment. (Tr. at 24, 26, 29-30)
  - In 1993, prior to attending medical school, Dr. Harris completed a 28-day outpatient treatment program at Edwin Shaw Hospital in northeast Ohio. He testified that the program was specifically designed for alcohol treatment, and he was diagnosed with chemical abuse. Thereafter, Dr. Harris began attending Alcoholics Anonymous [AA] meetings, and he obtained a sponsor. (Tr. at 24, 30-31)
  - However, Dr. Harris relapsed “a few more times,” and returned for further evaluation by the psychiatrist. The psychiatrist diagnosed Dr. Harris as suffering from major depressive disorder, with self-medication of alcohol. He began taking Prozac in October 1993. (Tr. at 32-33)
6. Further, Dr. Harris testified that, when he was a child, he had been diagnosed with a reading disorder. He stated that he had taken special classes and had been largely able to compensate until he attended medical school. He explained that he had encountered significant difficulties during medical school and the medical examinations, and therefore he sought a psychiatrist’s evaluation. Dr. Harris stated that he was again diagnosed with a reading disorder, but also diagnosed with Attention Deficit Disorder (ADD). As a result, he began taking Concerta daily. He sporadically saw that psychiatrist thereafter until 2005. (Tr. at 44-45, 77)
7. Dr. Harris noted that he was involved in a number of significant events between 1993 and 2008: medical school, residency training, his father’s decline in health and death, his marriage, and the opening/running of a medical practice in Arizona. He stated that he had continued to take Prozac for 12 of the years, taken Concerta, and maintained his sobriety. However, Dr. Harris did not participate much with the AA program and did not receive regular psychiatric assistance between 1993 and 2008. (Tr. at 33-35, 78)

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<sup>1</sup>Dr. Harris acknowledges his impairments, stating that he is a “dual disorder person.” With the hearing in this matter, he primarily sought to explain to the Board what happened and how he is tackling his problems. (Tr. at 68)

### **Dr. Harris' Impairment Issues in 2008 and 2009**

8. In approximately April 2008, Dr. Harris relapsed on alcohol. He testified:

I ended up closing down my practice. And after I closed down my practice there was -- I think one of [my former wife's] relatives, or sister or brother, had left a beer in the fridge.

I don't even remember what kind it was, but I thought, you know, I think -- I just figured, I think my original diagnosis was right, it's just major depressive disorder with self-medication with alcohol. I can probably, you know, drink some beer. I'll probably be fine. And I drank that beer that was in the fridge forever. It was just sitting there for six months or so.

And then that led to two, which led to four and, you know, it ended up escalating very quickly.

\* \* \*

And by the beginning -- or by the end of July [2008], I was consuming as much alcohol as I was when I came out of Purdue.

(Tr. at 35-36)

9. Dr. Harris testified that, by July 2008, he had realized that he needed treatment. In August 2008, he entered a 28-day, inpatient treatment program at the Hazelden Foundation [Hazelden] in Center City, Minnesota. (Tr. at 37-39)
10. Dr. Harris stated that, shortly after he arrived at Hazelden, his wife had asked for a divorce. After completing the treatment, he gathered his belongings in Arizona and moved into his mother's house in Dayton, Ohio. He stated that, for approximately the first six weeks after he had completed the Hazelden program, he had remained sober and had finished the divorce papers. Dr. Harris further explained that after treatment at Hazelden, he "didn't feel like [he] needed to be real sharp and on the ball" and he had stopped taking the Concerta regularly.<sup>2</sup> (Tr. at 40-43)
11. When his wedding anniversary arrived in October 2008, Dr. Harris got drunk, drove and was involved in an accident. Dr. Harris was taken to the hospital. His blood was tested and the blood/alcohol content was found to be .37 grams per milliliter. Dr. Harris was charged, among other things, with driving under the influence and failure to control in violation of Sections 4511.19(A)(1)(a) and 4511.202, Ohio Revised Code. In February 2009, he was found guilty of driving under the influence and failure to control. The Court sentenced him to

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<sup>2</sup>Dr. Harris also stated that the high cost of the Concerta medication was also a factor in his decision at that time to cease taking the medication regularly. (Tr. at 45, 52)

90 days in jail, but suspended 87 days. Also, the Court imposed a three-day drug and alcohol course, suspended his driver's license for 180 days, and imposed fines and court costs of \$610. (Tr. at 40-43, 55-57, 82; State's Exhibits [St. Exs.] 6, 8)

12. Dr. Harris explained that, for several months between October 2008 and April 2009, he had tried to stay sober, but had bouts of binge drinking, and had taken the Concerta sporadically. He began to hear voices. In April 2008, Dr. Harris entered Kettering Behavioral Health Center for mental health treatment. He received treatment for one week and was released. He stated that his depression, anxiety and ADD were stabilized during this time, but the treatment did not really address his chemical dependency issues. (Tr. at 45-48, 73)
13. On April 19, 2009, within a day of his release from Kettering Behavioral Health Center, Dr. Harris consumed alcohol, drove and was involved in an accident. He was arrested and charged with operating a vehicle under the influence and hit/skip. At the time of the hearing in this matter, those charges remained pending against Dr. Harris. (Tr. at 48, 58-59; St. Ex. 7)
14. After that accident Dr. Harris testified that he had known that he needed additional treatment:

\* \* \* I knew at that point, you know, there was no doubt in my mind that I was clearly an alcoholic, and I had to have -- I had to get this disease arrested for a long enough period of time so that -- and get -- you know, jump in the pool with both feet with AA and aftercare, and everything else I needed to do, to take care of -- of this disease.

\* \* \*

Along with taking care of my depression and anxiety, and taking my medicine for ADD appropriately.

(Tr. at 49)

15. On April 22, 2009, Dr. Harris entered the Cleveland Clinic Alcohol and Drug Recovery Center [Cleveland Clinic] for treatment. He completed a 28-day, inpatient treatment program, which addressed both his alcohol and psychiatric impairments.<sup>3</sup> His final diagnosis was alcohol dependence (chronic, severe) and generalized anxiety disorder. The Section Head, Gregory B. Collins, M.D.,<sup>4</sup> reported that Dr. Harris was an active participant and fully compliant with all aspects of the program. (Tr. at 50, 88, 91, 97; St. Exs. 3, 4)

Dr. Collins testified that, in addition to the alcohol dependence and anxiety, Dr. Harris' depression and ADD have also contributed to his inability to practice medicine. (Tr. at 94-95)

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<sup>3</sup>This was the first treatment program that Dr. Harris had entered that dealt with both of his diagnoses. (Tr. at 50)

<sup>4</sup>Dr. Collins' background is set forth in the transcript. (Tr. at 86-87)

### **Dr. Harris' Self-Report to the Board**

16. On April 24, 2009, Dr. Harris contacted the Compliance Supervisor at the Board, Danielle Bickers. Dr. Harris admitted that this was the first time he had ever reported his alcohol impairment issues to the Board. (Tr. at 63) He reported the following:

- He has a family history of alcoholism.
- He began drinking alcohol during his teenage years.
- He underwent treatment in 1993 at Edwin Shaw Hospital on an outpatient basis.
- He remained sober as he started medical school.
- He began consuming alcohol again in or about 2008.
- In August 2008, he underwent a 28-day inpatient treatment program at Hazelton.
- Following his treatment at Hazelton, he relapsed by consuming alcohol.
- He was arrested approximately six weeks following such treatment, for operating a motor vehicle under the influence of alcohol.
- On April 19, 2009, he was again arrested for operating a motor vehicle under the influence of alcohol.
- His sobriety date is April 20, 2009.
- He entered inpatient treatment at the Cleveland Clinic.

