

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

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TOM REUTTI STARR, M.D.

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**ENTRY OF ORDER**

On December 16, 2014, Tom Reutti Starr, M.D., executed a Surrender of his license to practice medicine and surgery in Ohio with consent to permanent revocation, which document is attached hereto and fully incorporated herein.

Wherefore, upon ratification by the Board of the surrender, it is hereby ORDERED that Certificate No. 35.026557 authorizing Tom Reutti Starr, M.D., to practice medicine and surgery in the State of Ohio be permanently REVOKED.

This Order is hereby entered upon the Journal of the State Medical Board of Ohio for the 14th day of January 2015, and the original thereof shall be kept with said Journal.



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Kim G. Rothermel, M.D.

Secretary

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

Date



**STATE OF OHIO  
THE STATE MEDICAL BOARD  
PERMANENT SURRENDER OF CERTIFICATE  
TO PRACTICE MEDICINE AND SURGERY  
CASE NO. 14 CRF-100**

**Do not sign this agreement without reading it. An individual who permanently surrenders a certificate issued by the Board is forever thereafter ineligible to hold a certificate to practice or to apply to the Board for reinstatement of the certificate or issuance of any new certificate. You are permitted to be accompanied, represented and advised by an attorney, at your own expense, before deciding to sign this voluntary agreement.**

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

I, Tom Reutti Starr, M.D., do hereby voluntarily, knowingly, and intelligently surrender my certificate to practice medicine and surgery, License #35.026557, to the Board, thereby relinquishing all rights to practice medicine and surgery in Ohio. I understand that as a result of the surrender herein I will no longer be permitted to practice medicine and surgery in any form or manner in the State of Ohio in the future.

I agree that I shall be ineligible for, and shall not apply for, reinstatement or restoration of certificate to practice medicine and surgery License #35.026557 or issuance of any other certificate pursuant to the authority of the State Medical Board of Ohio, on or after the date of signing this Permanent Surrender of Certificate to Practice Medicine and Surgery. Any such attempted reapplication shall be considered null and void and shall not be processed by the Board.

I hereby authorize the State Medical Board of Ohio to enter upon its Journal an Order permanently revoking my certificate to practice medicine and surgery, License #35.026557, in conjunction with which I expressly waive the provision of Section 4731.22(B), Ohio Revised Code, requiring that six (6) Board Members vote to revoke said certificate, and further expressly and forever waive all rights as set forth in Chapter 119., Ohio Revised Code, including but not limited to my right to counsel, right to a hearing, right to present evidence, right to cross-examine witnesses, and right to appeal the Order of the Board revoking my certificate to practice medicine and surgery.

I, Tom Reutti Starr, M.D., hereby release the Board, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

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

I stipulate and agree that I am taking the action described herein in lieu of further formal disciplinary proceedings in Case No. 14-CRF-100, pursuant to Sections 4731.22(B)(2), (B)(6), and (B)(20), Ohio Revised Code, as set forth in the Notice of Opportunity for Hearing issued by the Board on August 13, 2014, a copy of which is attached hereto as Exhibit A and fully incorporated herein.

**EFFECTIVE DATE**

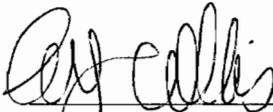
It is expressly understood that this Permanent Surrender of Certificate is subject to ratification by the Board prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.

  
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TOM REUTTI STARR, M.D.

  
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~~MARK A. BECHTEL, M.D.~~  
Secretary KIM G. ROTHERMEL, M.D.

12-16-14  
\_\_\_\_\_  
DATE

1-14-15  
\_\_\_\_\_  
DATE

  
\_\_\_\_\_  
ELIZABETH Y. COLLIS  
Counsel for Dr. Starr

  
\_\_\_\_\_  
BRUCE R. SAFERIN, D.P.M.  
Supervising Member

12/16/14  
\_\_\_\_\_  
DATE

1-14-15  
\_\_\_\_\_  
DATE

  
\_\_\_\_\_  
KYLE C. WILCOX  
Assistant Attorney General

12-19-14  
\_\_\_\_\_  
DATE

# State Medical Board of Ohio

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

(614) 466-3934

med.ohio.gov

August 13, 2014

Case number: 14-CRF- 100

Tom Reutti Starr, M.D.  
716 Grant Trail  
Dayton, OH 45459

Dear Doctor Starr:

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

- (1) On or about August 8, 2001, the Board issued an Entry of Order, with an effective date of August 23, 2001 [August 2001 Board Order], that suspended your certificate to practice medicine and surgery for an indefinite period of time based on your violation of Section 4731.22(B)(26), Ohio Revised Code. Your certificate to practice was reinstated by the Board on or about May 8, 2002, subject to certain probationary terms, conditions and limitations.

On or about July 14, 2004, the Board issued an Entry of Order, with an effective date of July 15, 2004, that suspended your certificate to practice medicine for 15 days, based on your violation of Sections 4731.22(B)(15), (B)(26), and (B)(20), Ohio Revised Code, and your certificate was reinstated on or about August 1, 2004.

On or about May 9, 2007, the Board released you from the terms of the August 2001 Board Order.

- (2) You provided care in the routine course of your practice for Patients 1 through 17 as identified in the attached Patient Key (Key is confidential and to be withheld from public disclosure). During your treatment of these patients that occurred on or after January 1, 2000, you inappropriately treated and/or failed to treat, inappropriately prescribed controlled substances or dangerous drugs, and/or failed to appropriately document your treatment of those patients. Specific examples of such conduct include, but are not limited to, the following:

*Mailed 8-14-14*

- (a) You provided care to Patient 1 from in or around 1998 to at least August 2012. Your treatment included prescribing Adipex, a weight loss medication, for longer than twelve weeks, over several years. You failed to calculate the patient's body mass index [BMI], and you also failed to utilize a weight loss treatment program for the patient. Your records indicated that you were utilizing Adipex for PMS or migraines/headaches, which is not an appropriate use of the medication.
- (b) You provided care to Patient 2 from in or around February 2010 to at least in or around September 2012, for conditions that included chronic lumbosacral pain syndrome. Your treatment included prescribing Xanax and Percocet. Your records indicated that Xanax purportedly helped with the patient's smoking. There was no documentation that the patient was given an assessment for anxiety, and while the Hamilton Depression Scale was given, it was not scored. You increased the dosage of Xanax from 0.25 mg to 0.50 mg and to 2 mg without an appropriate explanation for the reason, and you repeatedly gave refills without a discussion, or documenting a discussion, as to whether the medication was working. While you indicated that you made a referral to a pain clinic, neurosurgery and orthopedics, there was no documentation to follow-up whether the appointments were made and/or the recommendations of those specialists (although the patient indicated that he did not see a neurosurgeon due to no insurance). There was no indication from a specialist that the patient needed to be on chronic pain medication, and you failed to utilize, or document utilizing, common assessment tools to evaluate the risks associated with giving narcotic pain medication. While early refills, indicating possible misuse, are noted in the chart, you failed to address, or document addressing, that matter with the patient. You also failed to document discussing the risks of tolerance and addiction with the patient, or the risk of possible acetaminophen overdose.
- (c) You provided care to Patient 3 from in or around 2001 to at least in or around September 2012, for conditions that included back pain and sleeping problems. Your treatment included prescribing Vicodin, Xanax and Methylphenidate. While you referred Patient 3 to pain management, there was no documentation whether the patient went, or what the specialist may have recommended. Despite multiple signs that the patient may have a problem with drug abuse, you continued to prescribe narcotic medications and Xanax to the patient. While there were also notations in the chart about the patient requesting early refills, testing positive for cocaine, and reporting medication stolen, you failed to conduct, or document conducting, a thorough assessment of the patient's alcohol and substance abuse history, and/or failed to take appropriate action. Although it was further indicated in the chart that you decided to wean the patient slowly off Vicodin, you failed to do so, and instead increased the dosage and/or number of pills, without documenting a justification. In addition, you failed to utilize, or

documenting utilizing, common assessment tools to evaluate the risks associated with prescribing narcotic medication. You also failed to document discussing the risks of tolerance and addiction with the patient, or the risk of possible acetaminophen overdose. While the patient chart indicated that Methylphenidate was prescribed for narcolepsy or ADHD, there was no documentation of an evaluation or work up done for either diagnosis. If the patient had narcolepsy, then neither Xanax nor Vicodin should have been prescribed as they are contraindicated for narcolepsy.

- (d) You provided care to Patient 4 from in or around 1997 to at least in or around July 2012, for conditions that included arthritis, chronic lumbosacral pain, knee pain/arthritis, lumbar radiculopathy, and narcolepsy. Your treatment included prescribing Vicodin, Percocet and Methylphenidate. You inappropriately prescribed narcotic medications to the patient on a long-term basis, as the objective findings of certain tests and x-rays did not support such prescribing. While the patient chart indicated that you discussed with the patient a letter from a health care insurer noting possible controlled substance overuse with the patient receiving multiple refills from multiple providers, you failed to document what action you took and you continued to give refills. In addition to not conducting, or document conducting, a thorough assessment of the patient's alcohol and substance abuse history, you also failed to document discussing the risks of tolerance and addiction with the patient, or the risk of possible acetaminophen overdose. You further failed to utilize, or document utilizing, common assessment tools to evaluate the risks associated with prescribing narcotic medications. While the patient chart indicated that Dextroamphetamine was prescribed for narcolepsy, there was no documentation of an evaluation or work up done for such a diagnosis. If the patient had narcolepsy, then Xanax, Ambien, Percocet or Vicodin should not have been prescribed as they are contraindicated for narcolepsy.
- (e) You provided care to Patient 5 from in or around October 2011 to at least in or around October 2012, for conditions that included chronic lumbosacral pain and narcolepsy. Your treatment included prescribing narcotic medications, benzodiazepines and Methylphenidate. You inappropriately prescribed narcotic medications to the patient on a chronic basis, as there was no appropriate documentation that the patient actually had a medical problem causing lumbosacral pain and requiring such medications. You failed to utilize, or documenting utilizing, common assessment tools to evaluate the risks associated with prescribing narcotic medications. While the patient records indicated that the patient had attempted to obtain early refills of medications, you failed to address, or document addressing, that issue with the patient. You also failed to take into consideration, or document consideration of, the abuse potential of medication when formulating the treatment plan. You further failed to document discussing

the risks of tolerance and addiction with the patient, or the risk of possible acetaminophen overdose. Although the medical records also indicated that Patient 5 was obtaining benzodiazepines from multiple providers and it was noted that you would discuss this with the patient, you failed to document in the patient chart the discussion/plan, and you continued to prescribe Xanax when the patient was already on Clonazepam. You also prescribed large doses of Valium, apparently for restless leg syndrome, and failed to first try, or document trying, less addictive medications such as Mirapex or Requip. While the patient chart indicated that Methylphenidate was prescribed for narcolepsy, there was no documentation of an evaluation or work up done for such a diagnosis. If the patient had narcolepsy, narcotics and benzodiazepines should not have been prescribed as they are contraindicated for narcolepsy.

- (f) You provided care to Patient 6 from in or around 1997 to at least July 2012. Your treatment included prescribing Adipex, a weight loss medication, for longer than twelve weeks, over several years. You failed to calculate the patient's BMI, or utilize a weight loss treatment program for the patient. While your records indicated that at times you were utilizing Adipex for PMS/dysmenorrhea, that is not an appropriate use of the medication. Although the patient chart indicated that Methylphenidate and Dextroamphetamine were prescribed for narcolepsy, there was no documentation of an evaluation or work up done for such a diagnosis. You also prescribed Xanax to Patient 6, and if the patient had narcolepsy, then a benzodiazepine should not have been prescribed as it is contraindicated for narcolepsy.
- (g) You provided care to Patient 7 from in or around May 2011 to at least in or around June 2012, for conditions that included chronic pain/cervical spondylosis, narcolepsy and/or depression. Your treatment included prescribing narcotic medications, tramadol, Adipex, Methylphenidate, and Dextroamphetamine. You inappropriately prescribed narcotic medications and tramadol to the patient on a long-term basis, as there was no appropriate documentation that the patient actually needed narcotic medications. You failed to utilize, or document utilizing, common assessment tools to evaluate the risks associated with prescribing narcotic medications. While the patient records indicated that the patient had a history of drug abuse and misuse, and also made requests for early refills of medications, you failed to address, or document addressing, that issue with the patient. You also failed to document discussing the risks of tolerance and addiction with the patient or the risk of possible acetaminophen overdose. While you noted a concern in the medical records that patient needed to "be admitted for detox," you instead prescribed more narcotic medications, tramadol, and controlled substances. In addition, you inappropriately prescribed Adipex, a weight loss medication, and you failed to document why you prescribed this

medication. You also did not calculate the patient's BMI or utilize a weight loss treatment program. Further, you inappropriately prescribed Methylphenidate and Dextroamphetamine as there was no documentation of an evaluation or work up done for a diagnosis of narcolepsy, and you did not make an appropriate diagnosis of ADHD.

- (h) You provided care to Patient 8 from in or around March 2010 to at least in or around September 2012, for complaints of pain and anxiety. Your treatment included prescribing Vicodin, Xanax and Adipex. You inappropriately prescribed Vicodin at the patient's first mention of pain without first trying, or document trying, other alternative therapies for pain. You increased the dosage of Vicodin without documenting an explanation. In addition, you failed to document discussing the risks of tolerance and addiction with the patient, or the risk of possible acetaminophen overdose. You failed to adequately consider, or document the consideration of, the significance of the patient telling you that "pain clinic won't accept" him and that the patient had hepatitis C. You also inappropriately prescribed Xanax to the patient without first trying, or document trying, other non-controlled medications or counseling. While a pharmacist reported that the patient had requested early refills of Xanax, you failed to discuss, or document discussing, that matter with the patient, and you continued to give refills. Further, you inappropriately prescribed Adipex, a weight loss medication, to the patient without first calculating the patient's BMI, and without utilizing a weight loss treatment program. In addition, you failed to utilize, or documenting utilizing, common assessment tools to evaluate the risks associated with prescribing controlled substances.
- (i) You provided care to Patient 9 from in or around March 2011 to at least in or around September 2012, for complaints that appear to include pelvic and lumbosacral pain. Your treatment included prescribing Vicodin and Adipex. You inappropriately prescribed Vicodin to the patient for pelvic pain, despite that she was receiving treatment from another doctor for that matter, and you failed to perform an appropriate examination. You also failed to adequately document a need to prescribe Vicodin for complaints of lumbosacral pain. You failed to utilize, or document utilizing, common assessment tools to evaluate the risks associated with prescribing narcotic medications. You also failed to document discussing the risks of tolerance and addiction with the patient, or the risk of possible acetaminophen overdose. In addition, you inappropriately prescribed Adipex to Patient 9 as you failed to calculate her BMI, and you prescribed the medication for longer than 12 weeks.
- (j) You provided care to Patient 10 from in or around 2004 to at least in or around September 2012, for complaints that included pain, depression, anxiety, and narcolepsy. Your treatment included prescribing Vicodin, Adipex, Xanax, and Dextroamphetamine. You inappropriately prescribed

Vicodin to Patient 10 on a long-term basis, as there was no appropriate documentation that the patient had a disorder requiring this medication. You also failed to take appropriate action, or document taking appropriate action, when presented with signs of patient drug abuse, including that the patient admitted to using heroin, tested positive for cocaine, was intoxicated or incoherent at office visits, and received multiple narcotic refills from multiple providers. Despite those red flags, you continued to prescribe Vicodin to the patient, and you failed to document an exam or provide notes when giving refills. You failed to utilize, or document utilizing, common assessment tools to evaluate the risks associated with prescribing narcotic medications. In addition, you failed to document discussing the risks of tolerance and addiction with the patient, or the risk of possible acetaminophen overdose. Further, you inappropriately prescribed Adipex to Patient 10, as you failed to calculate her BMI, you prescribed the medication for longer than 12 weeks, and you continued to prescribe the medication even though the patient did not lose weight. You also inappropriately prescribed Xanax to Patient 10 after her psychiatrist took her off this medication. You failed to appropriately refer, or document referring, the patient to a specialist for mental health care. While the patient chart indicated that you prescribed Dextroamphetamine for narcolepsy, there was no documentation of an evaluation or work up done to support such a diagnosis. If the patient actually had narcolepsy, then neither Vicodin nor Xanax should have been prescribed as they are contraindicated for narcolepsy, and your dosing of Dextroamphetamine was inappropriate.

- (k) You provided care to Patient 11 from in or around April 2011 to at least in or around November 2012, for complaints that included pain, depression, anxiety, and narcolepsy. Your treatment included prescribing Vicodin, Xanax, and Methylphenidate. You inappropriately prescribed Vicodin to Patient 11 on a long-term basis, as there was no appropriate documentation that the patient had a disorder requiring this medication. You also failed to take appropriate action, or document taking appropriate action, when presented with a known patient history of drug and alcohol abuse, including multiple DUI offenses, and treatment for drug rehabilitation, as you continued to prescribe narcotic medications and benzodiazepines. You failed to refer, or document referring, the patient to an addiction specialist or pain management specialist. In addition, you failed to document discussing the risks of tolerance and addiction with the patient, or the risk of possible acetaminophen overdose. Further, you failed to utilize, or document utilizing, common assessment tools to evaluate the risks associated with prescribing Vicodin and Xanax. Your documentation was also improper. In September 2012, the patient's psychiatric disorders and impairment due to alcohol or drugs were documented in the patient chart; however, in October 2012, you completed a state/government form indicating that the patient had no psychiatric disorders and that impairment from due to alcohol or drugs

was “in past.” In addition, you failed to refer the patient, or document referring, the patient to a mental health specialist on a timely basis. Although the patient chart indicated that you prescribed Methylphenidate for narcolepsy, there was no documentation of an evaluation or work up done to support such a diagnosis. If the patient had narcolepsy, neither Vicodin nor Xanax should have been prescribed as they are contraindicated for narcolepsy, and your dosing of Methylphenidate was inappropriate.

- (l) You provided care to Patient 12 from in or around March 2010 to at least in or around July 2012, for complaints that included endometriosis and gastritis. Your treatment included prescribing Tylenol #3, Percocet, Adipex and Methylphenidate. You inappropriately prescribed narcotic medications to this patient, as there was no documentation or test results which showed that the patient had a medical problem requiring such medications. You further failed to document the need to utilize more than one narcotic medication. You also failed to utilize, or document utilizing, common assessment tools to evaluate the risks associated with prescribing narcotic medications. In addition, you failed to document discussing the risks of tolerance and addiction with the patient, or the risk of possible acetaminophen overdose. Further, you inappropriately prescribed Adipex to Patient 12, as you failed to calculate her BMI, you prescribed the medication for longer than 12 weeks, and you continued to prescribe the medication even though the patient did not lose weight. In addition, you inappropriately prescribed Methylphenidate as there was no documentation of an evaluation or work up done for requiring such medication, and the documentation was inadequate.
- (m) You provided care to Patient 13 for several years to at least June 2012. Your treatment included prescribing weight loss medication, including Adipex, Meridia and Xenical. You failed to calculate the patient’s BMI, you prescribed the medication for longer than 12 weeks, and you continued to prescribe the medication even though the patient did not lose weight. In addition, your documentation was inadequate.
- (n) You provided care to Patient 14 from in or around 2000 to at least in or around September 2012, for complaints of pain and narcolepsy. Your treatment included prescribing Percocet, Vicodin, and Methylphenidate. You inappropriately prescribed narcotic medications to the patient on a long-term basis, as there was no appropriate documentation that the patient actually needed such medications. You failed to utilize, or document utilizing, common assessment tools to evaluate the risks associated with prescribing narcotic medications. In addition, you failed to document discussing the risks of tolerance and addiction with the patient, or the risk of possible acetaminophen overdose. While the patient had a history of alcohol and chemical dependence, and toxicology screens were positive for

amphetamine and cannabinoids, you failed to address, or document addressing, that issue with the patient. In addition, you inappropriately prescribed Methylphenidate and Dextroamphetamine, as there was no documentation of an evaluation or work up done for to support a diagnosis of narcolepsy. If the patient had narcolepsy, then narcotics medications should not have been prescribed as they are contraindicated for narcolepsy, and your dosing was inappropriate. In addition, your documentation was inadequate, as you initially indicated that Methylphenidate and Dextroamphetamine were prescribed for narcolepsy, but it was subsequently noted that they were prescribed for ADHD.