(St. Exs. 5, 9; Tr. at 23, 69)

### **Dr. Harris' Current Activities and Status**

17. With regard to his impairments, Dr. Harris explained that he has a family physician, he is attending AA and Caduceus meetings, he initiated an aftercare program in his local area (through Greene Hall) and his first meeting under that aftercare program was expected to the date of the hearing (June 2, 2009). He executed an aftercare contract with the Cleveland Clinic on May 19, 2009, and stated that he plans continue to see Dr. Collins every three months. He noted that, in addition to Dr. Collins, he is trying to locate a psychiatrist in his local area. Moreover, Dr. Harris explained that he has spoken with the Ohio Physicians Health Program more than once to “set up” aftercare with that organization, including urine drug screens. Finally, he stated that he is taking Prozac for depression, Concerta for ADD, and Klonopin for chronic anxiety. (Tr. at 50-51, 66, 67, 71-72, 74, 76-77, 81, 97-98; St. Ex. 3)

18. With regard to the practice of medicine, Dr. Harris testified that he is working to obtain a Certificate of Added Qualification in the area of addictionology. He hopes to be able to return to the practice of medicine and specifically to work with others who have his diseases. (Tr. at 53, 75)

19. Dr. Collins stated that Dr. Harris has dramatically improved as compared to when he first had arrived at the Cleveland Clinic. However, in Dr. Collins' opinion, Dr. Harris needs to maintain his current drug regimen in order to maintain his psychiatric stability. Moreover, Dr. Collins opined that, in order to practice medicine according to acceptable and prevailing standards of

care, Dr. Harris needs to continue his treatments for both impairments, his medications, and the aftercare activities. (Tr. at 99, 100, 102) In particular, Dr. Collins testified:

In my opinion, because the two are so related in his case where there are psychiatric issues of the [ADD], the anxiety disorder, the depression, and there was, you know, clearly using alcohol to self-medicate and control some of these symptoms, and they are very much interrelated issues for them, and I also felt that the -- that even if he is sober, that he's still going to be struggling with some of these psychiatric issues, they are not going to go away, they will need ongoing attention, and they could prove to be handicaps for him in practicing and in establishing his life again.

So I'm very much of the opinion that he is going to need ongoing psychiatric treatment, too, if he's going to be maintaining himself in good health and optimal fitness to practice medicine, yes.

(Tr. at 100-101)

20. Dr. Collins further stated that he would have "no hesitation" in saying that Dr. Harris is presently "back at a level of fitness that he could practice," so long as he is under supervision for both his alcohol and psychiatric issues:

\* \* \* I would say the longer he's not working, that's to his detriment from a psychiatric standpoint.

This guy needs to be back in the saddle and handling some responsibility and just getting more involved in, what we call loosely here, work hardening, and just dealing with the rigors and responsibilities of daily practice.

I guess I would say it's not going to serve him well from a recovery standpoint to be out for a long time. And by that I would mean beyond 90 days.

I think beyond 90 days, just from the standpoint of recovery, rehabilitation, we're going to see a diminishing return. I don't think it's going to accomplish anything good in the way of discipline, or, you know, from a standpoint of behavior change.

I do think that getting him going again under close supervision the soonest is going to be beneficial for both him and for the public.

(Tr. at 106)

### September 2008 Renewal Application

21. On September 25, 2008, Dr. Harris signed an application to renew his Ohio certificate. Dr. Harris certified that the information was true and correct. He also answered “No” to a series of questions, including Question 6:

At any time since signing your last application for renewal of your certificate:

\* \* \*

6.) Have you been addicted to or dependent upon alcohol or any chemical substance; or been treated for, or been diagnosed as suffering from, drug or alcohol dependency or abuse? **You may answer “NO” to this question** if you have successfully completed treatment at, or are currently enrolled in, a program approved by this Board and have adhered to all statutory requirements during and subsequent to treatment. You must answer “YES” if you have ever relapsed. \* \* \*

(Tr. at 59-61; St. Ex. 2, emphasis in original)

22. Dr. Harris explained why he had answered “No” to question six:

I checked the box “No” because it said, “You may answer ‘No’ to this question if you have successfully completed treatment at or are currently enrolled in a program approved by the Board.”

And I just had gone through Hazelden in Center City, Minnesota, which is considered probably one of the top three treatment programs in the country.

You know, at the very bottom it says, “If you have any questions concerning the above question, please call this number.” In retrospect, I probably should have called the number and asked.

\* \* \*

When I got my renewal application and read this, the way I read it, I -- I answered it as honestly as I could. And I -- I didn’t know, I guess -- well, I guess ignorance is no excuse.

But I guess I didn’t realize that I was supposed to call the Ohio Medical Board and tell them that I was going to treatment.

(Tr. at 62-64; see also Tr. at 79)

23. Dr. Harris further testified that, as he was entering Hazelden, personnel there had told him that the program was a Board-approved treatment provider. (Tr. at 64-66)

### **Other Information**

24. Ms. Bickers stated that between August 2003 and February 2008, the Hazelden facility in Center City, Minnesota, was a Board-approved treatment provider, but it did not apply to renew its approval thereafter. As a result, Ms. Bickers noted that, in August 2008 when Dr. Harris obtained treatment there, Hazelden was not a Board-approved facility. (St. Ex. 10)
25. Dr. Harris and the State agreed that, based upon Dr. Harris self-report and Dr. Collins' April 29, 2009 letter to the Board, the Board Secretary and Supervising Member had clear and convincing evidence pursuant to Section 4731.22(G), Ohio Revised Code, that his continued practice as a physician presented a danger of immediate and serious harm to the public. Additionally, they agreed that, on May 13, 2009, the Board summarily suspended Dr. Harris' certificate to practice osteopathic medicine and surgery; the procedures and requirements of Section 4731.22(G), Ohio Revised Code, had been properly carried out; and that the summary suspension is lawful. (St. Ex. 9)

### **RELEVANT OHIO LAW**

Section 4731.22(B)(26), Ohio Revised Code, provides that, if the Board determines that an individual's ability to practice is impaired because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice, the Board shall suspend the individual's certificate and shall require the individual, as a condition for initial, 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 two 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.