- (o) You provided care to Patient 15 from in or around 2001 to at least in or around September 2012, for complaints that included pain and narcolepsy. Your treatment included prescribing Vicodin, benzodiazepines, Methylphenidate and Dextroamphetamine. You inappropriately prescribed Vicodin to the patient on a chronic basis, as there was no appropriate documentation that the patient had a condition that required such medication. In addition, you failed to document discussing the risks of tolerance and addiction with the patient, or the risk of possible acetaminophen overdose. Further, you failed to utilize, or documenting utilizing, common assessment tools to evaluate the risks associated with prescribing narcotic medications. While there were indications of potential misuse/abuse of narcotics by the patient (such as receiving multiple narcotic medications from multiple providers, losing medication and asking specifically for Oxycontin), you failed to address, or document addressing, those issues with the patient. You also inappropriately prescribed Valium, Ativan and Xanax at various times and at various doses to the patient, without documenting an adequate justification for changing medications and doses, and without making an appropriate diagnosis. Further, you inappropriately prescribed Methylphenidate and Dextroamphetamine for narcolepsy, as there was no documentation of an evaluation or work up done to support such a diagnosis. If the patient had narcolepsy, then narcotics medications and benzodiazepines should not have been prescribed as they are contraindicated for narcolepsy, and your dosing was inappropriate.
- (p) You provided care to Patient 16 from in or around 2009 to at least in or around July 2012, for complaints that included pain and anxiety. Your treatment included prescribing Vicodin and Xanax. You inappropriately prescribed Vicodin to the patient on a long-term basis, as there was no appropriate documentation that the patient had a medical condition requiring such medication. While the patient chart mentioned a referral to a neurosurgeon, there is no documentation that the patient saw a specialist or what recommendations may have been made. You also failed to document discussing the risks of tolerance and addiction with the patient, or the risk of possible acetaminophen overdose. Further, you failed to utilize, or

document utilizing, common assessment tools to evaluate the risks associated with prescribing narcotic medications. In addition, you inappropriately prescribed Xanax to the patient at various times and at various doses, without documenting your reasoning, and your overall documentation was inadequate.

- (q) You provided care to Patient 17 from in or around 2010 to at least in or around July 2012, for complaints that included pain and narcolepsy. Your treatment included prescribing Vicodin, Adipex and Dextroamphetamine. You inappropriately prescribed Vicodin to this patient, as there was no documentation that such medication was required. While the patient chart mentions a referral to a pain clinic, there is no documentation whether the patient saw a specialist, or what recommendations may have been made. In addition, you failed to document discussing the risks of tolerance and addiction with the patient, or the risk of possible acetaminophen overdose. Further, you failed to utilize, or document utilizing, common assessment tools to evaluate the risks associated with prescribing narcotic medications. While the patient chart indicated that you prescribed Dextroamphetamine for narcolepsy, there was no documentation of an evaluation or work up done for such a diagnosis. If the patient had narcolepsy, then a narcotic medication should not have been prescribed as it is contraindicated for narcolepsy. Your dosing of Dextroamphetamine was also inappropriate. In addition, you inappropriately prescribed Adipex. You also failed to calculate the patient's BMI, and you prescribed the medication for longer than twelve weeks.
- (3) On or about July 12, 2012, in the routine course of your practice, you conducted an inappropriate examination of Patient 17. You had the patient undress and put on a paper gown. During the examination, you ripped open the front of the patient's paper gown, exposing her, and you commented that it was sexy that she shaved her pubic area. In addition, while performing a breast examination, you pressed your pelvic area against the patient's hand. You also failed to offer the patient the opportunity to have a chaperone in the examination room during this intimate examination.
- (4) In your responses to questions from the Board, you stated in or around February 2013 that you had provided medical care and treatment to Patient 18 since around 2004. You also stated that this patient has been your "significant other" since around 2004. While you indicated that you had maintained a chart for this patient, you stated that you had prescribed a controlled substance to her in or around January 2013. Such prescribing was not in an emergent situation.

Your acts, conduct, and/or omissions that occurred on or after January 1, 2000, as alleged in paragraphs (2)(a) through (2)(q), individually and/or collectively, constitute "[a] departure from, or the failure to conform to, minimal standards of care of similar

practitioners under the same or similar circumstances, whether or not actual injury to a patient is established,” as that clause is used in Section 4731.22(B)(6), Ohio Revised Code.

Further, your acts, conduct, and/or omissions that occurred on or after January 1, 2000, as alleged in paragraphs (2)(a) through (2)(q) above, individually and/or collectively, constitute “[f]ailure to maintain minimal standards applicable to the selection or administration of drugs, or failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease,” as those clauses are used in Section 4731.22(B)(2), Ohio Revised Code.

Further, your acts, conduct, and/or omissions that occurred on or after January 1, 2000, as alleged in paragraphs (2)(b), (2)(c), (2)(d), (2)(e), (2)(g), (2)(h), (2)(i), (2)(j), (2)(k), (2)(l), (2)(n), (2)(o), (2)(p), and (2)(q) above, individually and/or collectively, constitute “violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board,” as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-21-02, Ohio Administrative Code. Pursuant to Rule 4731-21-05, Ohio Administrative Code, a violation of Rule 4731-21-02, Ohio Administrative Code, also violates Section 4731.22(B)(2), Ohio Revised Code, and Section 4731.22(B)(6), Ohio Revised Code.

Further, your acts, conduct, and/or omissions that occurred on or after January 1, 2000, as alleged in paragraphs (2)(a), (2)(f), (2)(g), (2)(h), (2)(i), (2)(j), (2)(l), (2)(m), and (2)(q) above, individually and/or collectively, constitute “violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board,” as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-11-04, Ohio Administrative Code. Pursuant to Rule 4731-11-04(D), Ohio Administrative Code, a violation of Rule 4731-11-04, Ohio Administrative Code, also violates Sections 4731.22(B)(2), (B)(3), and (B)(6), Ohio Revised Code.

Further, your acts, conduct, and/or omissions that occurred on or after January 1, 2000, as alleged in paragraphs (2)(a), (2)(b), (2)(e), (2)(f), (2)(o), and (2)(p) above, individually and/or collectively, constitute “violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board,” as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-11-02(D), Ohio Administrative Code. Pursuant to Rule 4731-11-02(F), Ohio Administrative Code, violation of Rule 4731-11-02(D), Ohio Administrative Code, also constitutes a violation of Sections 4731.22(B)(2) and (B)(6), Ohio Revised Code.

Further, your acts, conduct, and/or omissions that occurred on or after January 1, 2000, as alleged in paragraphs (2)(h), (2)(j), and (2)(k) above, individually and/or collectively, constitute “violating or attempting to violate, directly or indirectly, or

assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board,” as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-11-02(C), Ohio Administrative Code. Pursuant to Rule 4731-11-02(F), Ohio Administrative Code, violation of Rule 4731-11-02(C), Ohio Administrative Code, also constitutes a violation of Sections 4731.22(B)(2) and (B)(6), Ohio Revised Code.

Further, your acts, conduct, and/or omissions that occurred on or after January 1, 2000, as alleged in paragraph (3) above, individually and/or collectively, constitute “violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board,” as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-26-02, Ohio Administrative Code. Pursuant to Rule 4731-26-03(A), Ohio Administrative Code, a violation of Rule 4731-26-02, Ohio Administrative Code, also violates Section 4731.22(B)(6), Ohio Revised Code, which is “a departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established.”

Further, your acts, conduct, and/or omissions that occurred on or after January 1, 2000, as alleged in paragraph (4) above, individually and/or collectively, constitute “violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board,” as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rules 4731-11-08(B) and (C), Ohio Administrative 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 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.  
Secretary

MB/MRB/pev  
Enclosures

CERTIFIED MAIL #91 7199 9991 7033 2026 0320  
RETURN RECEIPT REQUESTED

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

CERTIFIED MAIL #91 7199 9991 7033 2026 0344  
RETURN RECEIPT REQUESTED

# State Medical Board of Ohio

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

(614) 466-3934

med.ohio.gov

August 13, 2014

Case number: 14-CRF- 100

Tom Reutti Starr, M.D.  
716 Grant Trail  
Dayton, OH 45459

Dear Doctor Starr:

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

- (1) On or about August 8, 2001, the Board issued an Entry of Order, with an effective date of August 23, 2001 [August 2001 Board Order], that suspended your certificate to practice medicine and surgery for an indefinite period of time based on your violation of Section 4731.22(B)(26), Ohio Revised Code. Your certificate to practice was reinstated by the Board on or about May 8, 2002, subject to certain probationary terms, conditions and limitations.

On or about July 14, 2004, the Board issued an Entry of Order, with an effective date of July 15, 2004, that suspended your certificate to practice medicine for 15 days, based on your violation of Sections 4731.22(B)(15), (B)(26), and (B)(20), Ohio Revised Code, and your certificate was reinstated on or about August 1, 2004.

On or about May 9, 2007, the Board released you from the terms of the August 2001 Board Order.

- (2) You provided care in the routine course of your practice for Patients 1 through 17 as identified in the attached Patient Key (Key is confidential and to be withheld from public disclosure). During your treatment of these patients that occurred on or after January 1, 2000, you inappropriately treated and/or failed to treat, inappropriately prescribed controlled substances or dangerous drugs, and/or failed to appropriately document your treatment of those patients. Specific examples of such conduct include, but are not limited to, the following:

*Mailed 8-14-14*

- (a) You provided care to Patient 1 from in or around 1998 to at least August 2012. Your treatment included prescribing Adipex, a weight loss medication, for longer than twelve weeks, over several years. You failed to calculate the patient's body mass index [BMI], and you also failed to utilize a weight loss treatment program for the patient. Your records indicated that you were utilizing Adipex for PMS or migraines/headaches, which is not an appropriate use of the medication.
- (b) You provided care to Patient 2 from in or around February 2010 to at least in or around September 2012, for conditions that included chronic lumbosacral pain syndrome. Your treatment included prescribing Xanax and Percocet. Your records indicated that Xanax purportedly helped with the patient's smoking. There was no documentation that the patient was given an assessment for anxiety, and while the Hamilton Depression Scale was given, it was not scored. You increased the dosage of Xanax from 0.25 mg to 0.50 mg and to 2 mg without an appropriate explanation for the reason, and you repeatedly gave refills without a discussion, or documenting a discussion, as to whether the medication was working. While you indicated that you made a referral to a pain clinic, neurosurgery and orthopedics, there was no documentation to follow-up whether the appointments were made and/or the recommendations of those specialists (although the patient indicated that he did not see a neurosurgeon due to no insurance). There was no indication from a specialist that the patient needed to be on chronic pain medication, and you failed to utilize, or document utilizing, common assessment tools to evaluate the risks associated with giving narcotic pain medication. While early refills, indicating possible misuse, are noted in the chart, you failed to address, or document addressing, that matter with the patient. You also failed to document discussing the risks of tolerance and addiction with the patient, or the risk of possible acetaminophen overdose.
- (c) You provided care to Patient 3 from in or around 2001 to at least in or around September 2012, for conditions that included back pain and sleeping problems. Your treatment included prescribing Vicodin, Xanax and Methylphenidate. While you referred Patient 3 to pain management, there was no documentation whether the patient went, or what the specialist may have recommended. Despite multiple signs that the patient may have a problem with drug abuse, you continued to prescribe narcotic medications and Xanax to the patient. While there were also notations in the chart about the patient requesting early refills, testing positive for cocaine, and reporting medication stolen, you failed to conduct, or document conducting, a thorough assessment of the patient's alcohol and substance abuse history, and/or failed to take appropriate action. Although it was further indicated in the chart that you decided to wean the patient slowly off Vicodin, you failed to do so, and instead increased the dosage and/or number of pills, without documenting a justification. In addition, you failed to utilize, or

documenting utilizing, common assessment tools to evaluate the risks associated with prescribing narcotic medication. You also failed to document discussing the risks of tolerance and addiction with the patient, or the risk of possible acetaminophen overdose. While the patient chart indicated that Methylphenidate was prescribed for narcolepsy or ADHD, there was no documentation of an evaluation or work up done for either diagnosis. If the patient had narcolepsy, then neither Xanax nor Vicodin should have been prescribed as they are contraindicated for narcolepsy.

- (d) You provided care to Patient 4 from in or around 1997 to at least in or around July 2012, for conditions that included arthritis, chronic lumbosacral pain, knee pain/arthritis, lumbar radiculopathy, and narcolepsy. Your treatment included prescribing Vicodin, Percocet and Methylphenidate. You inappropriately prescribed narcotic medications to the patient on a long-term basis, as the objective findings of certain tests and x-rays did not support such prescribing. While the patient chart indicated that you discussed with the patient a letter from a health care insurer noting possible controlled substance overuse with the patient receiving multiple refills from multiple providers, you failed to document what action you took and you continued to give refills. In addition to not conducting, or document conducting, a thorough assessment of the patient's alcohol and substance abuse history, you also failed to document discussing the risks of tolerance and addiction with the patient, or the risk of possible acetaminophen overdose. You further failed to utilize, or document utilizing, common assessment tools to evaluate the risks associated with prescribing narcotic medications. While the patient chart indicated that Dextroamphetamine was prescribed for narcolepsy, there was no documentation of an evaluation or work up done for such a diagnosis. If the patient had narcolepsy, then Xanax, Ambien, Percocet or Vicodin should not have been prescribed as they are contraindicated for narcolepsy.
- (e) You provided care to Patient 5 from in or around October 2011 to at least in or around October 2012, for conditions that included chronic lumbosacral pain and narcolepsy. Your treatment included prescribing narcotic medications, benzodiazepines and Methylphenidate. You inappropriately prescribed narcotic medications to the patient on a chronic basis, as there was no appropriate documentation that the patient actually had a medical problem causing lumbosacral pain and requiring such medications. You failed to utilize, or documenting utilizing, common assessment tools to evaluate the risks associated with prescribing narcotic medications. While the patient records indicated that the patient had attempted to obtain early refills of medications, you failed to address, or document addressing, that issue with the patient. You also failed to take into consideration, or document consideration of, the abuse potential of medication when formulating the treatment plan. You further failed to document discussing

the risks of tolerance and addiction with the patient, or the risk of possible acetaminophen overdose. Although the medical records also indicated that Patient 5 was obtaining benzodiazepines from multiple providers and it was noted that you would discuss this with the patient, you failed to document in the patient chart the discussion/plan, and you continued to prescribe Xanax when the patient was already on Clonazepam. You also prescribed large doses of Valium, apparently for restless leg syndrome, and failed to first try, or document trying, less addictive medications such as Mirapex or Requip. While the patient chart indicated that Methylphenidate was prescribed for narcolepsy, there was no documentation of an evaluation or work up done for such a diagnosis. If the patient had narcolepsy, narcotics and benzodiazepines should not have been prescribed as they are contraindicated for narcolepsy.

- (f) You provided care to Patient 6 from in or around 1997 to at least July 2012. Your treatment included prescribing Adipex, a weight loss medication, for longer than twelve weeks, over several years. You failed to calculate the patient's BMI, or utilize a weight loss treatment program for the patient. While your records indicated that at times you were utilizing Adipex for PMS/dysmenorrhea, that is not an appropriate use of the medication. Although the patient chart indicated that Methylphenidate and Dextroamphetamine were prescribed for narcolepsy, there was no documentation of an evaluation or work up done for such a diagnosis. You also prescribed Xanax to Patient 6, and if the patient had narcolepsy, then a benzodiazepine should not have been prescribed as it is contraindicated for narcolepsy.
- (g) You provided care to Patient 7 from in or around May 2011 to at least in or around June 2012, for conditions that included chronic pain/cervical spondylosis, narcolepsy and/or depression. Your treatment included prescribing narcotic medications, tramadol, Adipex, Methylphenidate, and Dextroamphetamine. You inappropriately prescribed narcotic medications and tramadol to the patient on a long-term basis, as there was no appropriate documentation that the patient actually needed narcotic medications. You failed to utilize, or document utilizing, common assessment tools to evaluate the risks associated with prescribing narcotic medications. While the patient records indicated that the patient had a history of drug abuse and misuse, and also made requests for early refills of medications, you failed to address, or document addressing, that issue with the patient. You also failed to document discussing the risks of tolerance and addiction with the patient or the risk of possible acetaminophen overdose. While you noted a concern in the medical records that patient needed to "be admitted for detox," you instead prescribed more narcotic medications, tramadol, and controlled substances. In addition, you inappropriately prescribed Adipex, a weight loss medication, and you failed to document why you prescribed this

medication. You also did not calculate the patient's BMI or utilize a weight loss treatment program. Further, you inappropriately prescribed Methylphenidate and Dextroamphetamine as there was no documentation of an evaluation or work up done for a diagnosis of narcolepsy, and you did not make an appropriate diagnosis of ADHD.