Section 4731.22(B)(19), Ohio Revised Code, provides that, if the Board finds an individual unable to practice because of mental illness or physical illness (including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills), the Board shall require the individual to submit to care, counseling, or treatment by physicians approved or designated by the Board, as a condition for initial, continued, reinstated, or renewed authority to practice. An individual affected under this division shall be afforded an opportunity to demonstrate to the Board the ability to resume practice in compliance with acceptable and prevailing standards of care under the provisions of the individual's certificate.

## FINDINGS OF FACT

1. On April 24, 2009, Matthew Reid Harris, D.O., reported to the Board that he had entered inpatient treatment at the Cleveland Clinic Foundation [Cleveland Clinic], a Board-approved treatment provider in Cleveland, Ohio, for issues related to his relapse on alcohol. With respect to his history of alcohol use, Dr. Harris reported that:
  - He has a family history of alcoholism.
  - He began drinking alcohol during his teenage years.
  - He underwent treatment for alcohol abuse in 1993 at Edwin Shaw Hospital on an outpatient basis.
  - He began consuming alcohol again in or about 2008.
  - In or about August 2008, he underwent a 28-day inpatient treatment program for treatment of alcoholism at the Hazelton Foundation.
  - Following his treatment at the Hazelton Foundation, he relapsed by consuming alcohol, and he was arrested approximately six weeks following such treatment, for operating a motor vehicle under the influence of alcohol.
  - On April 19, 2009, he was again arrested for operating a motor vehicle under the influence of alcohol.
  
2. By letter dated April 29, 2009, Gregory B. Collins, M.D., Section Head of the Alcohol and Drug Recovery Center of the Cleveland Clinic, notified the Board that Dr. Harris had been admitted for treatment to the Cleveland Clinic on April 22, 2009, and that his diagnoses at that time included alcohol dependence, chronic, and generalized anxiety disorder, severe. Dr. Collins opined that Dr. Harris is impaired in his ability to practice according to acceptable and prevailing standards of care because of habitual and excessive use or abuse of alcohol and because of the effects of his anxiety disorder, and that he required treatment for both conditions.

On May 19, 2009, at the completion of Dr. Harris' inpatient treatment at the Cleveland Clinic, Dr. Collins reported Dr. Harris' diagnoses as including alcohol dependence (chronic, severe) and generalized anxiety disorder.
  
3. The parties agreed and stipulated that the Supervising Member and Secretary had clear and convincing evidence that Dr. Harris' continued practice constituted a danger of serious and immediate harm to the public; the procedures and requirements of Section 4731.22(G), Ohio Revised Code, were properly carried out; and the Board's May 13, 2009, summary suspension was lawful.
  
4. As of the Board's May 13, 2009, Notice of Summary Suspension and Opportunity for Hearing, Dr. Harris had entered treatment, but he had not completed the recommended/required treatment and he had not entered into an aftercare contract with a Board-approved treatment provider. In addition, as of May 13, 2009, the Board had not received information that Dr. Harris had been determined to be capable of practicing in accordance with acceptable and prevailing standards of care.

5. On September 25, 2008, Dr. Harris signed and submitted to the Board a renewal application wherein he answered “No” to Question 6, which asked:

At any time since signing your last application for renewal of your certificate:

\* \* \*

6.) Have you been addicted to or dependant upon alcohol or any chemical substance; or been treated for, or been diagnosed as suffering from, drug or alcohol dependency or abuse? **You may answer “NO” to this question** if you have successfully completed treatment at, or are currently enrolled in, a program approved by this Board and have adhered to all statutory requirements during and subsequent to treatment. You must answer “YES” if you have ever relapsed. \* \* \*

In fact, Dr. Harris had relapsed by consuming alcohol in 2008 following his treatment at Edwin Shaw Hospital in 1993 and prior to his treatment at Hazelden in August 2008.

6. Dr. Collins opined at the June 2009 hearing that Dr. Harris is capable of practicing medicine according to acceptable and prevailing standards of care, so long as he is under supervision for both his alcohol and psychiatric issues.

### CONCLUSIONS OF LAW

1. The acts, conduct, and/or omissions of Matthew Reid Harris, D.O., as set forth above in Findings of Fact 1, 2 and 4, 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.
2. The acts, conduct, and/or omissions of Dr. Harris, as set forth above in Finding of Fact 2, constitute “[i]nability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills,” as set forth in Section 4731.22(B)(19), Ohio Revised Code.
3. The acts, conduct, and/or omissions of Dr. Harris, as set forth above in Finding of Fact 5, constitute “[m]aking a false, fraudulent, deceptive, or misleading statement in \* \* \* relation to the practice of medicine and surgery, \* \* \* or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board,” as set forth in Section 4731.22(B)(5), Ohio Revised Code.

Even if Dr. Harris had thought that the Hazelden program was a Board-approved treatment provider and that he could then answer Question 6 negatively, the remaining instructions

related to Question 6 are clear. They specifically state that the question *must* be answered affirmatively if the individual has ever relapsed. Dr. Harris had relapsed (only a few months earlier) and his required answer was “Yes.” The surrounding circumstances support a conclusion that Dr. Harris chose to not disclose his alcohol dependency on his September 2008 certificate renewal application and did so with intent to mislead the Board.

### **Rationale for the Proposed Order**

Recently, Dr. Harris has taken important steps to address his alcohol impairment and his psychiatric issues. While this matter was pending, he completed a treatment program at a Board-approved treatment provider that comprehensively addressed his dual diagnoses. Although Dr. Collins testified that he believes Dr. Harris is currently capable of practicing medicine, Dr. Harris has not re-settled himself in the recovery process or fully settled into treatment for his psychiatric issues. In particular, he is still establishing himself in an aftercare program (including urine screens) and seeking psychiatric treatment in his local area. Moreover, the record does not include two written assessment reports finding that Dr. Harris is capable of practicing, as required by Section 4731.22(B)(26), Ohio Revised Code. For these reasons, it is far too soon to reinstate Dr. Harris’ certificate. In proposing the following order, the Hearing Examiner is aware that Dr. Harris’ certificate has been suspended since May 13, 2009, and will have been suspended for three months by the time it is anticipated that the Board will consider this matter. The proposed suspension of nine months would be in addition to the three months that will likely have elapsed by the time the Board addresses this matter. Given the many years in which Dr. Harris has struggled with his alcoholism and his psychiatric conditions, a nine-month suspension period is proposed to allow Dr. Harris an appropriate period of time to focus in a coordinated fashion on both his recovery and his psychiatric conditions, before adding the stresses of returning to the practice of medicine. In addition, the proposed order includes various alcohol impairment requirements, as well as various requirements for a Board-approved psychiatrist, a psychiatric assessment, treatment plan, and reports. These terms are proposed so that Board monitoring of Dr. Harris covers both impairments.