- (h) You provided care to Patient 8 from in or around March 2010 to at least in or around September 2012, for complaints of pain and anxiety. Your treatment included prescribing Vicodin, Xanax and Adipex. You inappropriately prescribed Vicodin at the patient's first mention of pain without first trying, or document trying, other alternative therapies for pain. You increased the dosage of Vicodin without documenting an explanation. In addition, you failed to document discussing the risks of tolerance and addiction with the patient, or the risk of possible acetaminophen overdose. You failed to adequately consider, or document the consideration of, the significance of the patient telling you that "pain clinic won't accept" him and that the patient had hepatitis C. You also inappropriately prescribed Xanax to the patient without first trying, or document trying, other non-controlled medications or counseling. While a pharmacist reported that the patient had requested early refills of Xanax, you failed to discuss, or document discussing, that matter with the patient, and you continued to give refills. Further, you inappropriately prescribed Adipex, a weight loss medication, to the patient without first calculating the patient's BMI, and without utilizing a weight loss treatment program. In addition, you failed to utilize, or documenting utilizing, common assessment tools to evaluate the risks associated with prescribing controlled substances.
- (i) You provided care to Patient 9 from in or around March 2011 to at least in or around September 2012, for complaints that appear to include pelvic and lumbosacral pain. Your treatment included prescribing Vicodin and Adipex. You inappropriately prescribed Vicodin to the patient for pelvic pain, despite that she was receiving treatment from another doctor for that matter, and you failed to perform an appropriate examination. You also failed to adequately document a need to prescribe Vicodin for complaints of lumbosacral pain. You failed to utilize, or document utilizing, common assessment tools to evaluate the risks associated with prescribing narcotic medications. You also failed to document discussing the risks of tolerance and addiction with the patient, or the risk of possible acetaminophen overdose. In addition, you inappropriately prescribed Adipex to Patient 9 as you failed to calculate her BMI, and you prescribed the medication for longer than 12 weeks.
- (j) You provided care to Patient 10 from in or around 2004 to at least in or around September 2012, for complaints that included pain, depression, anxiety, and narcolepsy. Your treatment included prescribing Vicodin, Adipex, Xanax, and Dextroamphetamine. You inappropriately prescribed

Vicodin to Patient 10 on a long-term basis, as there was no appropriate documentation that the patient had a disorder requiring this medication. You also failed to take appropriate action, or document taking appropriate action, when presented with signs of patient drug abuse, including that the patient admitted to using heroin, tested positive for cocaine, was intoxicated or incoherent at office visits, and received multiple narcotic refills from multiple providers. Despite those red flags, you continued to prescribe Vicodin to the patient, and you failed to document an exam or provide notes when giving refills. You failed to utilize, or document utilizing, common assessment tools to evaluate the risks associated with prescribing narcotic medications. In addition, you failed to document discussing the risks of tolerance and addiction with the patient, or the risk of possible acetaminophen overdose. Further, you inappropriately prescribed Adipex to Patient 10, as you failed to calculate her BMI, you prescribed the medication for longer than 12 weeks, and you continued to prescribe the medication even though the patient did not lose weight. You also inappropriately prescribed Xanax to Patient 10 after her psychiatrist took her off this medication. You failed to appropriately refer, or document referring, the patient to a specialist for mental health care. While the patient chart indicated that you prescribed Dextroamphetamine for narcolepsy, there was no documentation of an evaluation or work up done to support such a diagnosis. If the patient actually had narcolepsy, then neither Vicodin nor Xanax should have been prescribed as they are contraindicated for narcolepsy, and your dosing of Dextroamphetamine was inappropriate.

- (k) You provided care to Patient 11 from in or around April 2011 to at least in or around November 2012, for complaints that included pain, depression, anxiety, and narcolepsy. Your treatment included prescribing Vicodin, Xanax, and Methylphenidate. You inappropriately prescribed Vicodin to Patient 11 on a long-term basis, as there was no appropriate documentation that the patient had a disorder requiring this medication. You also failed to take appropriate action, or document taking appropriate action, when presented with a known patient history of drug and alcohol abuse, including multiple DUI offenses, and treatment for drug rehabilitation, as you continued to prescribe narcotic medications and benzodiazepines. You failed to refer, or document referring, the patient to an addiction specialist or pain management specialist. In addition, you failed to document discussing the risks of tolerance and addiction with the patient, or the risk of possible acetaminophen overdose. Further, you failed to utilize, or document utilizing, common assessment tools to evaluate the risks associated with prescribing Vicodin and Xanax. Your documentation was also improper. In September 2012, the patient's psychiatric disorders and impairment due to alcohol or drugs were documented in the patient chart; however, in October 2012, you completed a state/government form indicating that the patient had no psychiatric disorders and that impairment from due to alcohol or drugs

was “in past.” In addition, you failed to refer the patient, or document referring, the patient to a mental health specialist on a timely basis. Although the patient chart indicated that you prescribed Methylphenidate for narcolepsy, there was no documentation of an evaluation or work up done to support such a diagnosis. If the patient had narcolepsy, neither Vicodin nor Xanax should have been prescribed as they are contraindicated for narcolepsy, and your dosing of Methylphenidate was inappropriate.

- (l) You provided care to Patient 12 from in or around March 2010 to at least in or around July 2012, for complaints that included endometriosis and gastritis. Your treatment included prescribing Tylenol #3, Percocet, Adipex and Methylphenidate. You inappropriately prescribed narcotic medications to this patient, as there was no documentation or test results which showed that the patient had a medical problem requiring such medications. You further failed to document the need to utilize more than one narcotic medication. You also failed to utilize, or document utilizing, common assessment tools to evaluate the risks associated with prescribing narcotic medications. In addition, you failed to document discussing the risks of tolerance and addiction with the patient, or the risk of possible acetaminophen overdose. Further, you inappropriately prescribed Adipex to Patient 12, as you failed to calculate her BMI, you prescribed the medication for longer than 12 weeks, and you continued to prescribe the medication even though the patient did not lose weight. In addition, you inappropriately prescribed Methylphenidate as there was no documentation of an evaluation or work up done for requiring such medication, and the documentation was inadequate.
- (m) You provided care to Patient 13 for several years to at least June 2012. Your treatment included prescribing weight loss medication, including Adipex, Meridia and Xenical. You failed to calculate the patient’s BMI, you prescribed the medication for longer than 12 weeks, and you continued to prescribe the medication even though the patient did not lose weight. In addition, your documentation was inadequate.
- (n) You provided care to Patient 14 from in or around 2000 to at least in or around September 2012, for complaints of pain and narcolepsy. Your treatment included prescribing Percocet, Vicodin, and Methylphenidate. You inappropriately prescribed narcotic medications to the patient on a long-term basis, as there was no appropriate documentation that the patient actually needed such medications. You failed to utilize, or document utilizing, common assessment tools to evaluate the risks associated with prescribing narcotic medications. In addition, you failed to document discussing the risks of tolerance and addiction with the patient, or the risk of possible acetaminophen overdose. While the patient had a history of alcohol and chemical dependence, and toxicology screens were positive for

amphetamine and cannabinoids, you failed to address, or document addressing, that issue with the patient. In addition, you inappropriately prescribed Methylphenidate and Dextroamphetamine, as there was no documentation of an evaluation or work up done for to support a diagnosis of narcolepsy. If the patient had narcolepsy, then narcotics medications should not have been prescribed as they are contraindicated for narcolepsy, and your dosing was inappropriate. In addition, your documentation was inadequate, as you initially indicated that Methylphenidate and Dextroamphetamine were prescribed for narcolepsy, but it was subsequently noted that they were prescribed for ADHD.

- (o) You provided care to Patient 15 from in or around 2001 to at least in or around September 2012, for complaints that included pain and narcolepsy. Your treatment included prescribing Vicodin, benzodiazepines, Methylphenidate and Dextroamphetamine. You inappropriately prescribed Vicodin to the patient on a chronic basis, as there was no appropriate documentation that the patient had a condition that required such medication. In addition, you failed to document discussing the risks of tolerance and addiction with the patient, or the risk of possible acetaminophen overdose. Further, you failed to utilize, or documenting utilizing, common assessment tools to evaluate the risks associated with prescribing narcotic medications. While there were indications of potential misuse/abuse of narcotics by the patient (such as receiving multiple narcotic medications from multiple providers, losing medication and asking specifically for Oxycontin), you failed to address, or document addressing, those issues with the patient. You also inappropriately prescribed Valium, Ativan and Xanax at various times and at various doses to the patient, without documenting an adequate justification for changing medications and doses, and without making an appropriate diagnosis. Further, you inappropriately prescribed Methylphenidate and Dextroamphetamine for narcolepsy, as there was no documentation of an evaluation or work up done to support such a diagnosis. If the patient had narcolepsy, then narcotics medications and benzodiazepines should not have been prescribed as they are contraindicated for narcolepsy, and your dosing was inappropriate.
- (p) You provided care to Patient 16 from in or around 2009 to at least in or around July 2012, for complaints that included pain and anxiety. Your treatment included prescribing Vicodin and Xanax. You inappropriately prescribed Vicodin to the patient on a long-term basis, as there was no appropriate documentation that the patient had a medical condition requiring such medication. While the patient chart mentioned a referral to a neurosurgeon, there is no documentation that the patient saw a specialist or what recommendations may have been made. You also failed to document discussing the risks of tolerance and addiction with the patient, or the risk of possible acetaminophen overdose. Further, you failed to utilize, or

document utilizing, common assessment tools to evaluate the risks associated with prescribing narcotic medications. In addition, you inappropriately prescribed Xanax to the patient at various times and at various doses, without documenting your reasoning, and your overall documentation was inadequate.

- (q) You provided care to Patient 17 from in or around 2010 to at least in or around July 2012, for complaints that included pain and narcolepsy. Your treatment included prescribing Vicodin, Adipex and Dextroamphetamine. You inappropriately prescribed Vicodin to this patient, as there was no documentation that such medication was required. While the patient chart mentions a referral to a pain clinic, there is no documentation whether the patient saw a specialist, or what recommendations may have been made. In addition, you failed to document discussing the risks of tolerance and addiction with the patient, or the risk of possible acetaminophen overdose. Further, you failed to utilize, or document utilizing, common assessment tools to evaluate the risks associated with prescribing narcotic medications. While the patient chart indicated that you prescribed Dextroamphetamine for narcolepsy, there was no documentation of an evaluation or work up done for such a diagnosis. If the patient had narcolepsy, then a narcotic medication should not have been prescribed as it is contraindicated for narcolepsy. Your dosing of Dextroamphetamine was also inappropriate. In addition, you inappropriately prescribed Adipex. You also failed to calculate the patient's BMI, and you prescribed the medication for longer than twelve weeks.
- (3) On or about July 12, 2012, in the routine course of your practice, you conducted an inappropriate examination of Patient 17. You had the patient undress and put on a paper gown. During the examination, you ripped open the front of the patient's paper gown, exposing her, and you commented that it was sexy that she shaved her pubic area. In addition, while performing a breast examination, you pressed your pelvic area against the patient's hand. You also failed to offer the patient the opportunity to have a chaperone in the examination room during this intimate examination.
- (4) In your responses to questions from the Board, you stated in or around February 2013 that you had provided medical care and treatment to Patient 18 since around 2004. You also stated that this patient has been your "significant other" since around 2004. While you indicated that you had maintained a chart for this patient, you stated that you had prescribed a controlled substance to her in or around January 2013. Such prescribing was not in an emergent situation.

Your acts, conduct, and/or omissions that occurred on or after January 1, 2000, as alleged in paragraphs (2)(a) through (2)(q), individually and/or collectively, constitute "[a] departure from, or the failure to conform to, minimal standards of care of similar

practitioners under the same or similar circumstances, whether or not actual injury to a patient is established,” as that clause is used in Section 4731.22(B)(6), Ohio Revised Code.

Further, your acts, conduct, and/or omissions that occurred on or after January 1, 2000, as alleged in paragraphs (2)(a) through (2)(q) above, individually and/or collectively, constitute “[f]ailure to maintain minimal standards applicable to the selection or administration of drugs, or failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease,” as those clauses are used in Section 4731.22(B)(2), Ohio Revised Code.

Further, your acts, conduct, and/or omissions that occurred on or after January 1, 2000, as alleged in paragraphs (2)(b), (2)(c), (2)(d), (2)(e), (2)(g), (2)(h), (2)(i), (2)(j), (2)(k), (2)(l), (2)(n), (2)(o), (2)(p), and (2)(q) above, individually and/or collectively, constitute “violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board,” as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-21-02, Ohio Administrative Code. Pursuant to Rule 4731-21-05, Ohio Administrative Code, a violation of Rule 4731-21-02, Ohio Administrative Code, also violates Section 4731.22(B)(2), Ohio Revised Code, and Section 4731.22(B)(6), Ohio Revised Code.

Further, your acts, conduct, and/or omissions that occurred on or after January 1, 2000, as alleged in paragraphs (2)(a), (2)(f), (2)(g), (2)(h), (2)(i), (2)(j), (2)(l), (2)(m), and (2)(q) above, individually and/or collectively, constitute “violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board,” as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-11-04, Ohio Administrative Code. Pursuant to Rule 4731-11-04(D), Ohio Administrative Code, a violation of Rule 4731-11-04, Ohio Administrative Code, also violates Sections 4731.22(B)(2), (B)(3), and (B)(6), Ohio Revised Code.

Further, your acts, conduct, and/or omissions that occurred on or after January 1, 2000, as alleged in paragraphs (2)(a), (2)(b), (2)(e), (2)(f), (2)(o), and (2)(p) above, individually and/or collectively, constitute “violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board,” as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-11-02(D), Ohio Administrative Code. Pursuant to Rule 4731-11-02(F), Ohio Administrative Code, violation of Rule 4731-11-02(D), Ohio Administrative Code, also constitutes a violation of Sections 4731.22(B)(2) and (B)(6), Ohio Revised Code.

Further, your acts, conduct, and/or omissions that occurred on or after January 1, 2000, as alleged in paragraphs (2)(h), (2)(j), and (2)(k) above, individually and/or collectively, constitute “violating or attempting to violate, directly or indirectly, or

assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board,” as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-11-02(C), Ohio Administrative Code. Pursuant to Rule 4731-11-02(F), Ohio Administrative Code, violation of Rule 4731-11-02(C), Ohio Administrative Code, also constitutes a violation of Sections 4731.22(B)(2) and (B)(6), Ohio Revised Code.

Further, your acts, conduct, and/or omissions that occurred on or after January 1, 2000, as alleged in paragraph (3) above, individually and/or collectively, constitute “violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board,” as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-26-02, Ohio Administrative Code. Pursuant to Rule 4731-26-03(A), Ohio Administrative Code, a violation of Rule 4731-26-02, Ohio Administrative Code, also violates Section 4731.22(B)(6), Ohio Revised Code, which is “a departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established.”

Further, your acts, conduct, and/or omissions that occurred on or after January 1, 2000, as alleged in paragraph (4) above, individually and/or collectively, constitute “violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board,” as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rules 4731-11-08(B) and (C), Ohio Administrative 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 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.  
Secretary

MB/MRB/pev  
Enclosures

CERTIFIED MAIL #91 7199 9991 7033 2026 0320  
RETURN RECEIPT REQUESTED

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

CERTIFIED MAIL #91 7199 9991 7033 2026 0344  
RETURN RECEIPT REQUESTED

**IN THE MATTER OF  
TOM REUTTI STARR, M.D.**

**14-CRF-100**

**AUGUST 13, 2014, NOTICE OF  
OPPORTUNITY FOR HEARING -  
PATIENT KEY**

**SEALED TO  
PROTECT PATIENT  
CONFIDENTIALITY AND  
MAINTAINED IN CASE  
RECORD FILE.**



# State Medical Board of Ohio

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July 14, 2004

Tom Reutti Starr, M.D.  
716 Grant Trail  
Dayton, OH 45459

Dear Doctor Starr:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Sharon W. Murphy, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on July 14, 2004, including motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

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

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

THE STATE MEDICAL BOARD OF OHIO

Lance A. Talmage, M.D.  
Secretary

LAT:jam  
Enclosures

CERTIFIED MAIL NO. 7000 0600 0024 5150 2426  
RETURN RECEIPT REQUESTED

Cc: Elizabeth Y. Collis, Esq.  
CERTIFIED MAIL NO. 7000 0600 0024 5150 2440  
RETURN RECEIPT REQUESTED

*Mailed 7-15-04  
Second mailing 9-7-04*

In the Matter of Tom Reutti Starr, M.D.  
Page 2

Second mailing: CERTIFIED MAIL NO. 7000 0600 0024 5149 9481  
RETURN RECEIPT REQUESTED

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Sharon W. Murphy, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on July 14, 2004, including motions approving and confirming the Findings of Fact, Conclusions and Proposed Order of the Hearing Examiner as the Findings and Order of the State Medical Board of Ohio; constitute a true and complete copy of the Findings and Order of the State Medical Board in the Matter of Tom Reutti Starr, M.D., as it appears in the Journal of the State Medical Board of Ohio.

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



Lance A. Talmage, M.D.  
Secretary

(SEAL)

July 14, 2004  
Date

**BEFORE THE STATE MEDICAL BOARD OF OHIO**

IN THE MATTER OF

\*

\*

TOM REUTTI STARR, M.D.

\*

**ENTRY OF ORDER**

This matter came on for consideration before the State Medical Board of Ohio on July 14, 2004.

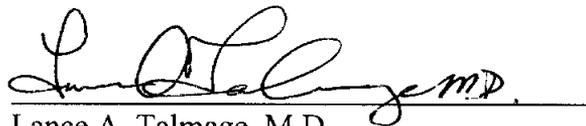
Upon the Report and Recommendation of Sharon W. Murphy, State Medical Board Attorney Hearing Examiner, designated in this Matter pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the approval and confirmation by vote of the Board 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:

1. The certificate of Tom Reutti Starr, M.D., to practice medicine and surgery in the State of Ohio shall be SUSPENDED for fifteen days.
2. All terms and limitations imposed by the Board in its August 8, 2001, Entry of Order shall otherwise remain in effect.

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

(SEAL)

  
Lance A. Talmage, M.D.  
Secretary

July 14, 2004  
Date

STATE MEDICAL BOARD  
OF OHIO

2004 MAY -6 P 4: 18

**REPORT AND RECOMMENDATION  
IN THE MATTER OF TOM REUTTI STARR, M.D.**

The Matter of Tom Reutti Starr, M.D., was heard by Sharon W. Murphy, Esq., Hearing Examiner for the State Medical Board of Ohio, on March 31, 2004.

**INTRODUCTION**

I. Basis for Hearing

- A. By letter dated February 11, 2004, the State Medical Board of Ohio [Board] notified Tom Reutti Starr, M.D., that it had proposed to take disciplinary action against his certificate to practice medicine and surgery in Ohio. The Board's proposed action arose from allegations pertaining to Dr. Starr's history of impairment and his violation of a Board Order. The Board alleged that Dr. Starr's conduct 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”;
  - “[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”; and
  - “violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board, as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-11-08(A), Ohio Administrative Code.”

Accordingly, the Board advised Dr. Starr of his right to request a hearing in this matter. (State's Exhibit 1A)

- B. On February 17, 2004, Elizabeth Y. Collis, Esq., submitted a written hearing request on behalf of Dr. Starr. (State's Exhibit 1B).

II. Appearances

- A. On behalf of the State of Ohio: Jim Petro, Attorney General, by Rebecca J. Albers, Assistant Attorney General.
- B. On behalf of the Respondent: Elizabeth Y. Collis, Esq.

**EVIDENCE EXAMINED**

I. Testimony Heard

- A. Presented by the State
  - 1. Lori Gilbert
  - 2. Danielle Bickers
  - 3. Tom Reutti Starr, M.D., as if on cross-examination
- B. Presented by the Respondent
  - 1. Tom Reutti Starr, M.D.
  - 2. Barron Farrier

II. Exhibits Examined

- A. Presented by the State
  - 1. State's Exhibits 1A-1K: Procedural exhibits.
  - 2. State's Exhibit 2: Certified copies of documents regarding Dr. Starr maintained by the Board, including an August 8, 2001, Entry of Order and a March 14, 2001, notice of opportunity for hearing.
  - 3. State's Exhibit 3: Certified copy of an excerpt from the May 8, 2002, Board meeting minutes as pertaining to Dr. Starr.
- B. Presented by the Respondent
  - 1. Respondent's Exhibit A: A March 22, 2004, letter to Elizabeth Y. Collis, Esq., from Barron Farrier, CCDC III, Case Manager, Ohio Physicians Effectiveness Program, with attached documents.
  - 2. Respondent's Exhibit B: A March 24, 2004, letter to Ms. Collis from Carla C. McConnell, MAT < CCDCIII-E, LSW, Green Hall Outpatient Services.

### SUMMARY OF THE EVIDENCE

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

1. Tom Reutti Starr, M.D., testified that he had received his medical degree in 1961 from Northwestern University Medical School in Chicago, Illinois. Dr. Starr then participated in a residency for one year in the Kaiser Foundation Health System in San Francisco, California, followed by two years of military service. When he returned from the service, Dr. Starr completed a residency in internal medicine at “Northwestern.” In 1967, Dr. Starr began a practice in internal medicine in Dayton, Ohio. He has practiced in Dayton since that time. (Hearing Transcript [Tr.] at 23-24; State’s Exhibit [St. Ex.] 2 at 18).
2. On March 14, 2001, the Board issued to Dr. Starr a notice of opportunity for hearing [2001 Notice] in which the Board proposed to take disciplinary action against Dr. Starr’s certificate to practice medicine and surgery in Ohio. The 2001 Notice was based on Dr. Starr’s alleged 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, in violation of Section 4731.22(B)(26), Ohio Revised Code. (St. Ex. 2 at 38-39).
3. On August 8, 2001, the Board issued an Entry of Order [August 2001 Order]. (St. Ex. 2 at 6-37). The August 2001 Order incorporated a Report and Recommendation which had been issued following an administrative hearing in that matter. In the Report and Recommendation, a Summary of the Evidence provided, in part, as follows:
  - a. Records from Shepherd Hill Hospital in Newark, Ohio, indicate that Dr. Starr had been admitted to that institution on October 8, 1991, for treatment for alcohol dependence and benzodiazepine abuse. Dr. Starr was discharged on November 4, 1991. (St. Ex. 2 at 21) In the Discharge Summary, the History of Present Illness provides as follows:

This 56 year old physician was admitted to Shepherd Hill Hospital on 10-8-91 with a 1½ year history of increased alcohol consumption. He was drinking 5 out of 7 days, 6-10 ounces, and blackouts were occasionally present. He denies tremors, but was taking self-prescribed Ativan 4 times a week, 1.2 mg. Inpatient care was recommended [sic] in June by his treating physician, but the patient bargained into outpatient counseling by a psychiatrist. He was not compliant with the psychiatrist’s recommendations, and was intervened on the evening prior to admission to Shepherd Hill, and

sent to Shepherd Hill for more definitive treatment. His denial and minimization was marked.

(St. Ex. 2 at 21). Further, in a section entitled Shepherd Hill Course, the Discharge Summary provides:

The patient's [sic] remained highly defensive throughout treatment, using denial, intellectualization, rationalization and minimization of his disease, and he was unable to put forth the necessary honesty, openness and willingness to successfully work a recovery program. He appeared unwilling to give up control of his treatment plan, and constantly fought the treatment team, in regards to following their advise. [sic] He appears to want recovery on his own terms, and is unwilling to seprate [sic] needs from wants. He tended to compare out rather than relate to peers, and he has difficulty keeping things simple. He did complete all assigned goal work, including knowledge of the disease; self-diagnosis; steps 1, 2, and 3 of the AA program; cross-addiction/cross-tolerance; an understanding of defenses; AA involvement; and a relapse/relapse prevention. He was strongly encouraged to remain in our healthcare program, with extended care and Mirror Image experience at CORR, but he adamantly refused to agree following these recommendations, and preferred to continue his recovery in his home community. He was discharged from our institution on 11-14-91.

(St. Ex. 2 at 21-22).

- b. On March 2, 2000, a police officer observed Dr. Starr park his car. When Dr. Starr left the car, he appeared to be intoxicated. The officer administered field sobriety tests which Dr. Starr failed. The officer also administered a breathalyzer test which revealed 0.129 grams of alcohol per 210 liters of breath. Dr. Starr was charged with Driving Under the Influence of Alcohol or Drugs or with Certain Concentration of Alcohol in Bodily Substances [DUI], a violation of Sections 4511.19(A)(1) and/or (A)(3), Ohio Revised Code. (St. Ex. 2 at 19-20).
4. The Board concluded that Dr. Starr's conduct constituted "[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." (St. Ex. 2 at 25).

The Board ordered that Dr. Starr's certificate to practice medicine and surgery would be suspended for an indefinite period of time, and imposed interim monitoring conditions and conditions for reinstatement. Among the conditions for reinstatement, the Board ordered

Dr. Starr to complete a minimum of twenty-eight days of inpatient or residential treatment by a treatment provider approved by the Board. (St. Ex. 2 at 8-11)

The Board further ordered that, upon reinstatement, Dr. Starr's certificate to practice medicine and surgery would be subject to certain probationary terms, conditions, and limitations for a period of at least five years. (St. Ex. 2 at 8-14). Under the "Probationary Conditions" section of the August 2001 Order,

- a. Paragraph D.1 states that Dr. Starr "shall continue to be subject to the interim monitoring terms, conditions, and limitations as specified in paragraph B of this Order." Paragraph B.2 of the August 2001 Order provides that Dr. Starr "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 his history of chemical dependency."
- b. Paragraph D.5 also provides that Dr. Starr "shall not, without prior Board approval, administer, dispense, or possess (except as allowed under Paragraph [B.2]) any controlled substances as defined by state or federal law."

(St. Ex. 2 at 8, 13, 15).

5. The Board reinstated Dr. Starr's certificate to practice on May 8, 2002. (St. Ex. 3).
6. Lori Gilbert testified at hearing on behalf of the State. Ms. Gilbert testified that she is the Chief Enforcement Attorney for the Board. Ms. Gilbert further testified that, during the course of her duties as Chief Enforcement Attorney, she had received a voice mail message from Dr. Starr on December 2, 2003. (Tr. at 12-13).

In the voice mail message, Dr. Starr advised that he had taken a Donnatal Extentab and that Donnatal Extentabs contain a small amount of phenobarbital. Dr. Starr further advised that Donnatal Extentab "is an old drug that was used primarily for irritable bowel syndrome." Dr. Starr stated that he had taken the Donnatal Extentab because he had been experiencing abdominal cramping and diarrhea, and had found the pill in the glove compartment of his car. Dr. Starr added that he had advised Barry Farrier of the Ohio Physicians Effectiveness Program and his monitoring physician. Moreover, Dr. Starr advised that he had provided a urine for screening the following day and that he did not know yet the results of that test. (Tr. at 13-14).

Ms. Gilbert testified that, because the information Dr. Starr provided indicated that he might have violated his Board Order, she had initiated a complaint with the Board based on this incident. (Tr. at 15).

7. Danielle Bickers testified at hearing on behalf of the State. Ms. Bickers testified that she is the Compliance Officer for the Board. In that capacity, she monitors the licensees who are currently under the terms of Board Orders or consent agreements. (Tr. at 16).

Ms. Bickers testified that Dr. Starr is one of the probationers she monitors. Ms. Bickers further testified that, on January 12, 2004, Dr. Starr had made an appearance for one of his regularly scheduled quarterly office conferences. Ms. Bickers testified that Raymond Albert, the Supervising Member of the Board; William Schmidt, the Assistant Executive Director; and Ms. Bickers had been present at that office conference. (Tr. at 17).

Ms. Bickers testified that, at the office conference, Dr. Starr had advised that, on November 25, 2003, while traveling home from visiting his son in Indiana, Dr. Starr had suffered abdominal cramping and diarrhea. Dr. Starr further advised that he had taken a Donnatal Extentab from the glove compartment of his car in an attempt to relieve the symptoms. Dr. Starr stated he had found in the glove compartment two tablets from a sample that he had obtained many years earlier. (Tr. at 17-18, 21)

Ms. Bickers also testified that, on November 25, 2003, Dr. Starr had been paged three times by his monitoring physician. The monitoring physician had been attempting to tell Dr. Starr that he must provide a urine sample for random screening that day. Dr. Starr did not respond to the page. The monitoring physician paged Dr. Starr again the following day. Dr. Starr responded to the page and reported to the monitor that he had taken the Donnatal Extentab. The monitoring physician requested that Dr. Starr submit a urine for screening. The screen results were negative. (Tr. at 19-20, 21-22).

8. Ms. Bickers testified that, when a physician leaves the State and will be unavailable for screening, the physician is responsible to notify the Ohio Physicians Effectiveness Program [OPEP] and the Board of that fact. Ms. Bickers further testified that Dr. Starr should have notified the Board before he left the State on November 25, 2003. (Tr. at 21).
9. Dr. Starr testified that a Donnatal Extentab is a controlled substance and that it contains forty-five milligrams of phenobarbital, a barbiturate sedative. He added that the dose of phenobarbital is a low dose, as 100 to 200 milligrams is the dose of phenobarbital usually prescribed. (Tr. at 27).
10. Dr. Starr testified that he had been aware that the terms of his Board Order require that he abstain from having in his possession any medication containing a controlled substance. Dr. Starr further testified, however, that he had not been aware that he had had a Donnatal Extentab in his car. He stated that he had had them for several years. He explained that he has rare episodes of "colitis" or irritable bowel, and that Donnatal Extentab has an anti-cholinergic effect which inhibits bowel tone and helps relieve cramping. Dr. Starr testified that the anti-cholinergic effect is similar to that found in Imodium, an over-the-counter drug. (Tr. at 24-26). Dr. Starr testified that he had not realized that the

Donnatal Extentab contains phenobarbital until that evening, an hour or so after taking the drug. (Tr. at 26-27, 75-76).

Dr. Starr further testified that, on November 25, 2003, he had been called urgently to see his son in Bloomington, Indiana. Dr. Starr testified that he had left Ohio at approximately 7:30 or 8:00 a.m. and had not returned until 6:30 or 7:00 p.m. Dr. Starr added that, while he was out of town, his monitoring physician had tried to contact him to submit a urine specimen for screening. Dr. Starr testified that, when he left Dayton, he had not realized that Bloomington exceeded the range of his pager. Dr. Starr further testified that he and his monitoring physician had not developed a plan to respond to a situation in which Dr. Starr could not be reached by his pager. He added that his office had been open, but he does not expect his monitoring physician to track him down when he does not respond to the page. (Tr. at 25-26, 58-59, 63-67).

Dr. Starr testified that, when he realized that the Donnatal Extentab contained phenobarbital, it had occurred to him that the phenobarbital might be detected in his urine. Therefore, he called his monitoring physician the following morning. A few days later, he also called Barron Farrier from OPEP. Dr. Starr testified that Mr. Farrier had told him to contact Danielle Bickers, which Dr. Starr attempted to do. Dr. Starr testified that when he called the Board, however, he had found that Ms. Bickers was not available so he left a message with Ms. Gilbert. (Tr. at 28, 67-71).

Dr. Starr testified that he does not carry drugs in his car. He stated that the Donnatal Extentab just “happened to be there.” Nevertheless, a few seconds later, Dr. Starr testified that he usually carries something to treat cramping or diarrhea, usually Imodium or another over-the-counter drug. (Tr. at 28-29).

Dr. Starr testified that, although taking the Donnatal Extentab was against the rules, “to his way of thinking \* \* \* it wasn’t that big of a transgression.” He had not thought that the Board would take it too seriously. (Tr. at 71-72).

11. Barron Farrier testified at hearing on behalf of Dr. Starr. Mr. Farrier testified that he is a field service representative and case manager for OPEP. He stated, in brief, that OPEP is a monitoring advocacy program for licensed practitioners who have problems with chemical dependency or mental health issues. Mr. Farrier further stated that his responsibilities at OPEP include monitoring the compliance of practitioners who contract with OPEP and advocating for those practitioners based upon their compliance with their OPEP contract. (Tr. at 33).

Mr. Farrier testified that Dr. Starr is one of his clients. He further testified that Dr. Starr had signed his contract with OPEP in November 2001. Pursuant to the terms of his OPEP contract, Dr. Starr provides random urine for drug screens, attends AA and other self-help group meetings, maintains a relationship with a peer monitor, complies with his Board

Order, complies with the treatment program that was prescribed to him by his original treatment center, and meets with an OPEP representative on a periodic basis. (Tr. at 34-35).

Mr. Farrier further testified that OPEP has been monitoring Dr. Starr's urine screens since November 2001, and that all of the results have been negative. Mr. Farrier admitted, however, that, during that two and one-half years, Dr. Starr had missed two requests to provide urine for screening. Mr. Farrier explained that Dr. Starr had presented acceptable mitigation to justify missing those screens. Dr. Starr's urine is currently being screened one time per week. (Tr. at 37, 45-49; Respondent's Exhibit [Resp. Ex.] A).

Mr. Farrier stated that Dr. Starr has been attending at least three AA meetings per week. He added that OPEP possess attendance logs which verify that Dr. Starr had been attending the requisite number of meetings. Mr. Farrier further testified that Dr. Starr is active in AA service, and has been sponsoring newer people in recovery. (Tr. at 39).

Mr. Farrier testified that he believes that, with this incident, Dr. Starr "has had his attention gotten," and that it is unlikely that he will make a similar mistake in the future. (Tr. at 44-45).

12. On March 24, 2004, Carla C. McConnell, MAT< CCDCIII-E, LSW, of Green Hall Outpatient Services, wrote a letter to Ms. Collis in support of Dr. Starr. In the letter, Ms. McConnell stated that Dr. Starr has been in aftercare with her for more than two and one-half years. She further stated that he has been "faithful in his weekly attendance and is dedicated to continuing to help in the aid and care of others with addiction problems." Moreover, Ms. McConnell stated that, "although I understand the seriousness of this infraction, I do NOT believe that Tom took that tablet with any other thought in mind but to stop the cramping and diarrhea. I hope that the [Board] will take into consideration Tom's recent history with treatment and his dedication to helping others with addiction problems, as I believe Tom is very serious about his own recovery and would never knowingly jeopardize that." (Resp. Ex. B).
13. Dr. Starr testified that he has not had alcohol of any kind since his sobriety date of March 1, 2001. He added that he has not had any urge to drink. Dr. Starr testified that he had been depressed in the past, but he is not now. He stated that he is happy and enjoys his life. Dr. Starr testified that he exercises regularly and has an active social life. He added that he has a lot of friends in the AA community. Since he lives alone, and realizes that loneliness is a trigger for his drinking, he keeps himself busy. He participates in AA activities, and sings in the choir and leads the Adult Sunday School at his church. Dr. Starr also audits a course on Christian Ethics and Doctrine at the University of Dayton. (Tr. at 54, 56-57, 60-61).

Dr. Starr testified that he continues to attend aftercare meetings once per week, even though he has completed his aftercare requirements. He also attends a weekly Caduceus meeting, and two other AA meetings per week. (Tr. at 53-56).

## FINDINGS OF FACT

1. On March 14, 2001, the Board issued to Tom Reutti Starr, M.D., a notice of opportunity for hearing in which it proposed to take disciplinary action against Dr. Starr's certificate to practice medicine and surgery in Ohio. The notice of opportunity for hearing was based on allegations that Dr. Starr was impaired of his ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice, in violation of Section 4731.22(B)(26), Ohio Revised Code.
2. On August 8, 2001, following an administrative hearing, the Board issued an Entry of Order [August 2001 Order] that included a finding that Dr. Starr had violated Section 4731.22(B)(26), Ohio Revised Code. The Board suspended Dr. Starr's certificate to practice medicine and surgery for an indefinite period of time, and imposed interim monitoring conditions and conditions for reinstatement. This Order further provided that, upon reinstatement, Dr. Starr's certificate to practice medicine and surgery would be subject to certain probationary terms, conditions and limitations for a period of at least five years.

Since the Board's reinstatement of Dr. Starr's certificate on May 8, 2002, Dr. Starr has been subject to all the probationary terms, conditions and limitations of the August 2001 Order.

3. Under the "Probationary Conditions" section of the August 2001 Order,
  - a. Paragraph D.1 states that Dr. Starr "shall continue to be subject to the interim monitoring terms, conditions, and limitations as specified in paragraph B of this Order." Paragraph B.2 of the August 2001 Order further provides that Dr. Starr "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 his history of chemical dependency."
  - b. Paragraph D.5 also provides that Dr. Starr "shall not, without prior Board approval, administer, dispense, or possess (except as allowed under [paragraph B.2]) any controlled substances as defined by state or federal law."

Despite these provisions in the August 2001 Order, on or about December 2, 2003, Dr. Starr informed Board staff that he had taken a pill containing phenobarbital. Dr. Starr further informed Board staff that the pill was a Donnatal Extentab, which was in the glove compartment of his vehicle; that he had taken it accidentally for abdominal cramping; and that he had told his monitoring physician of the incident.

4. On January 12, 2004, Dr. Starr admitted to Board staff that, on November 25, 2003, he had been paged three times to give a urine specimen for toxicology screening. Nevertheless, Dr. Starr had not responded for the stated reason that he had been out of the range of his pager. Dr. Starr also admitted that, on November 25, 2003:
  - a. He had taken Donnatal Extentab, which contained forty-five milligrams of phenobarbital;
  - b. He had had the Donnatal Extentab in the glove compartment of his vehicle from an office drug sample obtained “a long time ago”;
  - c. He had ingested the Donnatal Extentab because he was in distress from diarrhea and abdominal cramping;
  - d. He took the Donnatal Extentab by accident and without thinking that it contained phenobarbital, and Dr. Starr did not realize until later that evening that the Donnatal Extentab contained phenobarbital; and
  - e. On November 26, 2003, Dr. Starr advised his monitoring physician of the incident.
5. Dr. Starr violated the terms of the August 2001 Board Order by taking the Donnatal Extentab that had not been prescribed, dispensed or administered to him by another so authorized by law who had full knowledge of his history of chemical dependency, and also by possessing the controlled substance and keeping it in the glove compartment of his vehicle.

### **CONCLUSIONS OF LAW**

1. The conduct of Tom Reutti Starr, M.D., as set forth in Findings of Fact 3 through 5, constitutes a “[v]iolation of the conditions of limitation placed by the board upon a certificate to practice,” as that clause is used in Section 4731.22(B)(15), Ohio Revised Code.
2. The conduct of Dr. Starr, as set forth in Findings of Fact 2 through 5, constitutes “[i]mpairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice,” as that clause is used in Section 4731.22(B)(26), Ohio Revised Code.
3. Rule 4731-11-08(A), Ohio Administrative Code, prohibits a physician from self-administering controlled substances. Accordingly, the conduct of Dr. Starr, as set forth in

Findings of Fact 3 through 5, constitutes "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board," as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-11-08(A), Ohio Administrative Code.

\* \* \* \* \*

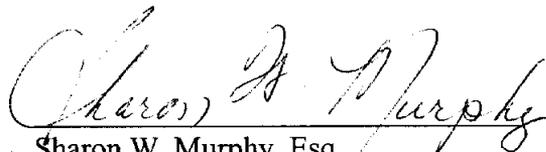
The evidence does not support a conclusion that Dr. Starr intentionally ingested a controlled substance in knowing violation of his Board Order. Nevertheless, Dr. Starr's actions did violate the Board Order. Moreover, it is apparent that Dr. Starr has been reckless in adhering to the terms of that Order. It is clear that, prior to this incident, Dr. Starr had not appreciated that failing to provide urine for screening when requested, or taking medications without careful consideration, can lead severe sanctions and, possibly, the permanent revocation of his license to practice medicine and surgery in this State. Hopefully, Dr. Starr has learned from the current action and will not repeat such conduct in the future.