### **PROPOSED ORDER**

It is hereby **ORDERED** that:

- A. **SUSPENSION OF CERTIFICATE:** The certificate of Matthew Reid Harris, 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 nine months.
- B. **INTERIM MONITORING:** During the period that Dr. Harris’ certificate to practice osteopathic medicine and surgery in Ohio is suspended, Dr. Harris shall comply with the following terms, conditions, and limitations:
  1. **Obey the Law:** Dr. Harris shall obey all federal, state, and local laws, and all rules governing the practice of osteopathic medicine and surgery in Ohio.

2. **Quarterly Appearances:** Dr. Harris 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 Order, or as otherwise requested by the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
3. **Quarterly Declarations:** Dr. Harris 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 first day of the third month following the month in which this Order becomes effective, or as otherwise requested by the Board. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
4. **Sobriety**
  - a. **Abstention from Drugs:** Dr. Harris 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. Harris' history of chemical dependency. Further, in the event that Dr. Harris is so prescribed, dispensed or administered any controlled substance, carisoprodol, or tramadol, Dr. Harris shall notify the Board in writing within seven days, providing the Board with the identity of the prescriber; the name of the drug Dr. Harris 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. Harris 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. Harris shall abstain completely from the use of alcohol.
5. **Drug & Alcohol Screens; Drug Testing Facility and Collection Site**
  - a. Dr. Harris shall submit to random urine screenings for drugs and alcohol at least four times per month, or as otherwise directed by the Board. Dr. Harris 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. Harris' drug(s) of choice.

- b. Dr. Harris shall submit, at his expense and on the day selected, urine specimens for drug and/or alcohol analysis. (The term “toxicology screen” is also used herein for “urine screen” and/or “drug screen.”)

All specimens submitted by Dr. Harris 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. Harris 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. Harris 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 in a toxicology screen is prohibited under this Order.

- d. All screenings for drugs and alcohol shall be conducted through a Board-approved drug-testing facility and a Board-approved collection site, except as provided in Paragraph 6 below (“Alternative Drug-testing and/or Collection Site”). Further, the screening process shall require a daily call-in procedure.
- e. Within 30 days of the effective date of this Order, Dr. Harris 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. Harris shall provide to the Board written documentation of completion of such arrangements, including a copy of any contract entered into between Dr. Harris and the Board-approved DFCS. Dr. Harris’ 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. Harris 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. Harris 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 results.

- g. Dr. Harris 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. Harris must immediately notify the Board in writing, and make arrangements acceptable to the Board, pursuant to Paragraph 6 below, as soon as practicable. Dr. Harris 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. Dr. Harris acknowledges that the Board expressly reserves the right to 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. Harris 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. Harris, 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. Harris.

- a. Within 30 days of the date on which Dr. Harris is notified of the Board's determination that utilizing the Board-approved DFCS constitutes an extraordinary hardship on Dr. Harris, 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. Harris 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. Harris' residence or employment location, or to a physician who practices in

the same locale as Dr. Harris. Dr. Harris 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. Harris acknowledges that the alternative DFCS or the supervising physician shall ensure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

- b. Dr. Harris 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. Harris must immediately notify the Board in writing. Dr. Harris 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. Harris 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. Harris.
  - d. The Board expressly reserves the right to disapprove any entity or facility proposed to serve as Dr. Harris' designated alternative DFCS or any person proposed to serve as her supervising physician, or to withdraw 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 & 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. Harris' quarterly declaration. It is Dr. Harris' responsibility to ensure that reports are timely submitted.
  8. **Additional Screening without Prior Notice:** On the Board's request and without prior notice, Dr. Harris must 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. Harris, or for any other purpose, at Dr. Harris' expense. Dr. Harris' refusal to submit a specimen on 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 or Supervising Member of the Board.

9. **Rehabilitation Program**: Dr. Harris shall 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. Harris 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. Harris' quarterly declarations.

10. **Psychiatric Assessment/Treatment**: Within 30 days of the effective date of this Order, unless otherwise determined by the Board, Dr. Harris shall submit to the Board for its prior approval the name and curriculum vitae of a psychiatrist of Dr. Harris' choice.

Upon approval by the Board, Dr. Harris shall obtain from the approved psychiatrist an assessment of Dr. Harris' current psychiatric status. The assessment shall take place no more than sixty days thereafter, unless otherwise determined by the Board. Prior to the initial assessment, Dr. Harris shall furnish the approved psychiatrist copies of the Board's Order, including the Summary of the Evidence, Findings of Fact, and Conclusions, and any other documentation from the hearing record which the Board may deem appropriate or helpful to that psychiatrist.

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

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

Dr. Harris shall undergo and continue psychiatric treatment at the recommended rate of visits or as otherwise directed by the Board. The sessions shall be in person and may not be conducted by telephone or other electronic means. Dr. Harris shall comply with his psychiatric treatment plan, including taking medications as prescribed for his psychiatric disorder and submitting to periodic tests of his blood and/or urine.

Dr. Harris shall continue in psychiatric treatment until such time as the Board determines that no further treatment is necessary. To make this determination, the Board shall require reports from the approved treating psychiatrist. The psychiatric reports shall contain information describing Dr. Harris' current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Harris' compliance with the treatment plan; his psychiatric status; his progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Harris 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. Harris' quarterly declaration.

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

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

11. **Releases:** Dr. Harris 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. Harris' chemical dependency and impairment, his psychiatric disorder, 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. Harris further shall 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 Order.
12. **Absences from Ohio:** Dr. Harris 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.

Further, the Secretary and Supervising Member of the Board shall have the discretion to grant a waiver of part or all of the monitoring terms set forth in this Order for occasional periods of absence of fourteen days or less. In the event that Dr. Harris resides and/or is employed at a location that is within fifty miles of the geographic border of Ohio and a contiguous state, Dr. Harris may travel between Ohio and that contiguous state without seeking prior approval of the Secretary or Supervising Member provided that Dr. Harris 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. Harris shall notify the Board in writing of any change of residence address and/or principal practice address within 30 days of the change.
14. **Comply with the Terms of Treatment and Aftercare Contract:** Dr. Harris shall maintain continued compliance with: (a) the terms of any treatment or aftercare contract entered into with Greene Hall; (b) the aftercare contract entered into with the Cleveland Clinic; and (c) the terms of any other executed treatment or aftercare contract, provided that, where terms of the treatment and aftercare contracts conflict with terms of this Order, the terms of this Order shall control.

C. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Harris' certificate to practice as a physician assistant in Ohio until all of the following conditions have been met:

1. **Application for Reinstatement or Restoration:** Dr. Harris shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
2. **Compliance with Interim Conditions:** Dr. Harris shall have maintained compliance with all the terms, conditions and limitations set forth in Paragraph B of this Order.
3. **Evidence of Unrestricted Licensure in Other States:** At the time he submits his application for reinstatement or restoration, Dr. Harris shall provide written documentation acceptable to the Board verifying that Dr. Harris otherwise holds a full and unrestricted license to practice osteopathic medicine and surgery in all other states in which he is licensed at the time of application or has been in the past licensed, or that he would be entitled to such license but for the nonpayment of renewal fees.
4. **Demonstration of Ability to Resume Practice:** Dr. Harris shall demonstrate to the satisfaction of the Board that he can resume practice in compliance with acceptable and

prevailing standards of care under the provisions of his certificate. Such demonstration shall include but shall not be limited to the following:

- a. Certification from a treatment provider approved under Section 4731.25, Ohio Revised Code, that Dr. Harris has successfully completed any required inpatient treatment, including at least 28 days of inpatient or residential treatment (completed consecutively) for chemical abuse/dependence at a treatment provide approved by the Board.
- b. Evidence of continuing full compliance with an aftercare contract with a treatment provider approved under Section 4731.25, Ohio 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, Ohio Administrative Code.
- c. Evidence of continuing full compliance with this Order.
- d. Two written reports indicating that Dr. Harris' ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care.

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. Harris. Further, the two aforementioned physicians shall not be affiliated with the same treatment provider or medical group practice. Prior to the assessments, Dr. Harris shall provide the evaluators 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 evaluators shall include any recommendations for treatment, monitoring, or supervision of Dr. Harris, and any conditions, restrictions, or limitations that should be imposed on Dr. Harris' practice. The reports shall also describe the basis for the evaluator'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.

- e. Two written reports of evaluation by two psychiatrists acceptable to the Board indicating that Dr. Harris' ability to practice has been

assessed and that he has been found capable of practicing in accordance with acceptable and prevailing standards of care. Such evaluations shall have been performed within the three months immediately preceding Harris' application for reinstatement or restoration. The reports of evaluation shall describe with particularity the bases for the determination that Dr. Harris has been found capable of practicing according to acceptable and prevailing standards of care and shall include any recommended limitations upon his practice.

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

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

The monitoring physician shall monitor Dr. Harris and his medical practice, and shall review Dr. Harris' 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. Harris and his practice, and on the review of Dr. Harris' patient charts. Dr. Harris 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. Harris' quarterly declaration.

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

4. **Tolling of Probationary Period while Out of Compliance:** In the event Dr. Harris 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. Harris' certificate will be fully restored.
- F. **VIOLATION OF THE TERMS OF THIS ORDER:** If Dr. Harris 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. Harris shall provide a copy of this Order to all employers or entities with which he is under contract to provide health-care services (including but not limited to third-party payors), or is receiving training, and the chief of staff at each hospital or health-care center where he has privileges or appointments.

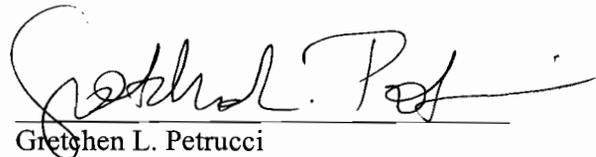
In the event that Dr. Harris provides any health-care services or health-care direction or medical oversight to any emergency medical services organization or emergency medical services provider, Dr. Harris shall provide a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services.
  2. **Required Reporting To Other Licensing Authorities:** Within 30 days of the effective date of this Order, Dr. Harris 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.

Dr. Harris further shall provide a copy of this Order at the time of application to the proper licensing authority of any State or jurisdiction in which he applies for any professional license or reinstatement/restoration of any professional license. This requirement shall continue until Dr. Harris received from the Board written notification of the successful completion of the probation.

3. **Required Reporting to Treatment Providers/Monitors:** Within 30 days of the effective date of this Order, Dr. Harris shall promptly provide a copy of this Order to all persons and entities that provide chemical-dependency treatment to or monitoring of Dr. Harris and to all persons and entities that provide psychiatric treatment to or monitoring of Dr. Harris.
4. **Required Documentation of the Reporting Required by Paragraph G:** Dr. Harris shall provide the 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.

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



Gretchen L. Petrucci  
Hearing Examiner

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

Richard A. Whitehouse, Esq.  
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EXCERPT FROM THE DRAFT MINUTES OF AUGUST 12, 2009

REPORTS AND RECOMMENDATIONS, MOTIONS FOR RECONSIDERATION & PROPOSED FINDINGS AND PROPOSED ORDERS

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

Dr. Madia asked whether each member of the Board had received, read and considered the hearing record, the Findings of Fact, Conclusions of Law and Proposed Orders, and any objections filed in the matters of Zuhayr T. Madhun, M.D.; Matthew Reid Harris, D.O.; and George Jamil-Elias Boutros, M.D. A roll call was taken:

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

Dr. Madia asked whether each member of the Board understands that the disciplinary guidelines do not limit any sanction to be imposed, and that the range of sanctions available in each matter runs from dismissal to permanent revocation. A roll call was taken:

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

Dr. Madia 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.

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

.....  
MATTHEW REID HARRIS, D.O.

Dr. Madia directed the Board's attention to the matter of Matthew Reid Harris, D.O. He advised that objections were filed to Hearing Examiner Petrucci's Report and Recommendation and were previously distributed to Board members.

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

Dr. Harris was accompanied by his attorney, Eric J. Plinke, Esq. Mr. Plinke noted that he did file objections to the Hearing Examiner's Report and Recommendation. He advised that this is an impairment case. Dr. Harris is currently subject to a summary suspension, which was issued following his self-report of impairment and admission for treatment at the Cleveland Clinic. He completed his inpatient stay there and the testimony on record shows that for the first time in Dr. Harris' history he has had an appropriate and complete diagnosis and is poised to have a successful recovery. Mr. Plinke commented that the record shows that he wasn't in the position to have a successful recovery before.

Mr. Plinke stated that the only issue they have objected to is the duration of the suspension, given that Dr. Harris has already been suspended for three months under the summary suspension, and based on Dr. Gregory Collins' testimony that a lengthy suspension such as the one proposed would actually have a diminishing return on the possibility of recovery. Mr. Plinke asked that that provision be considered for amendment.