**PROPOSED ORDER**

It is hereby ORDERED that:

1. The certificate of Tom Reutti Starr, M.D., to practice medicine and surgery in the State of Ohio shall be SUSPENDED for fifteen days.
2. All terms and limitations imposed by the Board in its August 8, 2001, Entry of Order shall otherwise remain in effect.

This Order shall become effective thirty days from the date of mailing of notification of approval by the Board.

  
Sharon W. Murphy, Esq.  
Hearing Examiner



# State Medical Board of Ohio

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

## EXCERPT FROM THE DRAFT MINUTES OF JULY 14, 2004

### REPORTS AND RECOMMENDATIONS

Ms. Sloan announced that the Board would now consider the findings and orders appearing on the Board's agenda. She asked whether each member of the Board had received, read, and considered the hearing records, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Jeremy Amps, M.D.; Robert A. Berkman, M.D.; Jeremy John Burdge, M.D.; David A. Hoxie, M.D.; Jeffrey Thomas Jones, P.A.; Tom Reutti Starr, M.D.; and Karen Ann Vossler, M.T. A roll call was taken:

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

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

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

Dr. Steinbergh - aye  
Ms. Sloan - aye

Ms. Sloan 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.

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

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

.....  
Dr. Talmage left the meeting at this time.

.....  
TOM REUTTI STARR, M.D.

.....  
**DR. BHATI MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF TOM REUTTI STARR, M.D. MR. BROWNING SECONDED THE MOTION.**

.....  
A vote was taken on Dr. Bhati's motion to approve and confirm:

Vote:

Mr. Albert	- abstain
Dr. Egner	- aye
Dr. Talmage	- abstain
Dr. Bhati	- aye
Dr. Buchan	- aye
Dr. Kumar	- abstain
Mr. Browning	- aye
Dr. Davidson	- aye
Dr. Robbins	- aye
Dr. Garg	- aye

Dr. Steinbergh - aye

The motion carried.

.....

Dr. Egner left the meeting at this time.

.....

**DR. STEINBERGH MOVED TO GRANT DR. STARR'S REQUEST TO BEGIN THE  
SUSPENSION PERIOD IMMEDIATELY. MR. BROWNING SECONDED THE MOTION.** A vote  
was taken:

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

The motion carried.



# State Medical Board of Ohio

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

February 11, 2004

Tom Reutti Starr, M.D.  
716 Grant Trail  
Dayton, Ohio 45459

Dear Doctor Starr:

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

- (1) On or about March 14, 2001, the Board issued to you a Notice of Opportunity for Hearing [Notice] in which it proposed to take disciplinary action against your certificate to practice medicine and surgery in Ohio. Such Notice was based on your alleged 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, in violation of Section 4731.22(B)(26), Ohio Revised Code. A copy of the Notice is attached and fully incorporated herein.
- (2) On or about August 8, 2001, following an administrative hearing, the Board issued an Entry of Order [August 2001 Order] that included a finding that you had violated Section 4731.22(B)(26), Ohio Revised Code. Pursuant to the August 2001 Order, your certificate to practice medicine and surgery was suspended for an indefinite period of time, and interim monitoring conditions and conditions for reinstatement were established. This Order further provided that, upon reinstatement, your certificate to practice medicine and surgery would be subject to certain probationary terms, conditions and limitations for a period of at least five years. A copy of the August 2001 Order is attached and fully incorporated herein.

Since the Board's reinstatement of your certificate on or about May 8, 2002, you have been subject to all the probationary terms, conditions and limitations of the August 2001 Order.

- (3) Under the "Probationary Conditions" section of the August 2001 Order,

*Mailed 2-12-04*

- (a) Paragraph D.1 states that you “shall continue to be subject to the interim monitoring terms, conditions, and limitations as specified in paragraph B of this Order.” Paragraph B.2 of the August 2001 Order further provides that you “shall abstain completely from the personal use or possession of drugs, except those prescribed, dispensed or administered to [you] by another so authorized by law who has full knowledge of [your] history of chemical dependency.”
- (b) Paragraph D.5 also provides that you “shall not, without prior Board approval, administer, dispense, or possess (except as allowed under Paragraph...[ B.2, as corrected in the errata sheet for the report and recommendation], above) any controlled substances as defined by state or federal law.”

Despite these provisions in the August 2001 Order, on or about December 2, 2003, you informed Board staff that you accidentally took a pill containing Phenobarbital. You further informed Board staff that the pill was a Donnatal Extend Tab, which was in the glove box of your vehicle; that you took it accidentally for cramping in the abdomen; and that you told your monitoring physician of the incident.

On or about January 12, 2004, you admitted to Board staff that, on or about November 25, 2003, you were paged three times to give a screen but you did not respond, stating that you did not respond because you were out of range of your pager. You also admitted that, on or about November 25, 2003, you took Donnatal Extend Tab, which contained 45 mgs. of Phenobarbital; that you had possession of this drug in the glove compartment of your vehicle from a long time ago; that the Donnatal Extend Tab was an old “sample pack” or drug sample from your office; that you accidentally ingested the Donnatal Extend Tab because you were in distress from a severe bout of diarrhea; that you took the Donnatal Extend Tab by accident and without thinking that it contained Phenobarbital, as it did not dawn on you until later that evening that it contained Phenobarbital; and that on or around November 26, 2003, you told your monitoring doctor of the incident.

By taking the Donnatal Extend Tab that had not been prescribed, dispensed or administered to you by another so authorized by law who had full knowledge of your history of chemical dependency, and also possessing such a controlled substance and keeping it in the glove box of your vehicle, you violated the terms of the August 2001 Order.

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

Further, your acts, conduct, and/or omissions as alleged in paragraphs (1) 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 (3) above, individually and/or collectively, constitute “violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board,” as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-11-08(A), Ohio Administrative 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 medicine and surgery or to reprimand or place you on probation.

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

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Lance A. Talmage, M.D.  
Secretary

LAT/blt  
Enclosures

CERTIFIED MAIL # 7000 0600 0024 5141 6655  
RETURN RECEIPT REQUESTED

cc: Elizabeth Y. Collis, Esq.  
1560 Fishinger Road  
Upper Arlington, Ohio 43221

CERTIFIED MAIL#7000 0600 0024 5141 6662  
RETURN RECEIPT REQUESTED

IN THE COURT OF COMMON PLEAS  
FRANKLIN COUNTY, OHIO

TOM REUTTI STARR, M.D., :  
 :  
 Appellant, :  
 :  
 vs. : Case No. 01CVF08-8524  
 :  
 : JUDGE MICHAEL WATSON  
 STATE MEDICAL BOARD OF OHIO, :  
 :  
 Appellee. :  
 :

**JUDGMENT ENTRY**  
**AFFIRMING THE AUGUST 8, 2001 ORDER OF**  
**THE STATE MEDICAL BOARD OF OHIO**

This case is before the Court upon the appeal, pursuant to R.C. 119.12, of the August 8, 2001 order of the State Medical Board of Ohio which indefinitely suspended the medical license of Appellant, Tom Reutti Starr, M.D., and imposed certain specified conditions of reinstatement and probation. For the reasons stated in the decision of this Court filed on March 29, 2002, which decision is incorporated by reference as if fully rewritten herein, it is hereby

ORDERED, ADJUDGED AND DECREED that judgment is hereby entered in favor of Appellee, State Medical Board of Ohio, and the August 8, 2001 order of the State Medical Board in the matter of Tom Reutti Starr, M.D. is hereby **AFFIRMED**. Costs to Appellant.

CLERK OF COURTS - CIVIL  
FRANKLIN COUNTY, OHIO  
02 APR - 5 11 11

IT IS SO ORDERED.



JUDGE MICHAEL WATSON



ELIZABETH COLLIS  
Counsel for Appellant

*authorization*



REBECCA ALBERS  
Counsel for Appellee

# FINAL APPEALABLE ORDER

## COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

Tom Reutti Starr, M.D.,

Case No. 01CVF08-8524

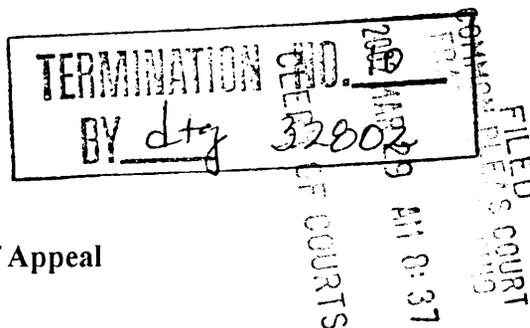
Appellant,

Judge Watson

v.

State Medical Board of Ohio,

Appellee.



### Decision on Merits of Appeal

Entered this 28<sup>th</sup> day of March, 2002.

This action is before the Court upon appeal by Tom Reutti Starr, M.D. ("Appellant") from an indefinite suspension of his license to practice medicine. That suspension was imposed by the State of Ohio Medical Board ("Board") by an Order dated August 8, 2001. Pursuant to R.C. 119.12, Appellant seeks review by this Court.

Appellant was given notice by the Board by Notice of Opportunity for Hearing, dated March 14, 2001, that Appellant had violated R.C. 4731.22(B)(26). The specific allegation was that Appellant's actions constituted an "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."

The reasons specified by the Board are summarized as follows:

On October 8, 1991, you admitted yourself to Shepherd Hill Hospital in Newark, Ohio. You were diagnosed as suffering from alcohol dependence and benzodiazepine abuse. You were discharged November 4, 1991. On January 9, 2001, you admitted to a State Medical Board Enforcement Investigator that you had consumed alcohol with friends and last drank one week ago. You admitted that you drink vodka straight, one or two shots at a time and that you had smoked marihuana once.

On March 2, 2001, you failed sobriety tests and were arrested and charged with violations of R.C. 4511.19, driving under the influence. A breathalyzer indicated a blood alcohol level of .129

An administrative hearing was conducted before a Hearing Examiner for the Board on June 7, 2001.

The Hearing Examiner's Recommendation was that Appellant's license to practice be indefinitely suspended and that a twenty-eight (28) day inpatient treatment program for alcohol dependence be attended. The Board adopted this recommendation. This Court stayed the Board's Order upon the condition of completion of a rehabilitation program and urine screens.

There are few factual disputes surrounding this action. Appellant admits that he was charged with driving under the influence on March 2, 2001. While that charge has been dropped to a lesser offense, the fact remains that Appellant tested at .129 blood alcohol level. Appellant does not dispute that he has had an alcohol problem in the past and which he attempted to address by treatment at Shepard Hill Hospital in 1991. Appellant admits a relapse in 2000, which in turn led to the events giving rise to the evening of March 2<sup>nd</sup>. Appellant testified that he had begun attending AA and Caduceus meetings again and had remained sober since the above incident. Appellant offered evidence from a Dr. H. Allen Feller, who has shared office space with Appellant and known him since 1968. Dr. Feller stated that he was never aware of any situation at work which suggested impairment due to alcohol. The Board's Hearing Examiner received evidence from Beaver Creek Police Officers Darkow and Wright as well as testimony from Investigator McGlaun. The Board also accepted statements at its meeting from Appellant and his attorney.

The Board's action was based upon R.C. 4731.22. Specifically, it provides:

4731.22 Grounds for discipline; investigations; reinstatement; withdrawal of application; quality intervention program.

(B) The board, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend an individual's certificate to practice, refuse to register an individual, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate for one or more of the following reasons:

(26) Impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice.

The Board's Order specified that Appellant's license to practice would be indefinitely suspended. It also detailed specific actions to be taken by Appellant with respect to in-patient treatment, aftercare, supervising physician, drug and alcohol screening, and additional regimen. It is noted with approval that Appellant has attended and completed an in-patient treatment program and has been successfully undergoing urine screenings as a condition of the stay of the Board's Order.

R.C. 119.12 and the multitude of cases addressing that section govern review by this Court of an administrative agency, such as the Medical Board. The most often cited case is that of *Univ. of Cincinnati v. Conrad* (1980), 63 Ohio St. 2d 108, 407 N.E.2d 1265. The *Conrad* decision states that in an administrative appeal filed pursuant to R.C. 119.12, the trial court must review the agency's order to determine whether it is supported by reliable, probative and substantial evidence and is in accordance with law.

The Court states at pages 111 and 112 that:

In undertaking this hybrid form of review, the Court of Common Pleas must give due deference to the administrative resolution of evidentiary conflicts. For example, when the evidence before the court consists of conflicting testimony of approximately equal weight, the court should defer to the determination of the administrative body, which, as the fact-

finder, had the opportunity to observe the demeanor of the witnesses and weigh their credibility. However, the findings of the agency are by no means conclusive.

Where the court, in its appraisal of the evidence, determines that there exist legally significant reasons for discrediting certain evidence relied upon by the administrative body, and necessary to its determination, the court may reverse, vacate or modify the administrative order. Thus, where a witness' testimony is internally inconsistent, or is impeached by evidence of a prior inconsistent statement, the court may properly decide that such testimony should be given no weight. Likewise, where it appears that the administrative determination rests upon inferences improperly drawn from the evidence adduced, the court may reverse the administrative order.

The *Conrad* case has been cited with approval numerous times. *Ohio Historical Soc. v. State Emp. Relations Bd.* (1993), 66 Ohio St. 3d 466, 471, 613 N.E.2d 591 noted *Conrad* and stated that although a review of applicable law is *de novo*, the reviewing court should defer to the agency's factual findings. See also *Pons v. Ohio State Med. Board* (1993), 66 Ohio St. 3d 619, 614 N.E.3d 748. The standard has been reiterated in *Herman v. State Medical Board* (November 28, 2000), Franklin App. No. 99AP-967, 2000 Ohio App. LEXIS 5514.

The Medical Board has promulgated an entire Ohio Administrative Code Section addressing impairment related considerations. (OAC 4731-16 *et seq.*) While Appellant denied that his relapse had affected any patient care, the Board members, as triers of fact, are entitled to examine all of the circumstances and to use their expertise in addressing the serious consideration of whether Appellant's alcohol impairment creates the likelihood of serious consequences in his practice. The Board, while levying an indefinite suspension, set out the goals to be accomplished by Appellant. From the progress made so far, it would seem likely that Appellant will put the other requirements of the Board in place and seek reinstatement. Given Appellant's efforts thus far, the

Court would anticipate that after a reasonable period of monitoring the Board would lift the suspension upon application by Appellant.

Upon review of the evidence of record and the arguments of counsel, the Court must AFFIRM the Order of the Medical Board. The Court finds that the Order is supported by reliable, probative, and substantial evidence and in accordance with law. Counsel for the Board shall prepare a Judgment Entry pursuant to Local Rule 25.04.

  
\_\_\_\_\_  
MICHAEL H. WATSON, JUDGE

Copies to:  
Elizabeth Y. Collis  
1560 Fishinger Road  
Columbus, OH 43221  
Attorney for Appellant

Rebecca J. Albers  
Assistant Attorney General  
30 E. Broad St.  
26<sup>th</sup> Floor  
Columbus, OH 43215-3428  
Attorney for Appellee

SEP 18 2001

IN THE COURT OF COMMON PLEAS  
FRANKLIN COUNTY, OHIO

TOM REUTTI STARR, M.D.

Appellant,

vs.

STATE MEDICAL BOARD OF OHIO

Appellee

0107408-8524

Case No. \_\_\_\_\_

JUDGE \_\_\_\_\_

---

MOTION FOR EXPEDITED HEARING

---

Pursuant to Ohio Revised Code Section 119.12, Appellant has requested that this Court stay the pending order of the medical board, which suspended his license to practice for an indefinite period of time. A stay is not automatic and is at the discretion of the Court. Counsel therefore respectfully requests this Court to set a hearing at its earliest convenience to hear oral argument regarding *Appellant's Motion to Stay Medical Board Order*.

FILED COURT  
COMMON PLEAS CO. OHIO  
2001 AUG 31 AM 10:58  
CLERK OF COURTS-CV

Respectfully submitted,

*Elizabeth Y. Collis*

Elizabeth Y. Collis (#0061961)  
1560 Fishinger Road  
Upper Arlington, Ohio 43221  
(614) 488-8692  
Counsel for Appellant

SEP 18 2001

Certificate of Service

I certify that the *Motion for an Expedited Hearing* was served upon Rebecca Albers, Assistant Attorney General, Office of the Ohio Attorney General, Health and Human Services Section, 30 East Broad Street, 26<sup>th</sup> Floor, Columbus, Ohio 43215 by regular U.S. mail, postage prepaid, and by facsimile on August 31, 2001.

  
Elizabeth Y. Collis

FILED  
COMMON PLEAS COURT  
FRANKLIN COUNTY, OHIO  
IN THE COMMON PLEAS COURT OF FRANKLIN COUNTY, OHIO  
2001 SEP 12 AM 10:48

OHIO STATE MEDICAL BOARD  
SEP 14 2001

Tom Reutti Starr, M.D.,  
Appellant,  
vs.  
State Medical Board of Ohio,  
Appellee.

CLERK OF COURTS

Case No. 01CVF08-8524

Judge Michael H. Watson

**DECISION AND ENTRY SUSTAINING THE MOTION OF APPELLANT TO STAY  
MEDICAL BOARD ORDER**

Rendered this 11<sup>th</sup> day of September, 2001.

WATSON, JUDGE

Before the Court is the Motion of Appellant Tom Reutti Starr, M.D. (hereinafter "Appellant") to Stay Medical Board Order. Appellee State Medical Board of Ohio (hereinafter "Appellee") filed a Memorandum in Opposition on September 5, 2001. Additionally, the Court conducted a status conference on September 5, 2001.

Appellant seeks, pursuant to O.R.C. §119.12, an order from the Court staying the pending order of Appellee which suspends Appellants license to practice medicine for an indefinite period of time. Upon consideration of the parties' respective briefs and arguments presented at the September 5, 2001 status conference, the Court hereby **STAYS** the suspension of Appellant's license to practice medicine during the pendency of this action. However, the stay is conditioned upon Appellant complying with the following conditions:

- Appellant shall enter, on or before September 21, 2001, and successfully complete, a twenty-eight (28) day treatment program at Greene Memorial Hospital in Xenia, Ohio;
- With the exception of the time Appellant is enrolled in the twenty-eight (28) day treatment program, Appellant shall submit to daily, random urine

OHIO STATE JUDICIAL BOARD

SEP 14 2001

screens at CompuNet Laboratory, 2600 Far Hills Avenue, Dayton, Ohio 45429, and test clean for drugs and alcohol during the pendency of this action. During the time Appellant is enrolled in the twenty-eight (28) day treatment program, Appellant shall submit to daily, random urine screens at Greene Memorial Hospital; and

- Appellant shall provide the Court with the recommendations for after-care from the twenty-eight (28) treatment program and shall follow all the recommendations.

Failure to comply strictly with any of the above stated conditions shall result in an immediate termination of the stay. Additionally, if it is determined that Appellant is using another individual's urine for the daily, random urine screens, the stay shall be immediately terminated. Finally, CompuNet Laboratory shall notify the Court of any urine screen which is positive for drugs or alcohol.

  
MICHAEL H. WATSON, JUDGE

Copies to:

Elizabeth Y. Collis, Esq.  
1560 Fishinger Road  
Upper Arlington, OH 43221  
Counsel for Appellant

Rebecca Albers  
Assistant Attorney General  
30 E. Broad St.  
26<sup>th</sup> Floor  
Columbus, OH 43215-3428

CompuNet Laboratory  
2600 Far Hills Avenue  
Dayton, Ohio 45429

c/o Diane Gamble  
Fax - 937-294-5672

**OHIO STATE MEDICAL BOARD**  
**SEP 18 2001**

IN THE COURT OF COMMON PLEAS  
FRANKLIN COUNTY, OHIO

TOM REUTTI STARR, M.D. : **01CVF08-8524**  
Appellant, : Case No. \_\_\_\_\_  
 :  
vs. : JUDGE Watson  
 :  
STATE MEDICAL BOARD OF OHIO :  
Appellee :

---

NOTICE OF APPEAL

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Appellant, Tom Reutti Starr, M.D., pursuant to Ohio Revised Code Section 119.12 hereby appeals the final decision of the Ohio State Medical Board ("Appellee") which indefinitely suspended Appellant's license to practice medicine in its Adjudication Order (attached hereto) issued on August 8, 2001 and mailed to appellant on August 23, 2001.

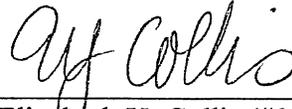
Appellant asserts that the decision of the Ohio State Medical Board is not

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COMMON PLEAS COURT  
FRANKLIN CO. OHIO  
2001 AUG 31 AM 10:58  
CLERK OF COURTS-CV

SEP 18 2001

supported by reliable, probative and substantial evidence and is not in accordance with  
law.

Respectfully submitted,



Elizabeth Y. Collis (#0061961)  
1560 Fishinger Road  
Columbus, Ohio 43221  
(614) 488-8692  
COUNSEL FOR APPELLANT

Certificate of Service

I certify that the *Notice of Appeal* was served upon Rebecca Albers, Assistant Attorney General, Office of the Ohio Attorney General, Health and Human Services Section, 30 East Broad Street, 26<sup>th</sup> Floor, Columbus, Ohio 43215 by regular U.S. mail, postage prepaid, and by facsimile on August 31, 2001.



Elizabeth Y. Collis

**OHIO STATE MEDICAL BOARD**  
**SEP 18 2001**

IN THE COURT OF COMMON PLEAS  
FRANKLIN COUNTY, OHIO

TOM REUTTI STARR, M.D. :

Appellant, : Case No. \_\_\_\_\_

vs. : JUDGE \_\_\_\_\_

STATE MEDICAL BOARD OF OHIO :

Appellee :

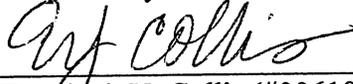
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MOTION TO STAY MEDICAL BOARD ORDER

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Pursuant to Ohio Revised Code Section 119.12, Appellant Tom Reutti Starr, M.D. ("Appellant") respectfully requests that the State Medical Board of Ohio (hereinafter "Board") Order issued on August 8, 2001, which suspended Appellant's license to practice medicine for an indefinite period of time be stayed pending the final decision of this Court.

Attached is Appellant's Memorandum in Support of Appellant's Motion to Stay

Respectfully submitted,  
  
 Elizabeth Y. Collis (#0061961)  
 1560 Fishinger Road  
 Upper Arlington, Ohio 43221  
 (614) 488-8692  
 Counsel for Appellant

FILED  
 COMMON PLEAS COURT  
 FRANKLIN CO. OHIO  
 2001 AUG 31 AH 10:58  
 CLERK OF COURTS - CV

SEP 18 2001

MEMORANDUM IN SUPPORT

Ohio Revised Code section 119.12 gives the Court the authority to stay a board order pending the final decision by the Court. Appellant respectfully requests that this Court stay the medical board order suspending his license to practice, pending the final decision by this Court.

**I. Factual and Procedural History**

On March 14, 2001 the Board issued a *Notice of Opportunity for Hearing* to Appellant wherein the Board alleged that Appellant violated R.C. 4731.22(B)(26) in that his acts constituted,

“ . . . impairment of ability to practice according to acceptable and prevailing standards of care because of drug, alcohol, or other substances that impair ability to practice.” R.C. 4731.22 (B)(22). (See *Notice* attached hereto as Exhibit 1)

In support of the Board's allegations the *Notice* states that on or about October 8, 1991 Appellant admitted himself to Shepard Hill Hospital where he was diagnosed as suffering from alcohol dependence and benzodiazepine abuse. The Board further alleged that on or about January 9, 2001 Appellant admit to a board investigator that he had consumed alcohol with friends. Finally, the Board alleged that on or about March 2, 2001 Appellant failed several sobriety tests and was charged with Driving while under the Influence.

On June 7, 2001 an administrative hearing was held before Attorney Hearing Examiner R. Gregory Porter. At the hearing, Appellant testified that in 1991 he admitted himself into Shepard Hill Hospital suffering from alcohol dependence, but denied ever

SEP 18 2001

having abused benzodiazepines. (Tr. 76) Appellant testified that after completing a 28-day inpatient treatment program that he remained sober for approximately ten years. (Tr. 72-73) Appellant admit at the administrative hearing that some time in 2000 he suffered a brief relapse and again began drinking alcohol. (Tr. 74) Appellant testified that on or about March 2, 2001 he was charged with Driving while under the Influence of alcohol. Appellant has remained sober since March 2, 2001 and he has regularly attended Alcoholics Anonymous ("AA") and Caduceus meetings since March 2001. (Tr. 15, 17) Appellant also testified at the hearing that his brief relapse only took place in social settings and in no way affected his practice of medicine. (Tr. 18)

The State provided no evidence at the administrative hearing to show that Appellant's brief relapse in any way affected his practice of medicine. The State presented no documentary evidence to show that Appellant's social drinking of alcohol affected his practice nor did the State provide testimony from patients, co-workers or colleagues to show that Appellant's drinking affected his practice of medicine.

On June 26, 2001 Attorney Hearing Examiner R. Gregory Porter issued a Report and Recommendation, which found the following:

- 1) that in 1991 Appellant admitted himself to Shephard Hill Hospital suffering from alcohol dependence and benzodiazepine abuse;
- 2) between January 2000 and January 2001 Appellant admit to a Board investigator that he consumed alcohol with friends;
- 3) on March 2, 2001 Appellant failed several sobriety tests and was charged with Driving while under the Influence.<sup>1</sup>

---

<sup>1</sup> The DUI was ultimately dismissed and Appellant was charged with Reckless operation of a Vehicle. (See exhibit 2 attached hereto.)

Mr. Porter recommended to the Board that Appellant's license to practice be suspended for an indefinite period of time and Appellant be required to attend a 28-day inpatient treatment program along with other conditions for reinstatement.

On August 8, 2001 the Board approved Mr. Porter's Report and Recommendation, and suspended Appellant's license for an indefinite period of time and ordered Appellant to attend a second 28-day inpatient treatment program. (See Entry of Order, attached as Exhibit 3)

**II. R.C. 119.12 grants the Court authority to stay the Board Order pending final decision of the Court.**

R.C. 119.12 sets forth the standard which must be met before the court may grant a request to stay a Medical Board order:

The filing of a notice of appeal shall not automatically operate as a suspension of the order of an agency. . . . In the case of any appeal from the state medical board, the court may grant a suspension and fix its terms if it appears to the court that an unusual hardship to appellant will result from the execution of the agency's order pending the determination of the appeal and the health, safety and welfare of the public will not be threatened by suspension of the order. (R.C. 119.12.)

Pursuant to R.C. 119.12, Appellant has the burden to show that the implementation of the Board order will cause an "unusual hardship" on appellant AND the Court must decide whether the health, safety and welfare of the public will not be threatened by suspension of the order. The 10<sup>th</sup> District Court of Appeals further enumerated the standard that the court should apply in the case of *Bob Krihwan Pontiac-GMC Truck, Inc. v. General Motors Corporation*, (January 20, 2001) Tenth District Court of Appeals, Case No. 00AP-262, unreported (see attached as Exhibit 4) the Court states:

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SEP 18 2001

Although R.C. 119.12 does not set forth or proscribe the factors the court may consider in determining whether to suspend operation of an administrative order those factors have been redefined by the Courts. \* \* \* Those factors are:

(1) whether appellant has shown a strong or substantial likelihood or probability of success on the merits; (2) whether appellant has shown that it will suffer irreparable injury; (3) whether issuance of a stay will cause harm to others; and (4) whether the public interest would be served by granting the stay. See Hamlin, Gurtzweiler v. United States (1985), 601 F. Supp. 883; Holden v. Heckler (1984), 584 F. Supp. 463; Upjohn Company v. Finch (1969), 303 F. Supp 241; Friendship Materials v. Michigan Brick, Inc. (1982), 679 F. 2d 100; and Virginia Petroleum Jobbers Assn. V. FPC (1958), 259 F. 2d 921.

a. **Appellant would suffer an “unusual hardship” from the Execution of the medical board order**

Appellant is a private practice physician who works in a solo practice in Dayton, Ohio. (Tr. 68) Anytime a physician loses his license to practice there is the obvious hardship on the physician as he loses his only source of income. Numerous courts in Ohio have held in the past that merely losing one's financial livelihood is not enough to satisfy the “unusual hardship” requirement of R.C. 119.12.

In Appellant's case though it is not merely the loss of income that would result to Appellant by the closing of his office. Appellant is a private practice physician who is board certified in internal medicine. For the past thirty-four years Appellant has practiced medicine in the Dayton, Ohio area in the specialized area of endocrinology. (Tr. 67) Appellant's patients are routinely referred to Appellant from all over the Dayton metropolitan area because of his practice specialization and extensive experience in the area of endocrinology. Unlike a general practice physician, Appellant's patients will often need extensive monitoring and follow-up office visits.

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On a daily basis, Appellant has office hours from 10 a.m. to 6 p.m. and occasionally on Saturdays where he serves a patient base made up almost exclusively of diabetics, persons with thyroid disease and others with specific problems with their endocrine system. Appellant is one of few physicians in the Dayton, Ohio area, of more than 250,000 residents, to treat patients in this specialized area. Were Appellant to have to close his office during the pendency of this appeal, Appellant would have a very difficult time finding adequate medical coverage for his patient base.

Therefore, aside from the devastation that having to close his office would do to Appellant financially, Appellant's patients would suffer as Appellant would have a very difficult time finding appropriate referrals for all of his patients, given their medical condition in the Dayton, Ohio area.

b. **The health, safety and welfare of the public will not be threatened  
By suspension of the medical board order**

In 1991, Appellant admitted himself into Shephard Hill Hospital's 28-day inpatient treatment program. (Tr. 71) After completing the 28-day program Appellant attended AA meetings regularly, worked with a sponsor and stayed sober for almost ten years. (Tr. 72-73) In 2000, as a result of the break-up of his marriage, Appellant relapsed and began socially drinking alcohol. (Tr. 74) For several months Appellant drank alcohol occasionally with friends. Appellant testified at the administrative hearing that at no time during his relapse did he ever report to work intoxicated or under the influence of alcohol.

In fact, at the administrative hearing, a letter was admitted into evidence from H. Allan Feller, M.D. (see attached as exhibit 5) who shares office space with Appellant and

who sees Appellant several times per week both in the office and in the hospital setting.

(Tr.85) In this letter Dr. Feller stated that at no time has he ever witnessed Appellant intoxicated or impaired in the workplace or when treating patients. The State presented no evidence to show that Appellant's brief relapse in any way affected his practice of medicine.

Appellant testified at the administrative hearing that he has been sober since March 2, 2001 and he has been attending AA meetings on a regular basis. (Tr. 74) There was no evidence presented at the administrative hearing to show that the health, safety or welfare of the public would be endangered by allowing Appellant to continue to practice medicine during the pendency of this appeal.

c. **Appellant has a strong or substantial likelihood or probability of success on the merits.**

The Board has proposed to suspend Appellant's license to practice medicine for an indefinite period of time because the Board found that Appellant violated R.C.

4731.22 (B)(26) which states in pertinent part:

“[Appellant's] acts, conduct, and/or omissions . . . constitute ‘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.’”

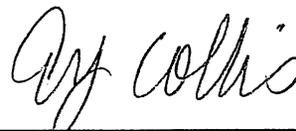
At the hearing, evidence was provided to show that Appellant admit that in 1991 he admitted himself into a treatment program at Shephard Hill Hospital suffering from alcohol dependence. The State presented evidence that Appellant had been charged with a DUI, but as was provided to the Board after the hearing in a *Motion for Additional Evidence*, the DUI charge was dismissed and Appellant was charged with Reckless

Operation of a Vehicle, to which he pled guilty. Finally, Appellant admit at the hearing that for several months in late 2000 and 2001 he had relapsed and began drinking alcohol with friends in social settings. Appellant has been sober and has been attending AA and Cadeuses meetings regularly since March 2, 2001. (Tr. 17, 21-23)

The State presented NO evidence at the administrative hearing to show that Appellant's brief relapse into drinking alcohol in any way affected his ability to practice medicine. To the contrary, Appellant testified that to his knowledge his relapse had no effect on his ability to practice medicine according to acceptable and prevailing standards of care. Also, Appellant provided the Board with a letter from Dr. H. Allan Feller who shares office space with Appellant and sees Appellant several times per week, who stated that he has never seen Appellant impaired in the workplace.

By failing to prove that Appellant's actions violated the clear language of R.C. 4731.22(B)(26), Appellant has a substantial likelihood for success on the merits on appeal. For the foregoing reasons, Appellant respectfully requests this court to stay the order of the medical board pending the final decision by this court.

Respectfully submitted,



---

Elizabeth Y. Collis (#0061961)  
1560 Fishinger Road  
Upper Arlington, Ohio 43221  
(614) 488-8692  
Counsel for Appellant

OHIO STATE MEDICAL BOARD  
SEP 18 2001

Certificate of Service

I certify that the *Motion to Stay Medical Board Order* was served upon Rebecca Albers, Assistant Attorney General, Office of the Ohio Attorney General, Health and Human Services Section, 30 East Broad Street, 26<sup>th</sup> Floor, Columbus, Ohio 43215 by regular U.S. mail, postage prepaid, and by facsimile on August 31, 2001.

  
\_\_\_\_\_  
Elizabeth Y. Collis



**OHIO STATE MEDICAL BOARD**

**01-LW-0321 (10th)**

**SEP 18 2001** Exhibit

Bob Krihwan Pontiac-GMC Truck, Inc., Appellant-Appellant  
v.  
General Motors Corporation, Appellee-Appellee

4

No. 00AP-262  
10th District Court of Appeals of Ohio, Franklin County.  
Decided January 30, 2001

APPEAL from the Franklin County Court of Common Pleas.

Phillips Law Firm, Inc., and Robert S. Kaiser; Paxton & Associates, and Robert C. Paxton, II, for appellant.

Jones, Day, Reavis & Pogue, Jeffrey J. Jones and Douglas M. Mansfield; Paul Zavala, for appellee.

OPINION

PETREE, J.

This matter comes before the court on appeal from the denial of a motion to stay enforcement of a January 3, 2000 order of the Ohio Motor Vehicle Dealers Board ("Board"). That order found that appellee, General Motors Corporation ("GM"), has good cause to terminate the "Dealer Sales and Service Agreement" between GM and appellant, Bob Krihwan Pontiac-GMC Truck, Inc.

Bob Krihwan is the president and majority shareholder of appellant, Bob Krihwan Pontiac-GMC Truck, Inc. He is also one of two "Dealer Operators" pursuant to a "Dealer Sales and Service Agreement" entered into by Krihwan, his partner Douglas Wick, and appellee, General Motors Corporation ("GM").(fn1)

In November 1996, Krihwan pled guilty to felony income tax evasion. Krihwan's conviction was the result of his use of a secret account into which Krihwan surreptitiously deposited checks written to appellant. Krihwan would then convert the funds of this account to his own use without reporting the use of those funds to his partner, the dealership or its accountants, or to the federal government as personal income.

In late December 1996, Krihwan's felony conviction came to the attention of Doug Stevens, one of GM's regional managers. After obtaining and reviewing a copy of Krihwan's criminal record, Stevens recommended that a notice of termination be sent to Krihwan pursuant to Section 14.5 of the parties' Dealer Sales and Service Agreement. That section provides:

14.5 Acts or Events

If [GMC] learns that any of the following has occurred, it may terminate this Agreement by giving Dealer written notice of termination. Termination will be effective on the date specified in the notice.

14.5.1

Conviction in a court of original jurisdiction of Dealer, or a predecessor of Dealer owned or controlled by the same person, or any Dealer Operator or dealer owner of any felony.

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The notice of termination was approved by GM and was sent to Krihwan on January 31, 1997. Upon receipt, appellant filed a protest with the Board, contesting termination on the grounds that GM did not have "good cause" to terminate the agreement and its business relationship with appellant. On August 3, 1999, a board examiner held a hearing on the protest, at which time both parties presented evidence in support of their position.

On December 1, 1999, the examiner issued a comprehensive report and recommendation in which he concluded that Krihwan had engaged in fraudulent and unlawful activity involving the dealership over at least a three-year period. That report and recommendation was adopted by the Board on January 3, 2000, without modification. Accordingly, the Board's final order approved GM's effort to terminate its relationship with appellant, and Bob Krihwan as appellant's Dealer Operator.

Following receipt of the Board's order, appellant filed an administrative appeal with the Franklin County Court of Common Pleas. Accompanying its notice of appeal, appellant also filed a motion to stay enforcement of the Board's order pending judicial review. That motion was overruled on January 19, 2000. This appeal followed, and raises two issues for our consideration: (1) does the trial court's January 19, 2000 order constitute a final appealable order; and (2) if so, did the trial court abuse its discretion when it concluded that a stay was not warranted.

Section 3(B)(2), Article IV of the Ohio Constitution provides that courts of appeals in this state have jurisdiction as provided by law to review, reverse, affirm, or modify final judgments and orders of lower courts. Germane to this appeal, R.C. 2505.02(B)(4) states:

An order is a final order that may be reviewed, affirmed, modified, or reversed, with or without retrial, when it is one of the following:

\*\*\*

(4) An order that grants or denies a provisional remedy and to which both of the following apply:

(a) The order in effect determines the action with respect to the provisional remedy and prevents a judgment in the action in favor of the appealing party with respect to the provisional remedy.

(b) The appealing party would not be afforded a meaningful or effective remedy by an appeal following final judgment as to all proceedings, issues, claims, and parties in the action.

In this case, appellee contests a finding of appealability, arguing that the provisions of R.C. 2505.02(B)(4)(b) and Civ.R. 54(B) have not been satisfied. We find in favor of appellant on both claims.

Despite appellee's urging that we do so, we do not construe R.C. 2505.02(B)(4)(b) to require the absence of every theoretical remedy in order to find that appellant would be denied a "meaningful" or "effective" remedy following final judgment. This is particularly so when, in a situation such as this, the court will be unable to fashion a remedy which would replace a potential loss of business goodwill, or repair business relationships with third parties such as creditors and suppliers.