Dr. Harris stated that he appreciates the opportunity to address the Board, and apologized for having to come before the Board today. He stated that Dr. Collins testified at his hearing about his evaluation, treatment and continuing care at the Cleveland Clinic. He stated that Dr. Collins is his treating physician, and added that Dr. Collins' program addressed his dual disorder and multiple diagnoses extremely well. That hadn't been done previously.

Dr. Harris stated that, concerning the requirements of the Proposed Order, he is prepared to comply with all of the items. He believes that it should be noted that his first treatment for alcohol dependence occurred in 1993 and was years before contemplation of medical school. Only after being forced to close his solo practice after fourteen years of continuous sobriety did he relapse. He has not been working since that time. At no time did he, or would he, endanger the safety of his patients. Dr. Harris stated that his

deceased father was a radiologist and instilled in him the number one rule in medicine, to do no harm.

Dr. Harris stated that he now understands that he's a dual diagnosis individual with multiple problems that need to be addressed. His alcoholism would be considered a type 2, early-onset genetic alcoholism.

Dr. Harris again thanked the Board for its time.

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

Mr. Wilcox stated that he would. Mr. Wilcox stated that from his reading of the objections filed in this matter, it appears that Dr. Harris is requesting a lesser penalty as far as suspension time. He's requesting a total of six months of suspension. The Report and Recommendation recommends nine months as a minimum suspension period. Dr. Harris made this request and cited Dr. Collins as being the main reason why he was requesting the shorter suspension period. Mr. Wilcox noted that Dr. Collins testified that he believes Dr. Harris is capable of practicing, and needs to "get back on the horse and practice." Mr. Wilcox asked that the Board consider that Dr. Collins is an advocate for impaired physicians such as Dr. Harris. Dr. Collins has the physician's interests in mind. Mr. Wilcox stated that this Board has the physician's interest in mind, but also has a much greater responsibility. This Board's first duty is public protection. Mr. Wilcox stated that the Board has to look beyond what Dr. Collins is requesting in this case. Given Dr. Harris' history, the Board must look at whether this is someone the Board wants to allow to return to practice that soon. Mr. Wilcox stated that the record shows that Dr. Harris has a dual diagnosis. There's a psychiatric impairment component as well as the alcohol impairment. The record shows that this physician has had two treatments and then relapsed on two different occasions. He stated that the minimum disciplinary guideline for someone with two treatments and two relapses is a minimum one-year suspension.

Mr. Wilcox continued that another factor the Board should look at is that Dr. Harris gave false answers to the Board when he renewed his license in the fall of 2008. Mr. Wilcox stated that the final thing the Board should look at is the judgment of this physician. The record shows that on two occasions this man drove a vehicle while being intoxicated. Given a history of such poor judgment, he doesn't think that the Board wants to return this man to practice soon. He recommended that the proposed nine-month suspension be increased to a minimum of 18 months.

**DR. VARYANI MOVED TO APPROVE AND CONFIRM MS. PETRUCCI'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF MATTHEW REID HARRIS, D.O. DR. STEINBERGH SECONDED THE MOTION.**

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

Dr. Steinbergh stated that she appreciates Dr. Harris coming before the Board today, and she recognizes his desire to get back into practice. He hasn't practiced since March 2008. His license was summarily suspended in May 2009. Dr. Steinbergh noted, however, that Dr. Harris' sobriety date was just April 20,

2009, and that's a concern. She stated that this a straight impairment case, with a dual diagnosis, which is significant. She stated that she agrees with the Conclusions of Law, including Conclusion number three, which deals with his making "a false, fraudulent, deceptive or misleading statement." She stated that she appreciates Dr. Collins' comments. She appreciates the fact that Dr. Collins is an advocate, and she recognized Dr. Collins for what he does and how he helps this Board.

Dr. Steinbergh stated that she took a good look at this case, and finds it difficult to decide how many months, exactly, that he should be out. Dr. Steinbergh stated that she thinks that completing what he needs to complete within six months is going to be a little bit more difficult than Dr. Harris anticipates. She is willing to debate months, but it's clear that it can't be real soon. She doesn't agree that he'll be prepared to return to practice within three months. Dr. Steinbergh stated that she thinks it will take a while for him to even find a practice, unless he goes into practice himself, which she suspects he probably won't. In order to be hired, those hiring him have to be assured that patient care will not be jeopardized. She appreciates Dr. Harris saying to the Board that he does not want to cause patient harm, and that he is aware that when physicians are ill, whether for chemical dependency and/or depression, it does put patients at risk. Poor judgment and the inability to diagnose and treat appropriately does put patients at risk. Dr. Steinbergh stated that she doesn't think this should be a short suspension, but she does appreciate the desire and need to get him back into practice.

Dr. Varyani had the same thoughts as Dr. Steinbergh. He looked at this case, and he read Dr. Collins' testimony many times, and he was moved as he was reading that. Dr. Collins says very candidly that a longer suspension time would be detrimental to his recovery. Dr. Varyani stated that he does realize that this would be the third time for Dr. Harris. Dr. Varyani stated that he thought about this a lot and is willing to give Dr. Harris a shorter suspension time, so as to increase his chances of staying where he is and making him productive. However, at the same time, if the Board does give him a shorter suspension time, and if he comes back before the Board again during Dr. Varyani's tenure, Dr. Harris knows what Dr. Varyani's vote is going to be.

Dr. Madia asked what Dr. Varyani is suggesting.

Dr. Varyani stated that he would go with Dr. Collins' recommendation. He stated that Dr. Harris is going to be monitored. He stated that he thought this over, and he knows it will be difficult for Dr. Harris. He thinks that the Board should suspend the license. He added that he would like to give Dr. Harris a chance, but recognized that it's not just up to him. He stated that he's okay with a six-month suspension.

Dr. Steinbergh asked whether the six months' suspension would be from this date.

Dr. Varyani stated that Dr. Collins said that the longer the Board keeps Dr. Harris out of practice, it will be worse for him. He stated that he doesn't want Dr. Harris to fail. He wants Dr. Harris to be sober. He would say six months starting from April 20. However, if Dr. Harris comes back and there's another Order, Dr. Harris knows what his vote will be.

Dr. Steinbergh stated that she believes that the summary suspension was dated May 13.

Dr. Madia stated that that was correct.

Dr. Amato stated that he has mixed feelings on this. He's concerned about the health and wellbeing of a fellow practitioner, but his charge here is the protection of the citizens of the State of Ohio. He would not necessarily be opposed to a nine-month suspension, giving credit for time served, which is hitting some kind of a median between what Dr. Steinbergh and Dr. Varyani are saying.