Moving to appellee's second claim, we find Civ.R. 54(B) inapplicable. Civ.R. 54(B) applies in instances where there are multiple claims or multiple parties, and where a ruling or judgment only

OHIO STATE MEDICAL BOARD

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partially determines the claims raised, or determines the rights of less than all of the parties. The trial court's denial of appellant's motion for a stay clearly does not present this situation.

In sum, therefore, appellant's appeal is properly before this court. Having so determined, we turn to the second issue presented; whether the trial court erred when it concluded that a stay was not warranted.

The filing of an administrative appeal does not automatically entitle a party to a stay of execution pending judicial review. Rather, the General Assembly has given trial courts broad discretion when making such determinations, legislating that: "[i]f it appears to the court that an **unusual hardship** to the appellant will result from the execution of the agency's order pending determination of the appeal, the court may grant a suspension and fix its terms." R.C. 119.12. As such, when reviewing whether a trial court properly granted or denied a motion to stay an administrative order, the standard of review employed is an abuse of discretion. Carter Steel & Fabricating Co. v. Danis Bldg. Construction Co. (1998), 126 Ohio App.3d 251, 254.

An abuse of discretion is not simply an error of law or judgment. Blakemore v. Blakemore (1983), 5 Ohio St.3d 217, 219. See, also, State v. Adams (1980), 62 Ohio St.2d 151, 157. Rather, that concept demonstrates a "perversity of will, passion, prejudice, partiality, or moral delinquency." Pons v. Ohio State Med. Bd. (1993), 66 Ohio St.3d 619, 621. Stated alternatively, a trial court abuses its discretion when it acts in an unreasonable, arbitrary, or unconscionable manner. Blakemore, supra. According to the Ohio Supreme Court:

"An abuse of discretion involves far more than a difference in \*\*\* opinion \*\*\*. The term discretion itself involves the idea of choice, of an exercise of the will, of a determination made between competing considerations. In order to have an 'abuse' in reaching such determination, the result must be so palpably and grossly violative of fact and logic that it evidences not the exercise of will but perversity of will, not the exercise of judgment but the defiance thereof, not the exercise of reason but rather of passion or bias." \*\*\* [Huffman v. Hair Surgeon, Inc. (1985), 19 Ohio St.3d 83, 87, quoting State v. Jenkins (1984), 15 Ohio St.3d 164, 222.]

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

Although R.C. 119.12 does not set forth or proscribe the factors the court may consider in determining whether to suspend operation of an administrative order, those factors have been refined by the courts. The Sixth Circuit, in addition to many other courts, has repeatedly relied upon the following factors as logical considerations when determining whether it is appropriate to stay an administrative order pending judicial review. Those factors are: (1) whether appellant has shown a strong or substantial likelihood or probability of success on the merits; (2) whether appellant has shown that it will suffer irreparable injury; (3) whether the issuance of a stay will cause harm to others; and (4) whether the public interest would be served by granting a stay. See Hamlin, supra; Gurtzweiler v. United States (1985), 601 F.Supp. 883; Holden v. Heckler (1984), 584 F.Supp. 463; UpJohn Company v. Finch (1969), 303 F.Supp. 241; Friendship Materials v. Michigan Brick, Inc. (1982), 679 F.2d 100; and Virginia Petroleum Jobbers Assn. v. FPC (1958), 259 F.2d 921.

Weighing these factors, the trial court considered the following prior to reaching its decision. First,

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the court recognized the proper deference to be accorded to the Board, as well as to the legislative scheme set forth in R.C. Chapter 4517. The trial court noted that public policy and the law of this state prohibit convicted felons from obtaining automobile dealer licenses and, further, that the General Assembly recognized that virtually all license suspension or terminations involve some degree of "hardship," but only those involving "unusual hardship" are candidates for a stay.

Turning to the facts presented, the court explained that appellant's dealer agreement clearly and unambiguously contains a felony termination clause, that the felony termination clause is a material provision of the agreement and, further, that the testimony presented establishes that GM uniformly terminates dealer agreements with its Dealer Operators following felony convictions.

Applying a recent decision of this court, the trial court went on to conclude that a felony conviction alone could constitute "good cause" for the termination of a dealer agreement under R.C. 4517.55. See General Motors Corp. v. Monte Zinn Chevrolet Co. (2000), 136 Ohio App.3d 157; discretionary appeal not allowed (2000), 88 Ohio St.3d 1515. In light of our decision in Zinn, public policy and statutory law, appellant's felony conviction, and the felony termination clause, the court reasoned that appellant's chance of prevailing on the merits was slim.

Finally, the court determined that the grant of a stay would harm appellee as it would force GM to continue a personal services relationship under a contract that clearly permits appellee to terminate such a relationship in the event that a Dealer Operator is convicted of a felony. In light of these findings, the court concluded that a stay was not warranted.

Based upon a full consideration of the trial court's decision and analysis, the record, and the briefs and arguments of counsel, we believe that the trial court acted within the law and the bounds of its discretion when it denied appellant's motion for a stay. Accordingly, appellant's assignment of error is overruled, and the judgment of the Franklin County Court of Common Pleas is affirmed.

Judgment affirmed.

KENNEDY and McCORMAC, JJ., concur.

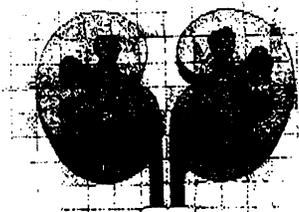
McCORMAC, J., retired of the Tenth Appellate District, assigned to active duty under authority of Section 6(C), Article IV, Ohio Constitution.

Footnotes:

1. Douglas Wick is not a party to this litigation.

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*Renal Physicians, Inc.*  
Nephrology and Internal Medicine

H. Allan Feller, M.D.  
V. Muthiah, M.D.  
Robert T. Witty, M.D.  
Daniel Simon, M.D.  
Nicholas P. Christoff, M.D.  
Rakesh K. Gupta, M.D.  
Susan C. Galbraith, M.D.  
Joseph Premanandan, M.D.  
Augustus Eduafo, M.D.  
Siva Ambalavanan, M.D.

**OHIO STATE MEDICAL BOARD**

SEP 18 2001

May 29, 2001

Elizabeth Collis, Esq.  
Ohio State Medical Board  
77 S. High Street  
17<sup>th</sup> Floor  
Columbus, Ohio. 43266.

Re: Tom Starr, MD

Dr. Starr has asked me to write a letter to you and the Ohio State Medical Board in his behalf.

I have known Dr. Starr since 1968 when he and I first shared the same office space, and this same arrangement has existed to the present time. He has informed me that he was apprehended with a high alcohol level. I have never observed Dr. Starr in the office to be inebriated nor to have irrational thinking while talking, nor have I ever smelled alcohol on his breath. To my knowledge I have not learned of any deficiencies in his practice which might be attributable to alcohol. We do not share patients or coverage – only office space.

I hope this information will be useful.

Sincerely,

*H. Allan Feller*

H. Allan Feller, MD

Exhibit

5



# State Medical Board of Ohio

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

August 8, 2001

Tom Reutti Starr, M.D.  
1044 S. Main Street  
Dayton, OH 45409

Dear Doctor Starr:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of R. Gregory Porter, 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 8, 2001, including motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

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

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

THE STATE MEDICAL BOARD OF OHIO

*Anand G. Garg, M.D.*  
Anand G. Garg, M.D.  
Secretary

AGG: jam  
Enclosures

CERTIFIED MAIL RECEIPT NO. 7000 0600 0024 5148 5491  
RETURN RECEIPT REQUESTED

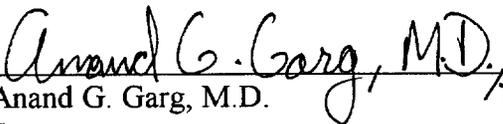
Cc: Elizabeth Y. Collis, Esq.  
CERTIFIED MAIL RECEIPT NO. 7000 0600 0022 4402 7990  
RETURN RECEIPT REQUESTED

*Mailed 8-23-01*

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of R. Gregory Porter, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on August 8, 2001, including motions approving and confirming the Findings of Fact, Conclusions and Proposed Order of the Hearing Examiner as the Findings and Order of the State Medical Board of Ohio; constitute a true and complete copy of the Findings and Order of the State Medical Board in the Matter of Tom Reutti Starr, M.D., 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.

  
Anand G. Garg, M.D. /TAD  
Secretary

(SEAL)

AUGUST 8, 2001  
Date

**BEFORE THE STATE MEDICAL BOARD OF OHIO**

IN THE MATTER OF

\*

\*

TOM REUTTI STARR, M.D.

\*

**ENTRY OF ORDER**

This matter came on for consideration before the State Medical Board of Ohio on August 8, 2001.

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

It is hereby ORDERED:

- A. **SUSPENSION OF CERTIFICATE:** The certificate of Tom Reutti Starr, M.D., to practice medicine and surgery in the State of Ohio is **SUSPENDED** for an indefinite period of time.
  
- B. **INTERIM MONITORING:** During the period that Dr. Starr's certificate to practice medicine and surgery in Ohio is suspended, Dr. Starr shall comply with the following terms, conditions, and limitations:
  - 1. **Obey Laws in Ohio:** Dr. Starr shall obey all federal, state and local laws, and all rules governing the practice of medicine and surgery in Ohio.
  
  - 2. **Abstention from Drugs:** Dr. Starr 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. Starr's history of chemical dependency.
  
  - 3. **Abstention from Alcohol:** Dr. Starr shall abstain completely from the use of alcohol.

4. **Releases**: Dr. Starr 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. Starr's chemical dependency, psychiatric conditions, 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. The above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute. Dr. Starr 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.
5. **Quarterly Declarations**: Dr. Starr shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which the Order becomes effective, provided that if the effective date is on or after the sixteenth day of the month, the first quarterly declaration must be received in the Board's offices on the first day of the fourth month following. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
6. **Appearances**: Dr. Starr 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. 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.
7. **Contact An Appropriate Impaired Physicians Committee**: Dr. Starr shall contact an appropriate impaired physicians committee, approved by the Board, to arrange for assistance in recovery or aftercare.
8. **Drug & Alcohol Screens; Supervising Physician**: Dr. Starr shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board. Dr. Starr shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis. The drug testing panel utilized must be acceptable to the Secretary of the Board.

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

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

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

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

9. **Provision of Blood or Urine for Screening without Prior Notice:** Dr. Starr shall submit blood and/or urine specimens for analysis without prior notice at such times as the Board may request, at Dr. Starr's expense.
10. **Rehabilitation Program:** Dr. Starr shall maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., or Caduceus, no less than three times per week. Substitution of any other specific program must receive prior Board approval. Dr. Starr shall submit acceptable documentary evidence of continuing compliance with this program, which must be received in the Board's offices no later than the due date for Dr. Starr's quarterly declarations.

- C. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Starr's certificate to practice medicine and surgery unless all of the following conditions are met:

1. **Application and Fees**: Dr. Starr shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
2. **Continued Compliance with Interim Monitoring Conditions**: Dr. Starr shall have maintained continuing compliance with all interim monitoring terms and conditions of Paragraph B of this Order, unless otherwise determined by the Board.
3. **Completion of Inpatient Treatment**: Dr. Starr shall complete a minimum of twenty-eight days of inpatient or residential treatment, or a combination thereof, for his substance dependency. Such inpatient or residential treatment shall be completed without interruption. Further, such inpatient or residential treatment shall be provided in accordance with Rule 4731-16-08(A)(13), Ohio Administrative Code, by a treatment provider approved under Section 4731.25, Ohio Revised Code.

In addition, upon discharge from treatment, Dr. Starr shall enter into, and thereafter maintain compliance with, a post-discharge aftercare contract which complies with Rule 4731-16-10, Ohio Administrative Code, with a treatment provider approved under Section 4731.25, Ohio Revised Code, who has access to Dr. Starr's treatment records.

4. **Demonstration of Ability to Resume Practice**: Dr. Starr shall demonstrate to the satisfaction of the Board that he can practice in compliance with acceptable and prevailing standards of care under the provisions of his certificate. Such demonstration shall include, but not be limited to, the following:
  - a. Certification from a treatment provider approved under Section 4731.25 of the Revised Code that Dr. Starr has successfully completed the required inpatient treatment.
  - b. Evidence of continuing full compliance with a post-discharge aftercare contract with a treatment provider approved under Section 4731.25 of the Revised Code. Such evidence shall include, but not be limited to, a copy of the signed aftercare contract. The post-discharge aftercare contract must comply with rule 4731-16-10 of the Administrative Code.
  - c. Evidence of continuing full compliance with this Order.
  - d. Two written reports indicating that Dr. Starr's 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 be made by individuals or providers approved by the Board for making such assessments and shall describe the basis for this determination.

5. **Absence from Practice**: In the event that Dr. Starr has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to the submission of his application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of Dr. Starr's fitness to resume practice.
- D. **PROBATIONARY CONDITIONS**: Upon reinstatement or restoration, Dr. Starr's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:
1. **Terms, Conditions, and Limitations Continued from Suspension Period**: Dr. Starr shall continue to be subject to the interim monitoring terms, conditions, and limitations as specified in paragraph B of this Order, unless otherwise determined by the Board.
  2. **Compliance with Terms of Aftercare Contract**: Dr. Starr shall maintain continued compliance with the terms of the aftercare contract entered into with his treatment provider, provided that, where terms of the aftercare contract conflict with terms of this Order, the terms of this Order shall control.
  3. **Chart Monitoring and Monitoring Physician**: Before engaging in any medical practice, Dr. Starr shall submit for the Board's prior approval the name of a monitoring physician. In approving an individual to serve in this capacity, the Board will give preference to a physician who practices in the same locale as Dr. Starr and who is engaged in the same or similar practice.

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

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

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

4. **Log of Controlled Substances Prescribed:** Dr. Starr shall keep a log of all controlled substances prescribed. Such log shall be submitted, in a format approved by the Board, thirty days prior to Dr. Starr's personal appearance before the Board or its designated representative, or as otherwise directed by the Board.
  5. **Prohibition against Administering, Dispensing, or Possessing Controlled Substances:** Dr. Starr shall not, without prior Board approval, administer, dispense, or possess (except as allowed under Paragraphs B.4 and B.11, above) any controlled substances as defined by state or federal law. In the event that the Board agrees at a future date to modify this Order to allow Dr. Starr to administer or dispense controlled substances, Dr. Starr shall keep a log of all controlled substances prescribed, administered, or dispensed. Such log shall be submitted, in the format approved by the Board, thirty days prior to Dr. Starr's personal appearance before the Board or its designated representative, or as otherwise directed by the Board.
  6. **Absence from Ohio:** In the event that Dr. Starr should leave Ohio for three continuous months, or reside or practice outside the State, Dr. Starr must notify the Board in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of this period under the Order, unless otherwise determined by the Board in instances where the Board can be assured that probationary monitoring is otherwise being performed.
  7. **Failure to Comply; Reduction of Probationary Period:** In the event Dr. Starr 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.
  8. **Violation of Probation; Discretionary Sanction Imposed:** If Dr. Starr violates probation in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of Dr. Starr's certificate.
- E. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Starr's certificate will be fully restored.
- F. **REQUIRED REPORTING BY LICENSEE TO EMPLOYERS AND HOSPITALS:** Within thirty days of the effective date of this Order, Dr. Starr shall provide a copy of this Order to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Starr

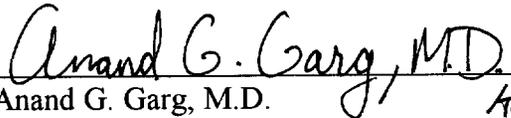
shall provide a copy of this Order to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments.

**G. REQUIRED REPORTING BY LICENSEE TO OTHER STATE**

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

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

(SEAL)

  
Anand G. Garg, M.D. *AG*  
Secretary

AUGUST 8, 2001  
Date

Clearer copy of Errata  
Sheet next page. Date  
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up clearly on scanned copy

STATE MEDICAL BOARD  
OF OHIO

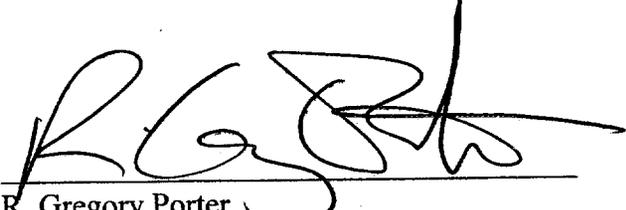
2001 JUN 28 P 5:00

**BEFORE THE STATE MEDICAL BOARD OF OHIO**

**ERRATA SHEET**  
**FOR THE REPORT AND RECOMMENDATION**  
**IN THE MATTER OF TOM REUTTI STARR, M.D.**

The Report and Recommendation in the Matter of Tom Reutti Starr, M.D., was filed on June 26, 2001. The Hearing Examiner has since been made aware that Paragraph D.5 of the Proposed Order erroneously references Paragraphs B.4 and B.11. Paragraph D.5 of the Proposed Order should reference Paragraph B.2. Accordingly, Paragraph D.5 of Proposed Order is hereby corrected to read as follows:

5. **Prohibition against Administering, Dispensing, or Possessing Controlled Substances:** Dr. Starr shall not, without prior Board approval, administer, dispense, or possess (except as allowed under Paragraph B.2, above) any controlled substances as defined by state or federal law. In the event that the Board agrees at a future date to modify this Order to allow Dr. Starr to administer or dispense controlled substances, Dr. Starr shall keep a log of all controlled substances prescribed, administered, or dispensed. Such log shall be submitted, in the format approved by the Board, thirty days prior to Dr. Starr's personal appearance before the Board or its designated representative, or as otherwise directed by the Board.



R. Gregory Porter  
Attorney Hearing Examiner

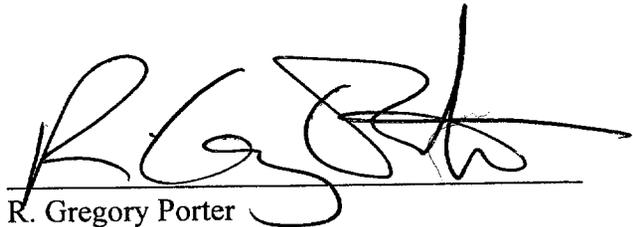
2001 JUN 29 P 5:00

**BEFORE THE STATE MEDICAL BOARD OF OHIO**

**ERRATA SHEET**  
**FOR THE REPORT AND RECOMMENDATION**  
**IN THE MATTER OF TOM REUTTI STARR, M.D.**

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R. Gregory Porter  
Attorney Hearing Examiner

2001 JUN 26 P 1: 54

**REPORT AND RECOMMENDATION  
IN THE MATTER OF TOM REUTTI STARR, M.D.**

The Matter of Tom Reutti Starr, M.D., was heard by R. Gregory Porter, Attorney Hearing Examiner for the State Medical Board of Ohio, on June 7, 2001.

**INTRODUCTION**

I. Basis for Hearing

- A. On March 14, 2001, the State Medical Board of Ohio [Board] notified Tom Reutti Starr, M.D., that it had proposed to take disciplinary action against his certificate to practice medicine and surgery in Ohio based on the following allegations:

“On or about October 8, 1991, [Dr. Starr] admitted [himself] to Shepherd Hill Hospital in Newark, Ohio. [He was] diagnosed as suffering from alcohol dependence and benzodiazepine abuse. [He was] discharged on or about November 4, 1991.