Dr. Amato stated that it bothers him that the Board just heard conflicting reports about Dr. Collins and the way the Board is viewing him. He stated that Dr. Collins is one of the people that the Board relies on to do evaluations. He would hope that Dr. Collins is a patient advocate as all physicians should be. That's one of the things physicians take an oath to. By the same token, the Board relies on Dr. Collins' evaluations. The Board sends people to Dr. Collins for evaluation. Dr. Amato stated that the Board members can pretty much believe what Dr. Collins is telling them. Dr. Amato stated that, somewhere, the Board needs to hit the balance of protecting its citizens and helping this practitioner get back, if he's capable of it. Dr. Amato stated that he wouldn't be opposed to the idea of giving a suspension period of nine months, but giving credit for time served. He stated that, by his calculations, Dr. Harris has only served three months' suspension.

Dr. Madia asked whether Dr. Amato wished to offer an amendment.

Dr. Amato stated that he's just throwing out ideas that he would feel comfortable accepting. He stated his concern that the conditions of restoration must be strictly adhered to. He stated that, as Dr. Varyani indicated, he would take a very dim view if the Board had to address this situation again with this practitioner. He noted that Dr. Harris indicated that he did not harm any patients, but the whole purpose of the Board's acting on impairment is that the Board knows that patients are being harmed. Physicians cannot practice impaired. They're harming patients when they're practicing impaired.

Dr. Suppan agrees with the concept of physicians doing no harm in the context of the practice, but, actually, that extends into daily life, too. Physicians have the responsibility not to drive while intoxicated, not to have automobile accidents that threaten the health and safety of people, too. That's another piece of this that weighed heavy on her mind.

Dr. Suppan stated that, concerning the question of whether three months really makes a big difference in the spectrum of things, if Dr. Harris' recovery is so fragile that three months makes a difference, she's wondering whether he's as far down in recovery as he needs to be.

**DR. STEINBERGH MOVED TO AMEND THE PROPOSED ORDER BY MAKING THE  
SUSPENSION PERIOD RETROACTIVE TO THE SUMMARY SUSPENSION DATE.**

Dr. Steinbergh stated that this would give Dr. Harris credit for the three months of suspension, and he

would have another six months to complete. She stated that it seems reasonable that Dr. Harris would be able to fulfill the stipulations of the Order. She stated that she thinks that the Board should talk a little bit about what happens then when he goes into probation, which is another thing that is put in place for patient protection. The probation period is for at least five years, during which he will be required to get approval of a practice plan, where he will be under a supervised structured environment. Dr. Steinbergh stated that she thinks that that will allow the Board to feel comfortable with his getting back into practice.

**MR. HAIRSTON SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

**DR. SUPPAN MOVED TO APPROVE AND CONFIRM MS. PETRUCCI'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF MATTHEW REID HARRIS, D.O. DR. VARYANI SECONDED THE MOTION.** A vote was taken:

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

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

May 13, 2009

Case number: 09-CRF- 058

Matthew Reid Harris, D.O.  
6810 Lorien Woods Dr.  
Dayton, OH 45459

Dear Doctor Harris:

Enclosed please find certified copies of the Entry of Order, the Notice of Summary Suspension and Opportunity for Hearing, and an excerpt of the Minutes of the State Medical Board, meeting in regular session on May 13, 2009, including a Motion adopting the Order of Summary Suspension and issuing the Notice of Summary Suspension and Opportunity for Hearing.

You are advised that continued practice after receipt of this Order shall be considered practicing without a certificate, in violation of Section 4731.43, Ohio Revised Code.

Pursuant to Chapter 119, Ohio Revised Code, you are hereby advised that you are entitled to a hearing on the matters set forth in the Notice of Summary Suspension and Opportunity for Hearing. If you wish to request such hearing, that request must be made in writing and be received in the offices of the State Medical Board within thirty days of the time of mailing of this notice. Further information concerning such hearing is contained within the Notice of Summary Suspension and Opportunity for Hearing.

THE STATE MEDICAL BOARD OF OHIO

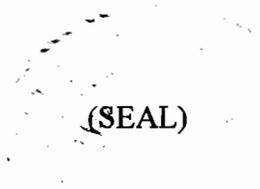
  
Lance A. Talmage, M.D., Secretary

Mailed 5.14.09

**CERTIFICATION**

I hereby certify that the attached copies of the Entry of Order of the State Medical Board of Ohio and the Motion by the State Medical Board, meeting in regular session on May 13, 2009, to Adopt the Order of Summary Suspension and to Issue the Notice of Summary Suspension and Opportunity for Hearing, constitute true and complete copies of the Motion and Order in the Matter of Matthew Reid Harris, D.O., Case number: 09-CRF- 058 as they appear in the Journal of the State Medical Board of Ohio.

This certification is made under the authority of the State Medical Board of Ohio and in its behalf.

  
(SEAL)  
  
Lance A. Talmage, M.D., Secretary

May 13, 2009

Date

**BEFORE THE STATE MEDICAL BOARD OF OHIO**

IN THE MATTER OF

MATTHEW REID HARRIS, D.O.

CASE NUMBER: 09-CRF-058

**ENTRY OF ORDER**

This matter came on for consideration before the State Medical Board of Ohio the 13th day of May, 2009.

Pursuant to Section 4731.22(G), Ohio Revised Code, and upon recommendation of Lance A. Talmage, M.D., Secretary, and Raymond J. Albert, Supervising Member; and

Pursuant to their determination, based upon their review of the information supporting the allegations as set forth in the Notice of Summary Suspension and Opportunity for Hearing, that there is clear and convincing evidence that Matthew Reid Harris, D.O., has violated Sections 4731.22(B)(26) and (B)(19), Ohio Revised Code, as alleged in the Notice of Summary Suspension and Opportunity for Hearing that is enclosed herewith and fully incorporated herein; and,

Pursuant to their further determination, based upon their review of the information supporting the allegations as set forth in the Notice of Summary Suspension and Opportunity for Hearing, that Dr. Harris' continued practice presents a danger of immediate and serious harm to the public;

The following Order is hereby entered on the Journal of the State Medical Board of Ohio for the 13th day of May, 2009:

It is hereby ORDERED that the certificate of MATTHEW REID HARRIS, D.O., to practice osteopathic medicine and surgery in the State of Ohio be summarily suspended.

It is hereby ORDERED that MATTHEW REID HARRIS, D.O., shall immediately cease the practice of osteopathic medicine and surgery in Ohio and immediately refer all active patients to other appropriate physicians.

This Order shall become effective immediately.

(SEAL)



Lance A. Talmage, M.D., Secretary

May 13, 2009

Date

# State Medical Board of Ohio

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



Richard A. Whitehouse, Esq.  
Executive Director

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## EXCERPT FROM THE DRAFT MINUTES OF MAY 13, 2009

### CITATIONS, PROPOSED DENIALS, ORDERS OF SUMMARY SUSPENSION & NOTICES OF IMMEDIATE SUSPENSION

#### MATTHEW REID HARRIS, D.O. – ORDER OF SUMMARY SUSPENSION AND NOTICE OF OPPORTUNITY FOR HEARING

At this time the Board read and considered the proposed Order of Summary Suspension and Notice of Opportunity For Hearing in the above matter, a copy of which shall be maintained in the exhibits section of this Journal.

**DR. VARYANI MOVED TO ENTER AN ORDER OF SUMMARY SUSPENSION IN THE MATTER OF MATTHEW REID HARRIS, D.O., IN ACCORDANCE WITH SECTION 4731.22(G), OHIO REVISED CODE, AND TO ISSUE THE NOTICE OF SUMMARY SUSPENSION AND OPPORTUNITY FOR HEARING. MR. HAIRSTON SECONDED THE MOTION. A vote was taken:**

ROLL CALL:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

# State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.  
Executive Director

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## NOTICE OF SUMMARY SUSPENSION AND OPPORTUNITY FOR HEARING

May 13, 2009

Case number: 09-CRF-058

Matthew Reid Harris, D.O.  
6810 Lorien Woods Dr.  
Dayton, OH 45459

Dear Doctor Harris:

The Secretary and the Supervising Member of the State Medical Board of Ohio [Board] have determined that there is clear and convincing evidence that you have violated Sections 4731.22(B)(19) and (B)(26), Ohio Revised Code, and have further determined that your continued practice presents a danger of immediate and serious harm to the public, as set forth in paragraphs (1) through (3), below.

Therefore, pursuant to Section 4731.22(G), Ohio Revised Code, and upon recommendation of Lance A. Talmage, M.D., Secretary, and Raymond J. Albert, Supervising Member, you are hereby notified that, as set forth in the attached Entry of Order, your certificate to practice osteopathic medicine and surgery in the State of Ohio is summarily suspended. Accordingly, at this time, you are no longer authorized to practice osteopathic medicine and surgery in Ohio.

Furthermore, in accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the 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 April 24, 2009, you reported to the Board that you had entered inpatient treatment at the Cleveland Clinic Foundation, a Board-approved treatment provider in Cleveland, Ohio, for issues related to your relapse on alcohol. With respect to your history of alcohol use, you reported that you have a family history of alcoholism; that you began drinking alcohol during your teenage years; that you underwent treatment in 1993 at Edwin Shaw Hospital on an outpatient basis; that you began consuming alcohol again in or about 2008; that in or about August 2008, you underwent a twenty-eight-day inpatient treatment program at Hazelden Foundation [Hazelden]; that following your treatment at Hazelden, you relapsed by consuming alcohol and that you were arrested approximately six weeks following such treatment for operating a motor vehicle under the influence of alcohol; and that on or about April 19, 2009, you were again arrested for operating a motor vehicle under the influence of alcohol.
- (2) By letter dated April 29, 2009, from Gregory B. Collins, M.D. [Dr. Collins], Section Head of the Alcohol and Drug Recovery Center of the Cleveland Clinic, the Board was notified that you had been admitted for treatment to the Cleveland Clinic on or about April 22, 2009, and that your diagnoses included alcohol dependence, chronic, and generalized anxiety disorder, severe. Dr. Collins opined that you were impaired in your ability to practice according to acceptable and prevailing standards of care because of habitual and excessive use or abuse of alcohol and because of the effects of your anxiety disorder, and that you required treatment for both conditions.
- (3) Although you have entered treatment, you have not completed the recommended/required treatment and entered into an aftercare contract with a Board-approved treatment provider. In addition, the Board has not received information that you have been determined to be capable of practicing in accordance with acceptable and prevailing standards of care.
- (4) On or about September 25, 2008, you caused to be submitted to the Board a renewal application wherein you answered "No" to Question 6, which provides:

At any time since signing your last application for renewal of your certificate:

Have you been addicted to or dependent upon alcohol or any chemical substance; or been treated for, or been diagnosed as suffering from, drug, alcohol dependency or abuse? You may answer "NO" to this question if

you have successfully completed treatment at, or are currently enrolled in, a program approved by this Board and have adhered to all statutory requirements during and subsequent to treatment. You must answer "YES" if you have ever relapsed.

In fact, you had relapsed by consuming alcohol in or about 2008 following your treatment at Edwin Shaw Hospital in or about 1993 and prior to your treatment at Hazelden in or about August 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.

Section 4731.22(B)(19), Ohio Revised Code, provides that if the Board finds an individual unable to practice because of the reasons set forth in this division, the Board shall require the individual to submit to care, counseling, or treatment by physicians approved or designated by the Board, as a condition for initial, continued, reinstated, or renewed authority to practice. An individual affected under this division shall be afforded an opportunity to demonstrate to the Board the ability to resume practice in compliance with acceptable and prevailing standards of care under the provisions of the individual's certificate.

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 licensee, and may issue an order of summary suspension as provided in Section 4731.22(G), Ohio Revised Code.

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) through (3) 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.

Further, your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute “[i]nability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills,” as that clause is used in Section 4731.22(B)(19), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (4) above, individually and/or collectively, constitute “[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, 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 clause is used in Section 4731.22(B)(5), Ohio Revised Code.

Pursuant to Chapter 119., Ohio Revised Code, and Chapter 4731., Ohio Revised Code, you are hereby advised that you are entitled to a hearing concerning these matters. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty days of the time of mailing of this notice.

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

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

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, provides that “[w]hen the board refuses to grant a certificate to an applicant, revokes an individual’s certificate to practice, refuses to register an applicant, or refuses to reinstate an individual’s certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.”

Notice of Summary Suspension  
& Opportunity for Hearing  
Matthew Reid Harris, D.O.  
Page 5

Very truly yours,



Lance A. Talmage, M.D.  
Secretary

LAT/KHM/flb  
Enclosures

CERTIFIED MAIL #91 7108 2133 3936 3125 4045  
RETURN RECEIPT REQUESTED

DUPLICATE:  
VIA HAND DELIVERY

DUPLICATE MAILING:

Matthew Reid Harris, D.O.  
2904 Vista View Drive, Apartment 7  
Dayton, OH 45431

CERTIFIED MAIL #91 7108 2133 3936 3125 4021  
RESTRICTED DELIVERY  
RETURN RECEIPT REQUESTED

cc: Eric J. Plinke, Esq.  
Dinsmore & Shohl, LLP  
191 West Nationwide Boulevard, Suite 300  
Columbus, OH 43215

CERTIFIED MAIL #91 7108 2133 3936 3125 4038  
RETURN RECEIPT REQUESTED