“On or about January 9, 2001, [Dr. Starr] admitted to a State Medical Board of Ohio Enforcement Investigator that [he] had consumed alcohol with friends, and that [he] last drank alcohol approximately one week ago. [Dr. Starr] admitted that [he drinks] vodka straight, one or two shots at a time. [Dr. Starr] also told the Enforcement Investigator that [he] had smoked marijuana once.

“On or about March 2, 2001, after [Dr. Starr] told an officer from the Beavercreek Police Department that [Dr. Starr] had one shot of vodka earlier, [Dr. Starr] failed several sobriety tests, and [was] arrested and charged with violations of Section 4511.19, Ohio Revised Code, Driving while under the Influence. After being transported to the Beavercreek Police Department, [Dr. Starr] consented to a breath test, which indicated that [he] had .129 grams of alcohol per 210 liters of [his] breath.”

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

Accordingly, the Board advised Dr. Starr of his right to request a hearing in this matter. (State's Exhibit 1A)

- B. By document received by the Board on March 29, 2001, Elizabeth Y. Collis, Esq., requested a hearing on behalf of Dr. Starr. (State's Exhibit 1B)

II. Appearances

- A. On behalf of the State of Ohio: Betty D. Montgomery, Attorney General, by Rebecca J. Albers, Assistant Attorney General.
- B. On behalf of the Respondent: Elizabeth Y. Collis, Esq.

**EVIDENCE EXAMINED**

I. Testimony Heard

- A. Presented by the State
1. Tom Reutti Starr, M.D., as upon cross-examination
  2. David Darkow
  3. Doyle Wright
  4. Gregory McGlaun

- B. Presented by the Respondent

Tom Reutti Starr, M.D.

II. Exhibits Examined

- A. Presented by the State
1. State's Exhibits 1A through 1K: Procedural exhibits.
  2. State's Exhibit 2: Copies of documents from the Beavercreek Police Department concerning Dr. Starr. [Note: Dr. Starr's Social Security number was redacted from these documents by the Hearing Examiner post-hearing.]
  3. State's Exhibit 3: Excerpt from a certified copy of Dr. Starr's treatment records from his October 8 through November 4, 1991, treatment at Shepherd Hill Hospital. [Note: The remainder of these treatment records is being held

as proffered material for the State. See Proffered Exhibit, below.] [Further note: This exhibit has been sealed to protect patient confidentiality.]

B. Presented by the Respondent

Respondent's Exhibits A and B: Copies of letters of support for Dr. Starr.

### PROFFERED EXHIBIT

The remainder of a certified copy of Dr. Starr's treatment records from Shepherd Hill Hospital, an excerpt of which was admitted to the record as State's Exhibit 3, has been sealed and will be held as a proffer for the State. The proffered exhibit was renumbered State's Exhibit 4 by the Hearing Examiner post-hearing. (See Hearing Transcript at 59-66)

### PROCEDURAL MATTERS

On June 22, 2001, a teleconference was held with the parties' representatives concerning the date of an interview that took place between Board Investigator Gregory McGlaun and Dr. Starr. Some evidence presented at hearing indicated that this interview took place in January 2000; other evidence indicated that it took place in January 2001. The parties agreed to stipulate that the actual date of the interview is not relevant for purposes of this hearing. Accordingly, the Findings of Fact will reflect that this interview could have taken place either in January 2000 or in January 2001.

### SUMMARY OF THE EVIDENCE

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

1. Tom Reutti Starr, M.D., testified that he obtained his medical degree in 1961 from Northwestern University. Dr. Starr then participated in a residency for one year, followed by two years of military service. Dr. Starr testified that when he returned from the service he completed two additional years of residency and, in 1967, began practice in Dayton, Ohio. (Hearing Transcript [Tr.] at 12-13)

Dr. Starr testified that he has a solo practice in internal medicine in Dayton, and that he has been in practice for almost thirty-four years. Dr. Starr further testified that he also practices "a lot of endocrinology." Dr. Starr stated that he has been board certified in internal medicine (Tr. at 67-68)

Dr. Starr further testified that he has never previously been disciplined by the Board.  
(Tr. at 68-69)

2. David Darkow testified that he is a patrol officer for the Beavercreek [Ohio] Police Department, and has been so employed for almost four years. Officer Darkow testified that on March 2, 2000, he was dispatched to a residence concerning a telephone harassment report. The occupant of the residence, Donna Leib, had wished to complain about telephone calls made by an individual named Carolyn Brooks. Ms. Brooks is the former wife of Dr. Starr. (Tr. at 19-21, 40)

Officer Darkow testified that, as he was taking Ms. Leib's report, Dr. Starr, who is a friend of Ms. Leib's, called Ms. Leib three or four times. Officer Darkow further testified that Dr. Starr's calls made it difficult to take Ms. Leib's report. Officer Darkow stated, "I got on the phone the next time the call came in and asked Dr. Starr if he would cease calling the residence so I could finish what I was doing, and told him that [Ms. Leib] would call him back when we were done if she wanted to." (Tr. at 21-22)

3. Doyle Wright testified that he is a street supervisor/sergeant for the Beavercreek Police Department, and has worked for that department for twelve years. Sgt. Wright further testified that his duties include overseeing the operations of his shift and assisting his fellow police officers when they need assistance. (Tr. at 37-38)

Sgt. Wright testified that, on March 2, 2001, he received a call from the police dispatcher. The dispatcher informed Sgt. Wright that Dr. Starr wanted to speak to a supervisor "in reference to a complaint or a question he had about Officer Darkow." Sgt. Wright testified that, because he did not know the circumstances concerning the matter that Officer Darkow was investigating, Sgt. Wright went to Ms. Leib's residence to speak to Officer Darkow to get that information prior to returning Dr. Starr's call. (Tr. at 39-40)

Sgt. Wright testified that, after he arrived at Ms. Leib's residence, the phone rang. Ms. Leib answered it, and she told Sgt. Wright that it was Dr. Starr. Sgt. Wright testified that Ms. Leib handed the receiver to Sgt. Wright, "but as she handed the phone to me to speak with him, he was still talking and said that he was on his way over there. I didn't say anything to him, I just handed the phone back to her, let her continue the conversation and at that point I did need to talk to him so it was okay with him coming over." After Ms. Leib had another telephone conversation with Dr. Starr, Ms. Leib told Sgt. Wright "she thought [Dr. Starr] was intoxicated." (Tr. at 40-41)

4. Officer Darkow and Sgt. Wright were waiting at Ms. Leib's front door as Dr. Starr parked his car at the curb in front of Ms. Leib's house. Officer Darkow testified that, as Dr. Starr walked up to the house, he "noticed right offhand that [Dr. Starr] wasn't necessarily steady on his feet, somewhat swaying while he stood, and his speech was very mumbled and sluggish." In addition, Officer Darkow testified that he "noticed that on his jacket he

had spilled some sort of a liquid which he claimed was from a Coke he was drinking[.]” Both Officer Darkow and Sgt. Wright testified that they noticed an odor of alcohol on Dr. Starr’s breath, and that Dr. Starr’s eyes were glassy and bloodshot. Sgt. Wright testified that he had asked Dr. Starr if he had had anything to drink, and that Dr. Starr told him that he had not. Sgt. Wright testified that he then informed Dr. Starr that he could smell alcohol on Dr. Starr’s breath, whereupon Dr. Starr told Sgt. Wright “he had a shot of vodka earlier in the evening.” (Tr. at 23-24, 41-42)

Officer Darkow testified that Dr. Starr offered to take any sobriety tests that the police officers wanted: “He was more or less pushing the issue wanting to take the test. He removed his jacket and was all prepared to take those, so we did take him up on that.” Officer Darkow administered the field sobriety tests. Both Officer Darkow and Sgt. Wright testified that they observed Dr. Starr fail each test administered—the Horizontal Gaze Nystagmus test, the One Leg Stand test, and the Walk and Turn test. Officer Darkow and Sgt. Wright testified that, after Dr. Starr failed all of the tests, Officer Darkow took Dr. Starr into custody and transported him to the police station. (Tr. at 25-28, 42-44)

5. Officer Darkow and Sgt. Wright testified that, at the police station, Dr. Starr agreed to take a Breathalyzer test. Sgt. Wright administered the test to Dr. Starr. The Breathalyzer gave a result that indicated 0.129 grams of alcohol per 210 liters of breath. Following the results of that test, Dr. Starr’s driver’s license was placed under an administrative suspension pursuant to Section 4511.191, Ohio Revised Code, and Dr. Starr was charged with Driving Under the Influence of Alcohol or Drugs or with Certain Concentration of Alcohol in Bodily Substances [DUI], a violation of Sections 4511.19(A)(1) and/or (A)(3), Ohio Revised Code. (State’s Exhibit [St. Ex.] 2; Tr. at 29-34, 44-46)
6. Sgt. Wright testified that the DUI allegation concerning Dr. Starr is still pending and, as of the date of the hearing, Dr. Starr had not pleaded guilty to or been found guilty of that offense. (Tr. at 49)

Dr. Starr testified that the trial date for the DUI allegation is currently scheduled for July 24, 2001. (Tr. at 81)

7. Gregory McGlaun testified that he is an enforcement investigator for the Board, and has been so employed for two years. Investigator McGlaun testified that, prior to working for the Board, he had been a police officer for the City of Springfield. (Tr. at 51-52)

Investigator McGlaun testified that he interviewed Dr. Starr on January 19, 2000. Investigator McGlaun further testified that, during this interview, Dr. Starr admitted that he is an alcoholic. In addition, Investigator McGlaun testified:

During the interview with Dr. Starr, Dr. Starr admitted that he had had an alcohol problem, that he had been drinking again since the alcohol

problem, and that the last time he drank was approximately one week prior to our interview where he had drank vodka straight, one or two shots.

(Tr. at 52) Finally, Investigator McGlaun testified that Dr. Starr “stated that he had tried marijuana at a gathering at his residence with a couple of other individuals.” (Tr. at 53)

Dr. Starr testified that in January 2001 he had had a meeting with Investigator McGlaun. Dr. Starr further testified that he had informed Investigator McGlaun during this meeting that he had been treated for alcohol dependency. Moreover, Dr. Starr testified that he had told Investigator McGlaun that he had smoked marijuana on one occasion, but testified, “I tried it, but I didn’t even, you know—one of these I didn’t inhale type things.” Nevertheless, Dr. Starr denied having told Investigator McGlaun that he had started drinking again. Dr. Starr further denied having told Investigator McGlaun that he drank vodka straight, and testified that he has never drank straight vodka. Finally, Dr. Starr testified, “I usually put it in a Coke, Coca-cola. I don’t know why, just it’s not a standard drink, I guess, but that’s how I drink it.” (Tr. at 13-14, 88)

8. Records from Shepherd Hill Hospital, Newark, Ohio, indicate that Dr. Starr was admitted to that institution on October 8, 1991, for treatment for alcohol dependence and benzodiazepine abuse. Dr. Starr was discharged from treatment on November 4, 1991. The Discharge Summary relates the following in the section entitled History of Present Illness:

This 56 year old physician was admitted to Shepherd Hill Hospital on 10-8-91 with a 1½ year history of increased alcohol consumption. He was drinking 5 out of 7 days, 6-10 ounces, and blackouts were occasionally present. He denies tremors, but was taking self-prescribed Ativan 4 times a week, 1.2 mg. Inpatient care was recommended [sic] in June by his treating physician, but the patient bargained into outpatient counseling by a psychiatrist. He was not compliant with the psychiatrist’s recommendations, and was intervened on the evening prior to admission to Shepherd Hill, and sent to Shepherd Hill for more definitive treatment. His denial and minimization was marked. his [sic] last drink was 2 weeks prior to admission, and his last Ativan, 3 days prior to admission.

(St. Ex. 3 at 5) Further, the Discharge Summary states, in the section entitled Shepherd Hill Course:

Detox medications were not necessary. He was assessed by the Treatment Team, and felt to be definitely alcohol dependent and in need of definitive inpatient treatment. A Master Treatment Plan was tailored to the patient’s needs and various treatment goals were established. Treatment modality used at Shepherd Hill included extensive drug and alcohol education;

integration into the AA/NA community; group therapy; and individual counseling. The patient's [sic] remained highly defensive throughout treatment, using denial, intellectualization, rationalization and minimization of his disease, and he was unable to put forth the necessary honesty, openness and willingness to successfully work a recovery program. He appeared unwilling to give up control of his treatment plan, and constantly fought the treatment team, in regards to following their advise. [sic] He appears to want recovery on his own terms, and is unwilling to seprate [sic] needs from wants. He tended to compare out rather than relate to peers, and he has difficulty keeping things simple. He did complete all assigned goal work, including knowledge of the disease; self-diagnosis; steps 1, 2, and 3 of the AA program; cross-addiction/cross-tolerance; an understanding of defenses; AA involvement; and a relapse/relapse prevention. He was strongly encouraged to remain in our healthcare program, with extended care and Mirror Image experience at CORR, but he adamantly refused to agree following these recommendations, and preferred to continue his recovery in his home community. He was discharged from our institution on 11-14-91.

(St. Ex. 3 at 5) Finally, the Discharge Summary indicates that Dr. Starr was to attend ninety Alcoholics Anonymous [AA] meetings in ninety days, participate in Caduceus, find a sponsor, and arrange for weekly, facilitated aftercare with Dr. Mark Thomas. (St. Ex. 3 at 5)

9. Dr. Starr testified that he did not begin drinking alcohol until he was about thirty years old; as a medical resident, he had begun drinking beer at home in the evening to relax. Dr. Starr further testified that by the time he was forty to forty-two he had felt that he was drinking too much, although Dr. Starr stated that it had not impaired his medical practice. Dr. Starr further testified that he married his second wife in 1989, and that she was devoutly religious and "a complete teetotaler." (Tr. at 69-70)

Dr. Starr testified that six months to one year after he married his second wife he stopped drinking and admitted himself to Shepherd Hill Hospital for inpatient treatment. Dr. Starr stated that his second wife, who was a nurse, had been adamant about Dr. Starr not drinking at all. Dr. Starr further testified that his wife had spoken to an addiction specialist in Dayton, Dr. Mark Thomas. Dr. Starr met with Dr. Thomas "and then we met with [the] Montgomery County Medical Board and they suggested that I go for treatment and I accepted that and I followed up on it fully and I followed with Dr. Thomas for as long as he felt was appropriate." Dr. Starr further testified that, after his release from Shepherd Hill Hospital, he attended ninety AA meetings in ninety days and, for the next nine months, attended AA meetings three times per week. Dr. Starr further testified that he also attended counseling once per week with a counselor at Good Samaritan Hospital. (Tr. at 70-73)

Dr. Starr testified that, since approximately one year following his release from Shepherd Hill Hospital, he has attended AA meetings only occasionally, and usually to help friends become associated with AA. Dr. Starr testified that he has been a temporary sponsor to two or three people. (Tr. at 73)

Dr. Starr testified that “for those 10 years, almost 11 years” since his treatment at Shepherd Hill he did not have any further problems with alcohol: “I mean, I was happily married and I didn’t feel the need.” Dr. Starr further testified that, within the last year, marital problems led him to start drinking again:

Well, my wife and I were not doing well together and we got a divorce final in January, January 24 of 2001 and I guess, I mean—it’s hard for me to say for sure but that certainly was a very, very painful experience and I guess that was probably the trigger when we were separated and not communicating and I felt very lonely. To my knowledge it hasn’t interfered with my practice.

(Tr. at 73-74) Moreover, Dr. Starr testified that he has not had any patients or other physicians state that they felt Dr. Starr had a problem with alcohol or that it was affecting his practice. (Tr. at 74)

With regard to the date of his relapse, Dr. Starr testified, “Well, my wife and I were divorced January the 24<sup>th</sup>, and for about a year to 14 months prior to that we had not been getting along well, so I think I started drinking again about 9 or 10 months ago.” (Tr. at 18)

Dr. Starr testified that he had recently begun attending AA meeting twice per week and, beginning the Thursday previous to the hearing, had begun attending Caduceus meetings. Dr. Starr further testified that he had been to a total of five AA meetings. (Tr. at 17-18, 74-75)

10. Dr. Starr denied that he had ever been addicted to Ativan. Concerning the reference to Ativan abuse in the Shepherd Hill records, Dr. Starr testified: “I was asked if I had ever taken any narcotics, which I had never taken any, but also any sedatives, and I said I occasionally had to use Ativan to sleep with, and then they put that down as being dependent upon Ativan which just wasn’t true at all.” Dr. Starr further testified that his treatment had focused strictly on alcohol abuse, and that he had not received any special counseling or treatment for benzodiazepine addiction. Finally, Dr. Starr stated that in the ten years since leaving Shepherd Hill Hospital he has not had any problems with prescription medication. (Tr. at 76-77)

Dr. Starr testified that he does not take any addictive medications. Dr. Starr further testified that he currently sees a psychiatrist for depression, and that he takes Serzone, which is an anti-depressant. Dr. Starr testified that Serzone is not addictive. (Tr. at 77)

11. Dr. Starr testified that with treatment and AA he believes that he can continue to remain sober. Dr. Starr further testified that he believes that the primary reasons he began drinking again were feelings of loneliness and being down. Dr. Starr testified that he therefor has made a conscious effort to cultivate new friends, none of whom consume any alcohol or drugs. Dr. Starr further testified that his brothers and his children are supportive of his recovery. (Tr. at 77-80)
12. Dr. Starr testified that he would like to be able to continue to practice medicine. He stated that he has begun cutting back on his workload, and that he has considered retiring. Nevertheless, he stated that he does not "want to retire under duress." Dr. Starr further testified that he would like to be able to practice intermittently when he does retire. Finally, Dr. Starr testified that he would be willing to enter a Board-approved inpatient treatment program if the Board would so order. (Tr. at 74-75, 82)
13. Dr. Starr presented two letters of support:
  - a. In a letter dated May 25, 2001, Eric McGlade, Senior Pastor, South Park Church, Dayton, Ohio, stated that he has known Dr. Starr for four years. Pastor McGlade indicated that Dr. Starr is an active and respected member of his church. Further, Pastor McGlade stated that he is a patient of Dr. Starr's, and that Dr. Starr is a competent and dedicated physician. (Respondent's Exhibit [Resp. Ex.] A)
  - b. In a letter dated May 29, 2001, H. Allen Feller, M.D., stated that he has shared office space with Dr. Starr since 1968. Dr. Feller further stated that he has never observed Dr. Starr to appear inebriated, and is not aware of any deficiencies in Dr. Starr's practice that could be attributable to alcohol. (Resp. Ex. B)

Note that the State did not have an opportunity to cross-examine the authors of these letters.

### FINDINGS OF FACT

On October 8, 1991, Tom Reutti Starr, M.D., admitted himself to Shepherd Hill Hospital in Newark, Ohio. Dr. Starr was diagnosed as suffering from alcohol dependence and benzodiazepine abuse. He was discharged on November 4, 1991.

At some time either in January 2000 or January 2001, Dr. Starr admitted to an investigator for the Board that he had consumed alcohol with friends, and that he had last consumed alcohol approximately one week prior to the interview. Dr. Starr admitted that he drinks vodka, one or

two shots at a time. Dr. Starr also told the investigator that he had smoked marijuana on one occasion.

On March 2, 2001, after Dr. Starr told an officer from the Beavercreek [Ohio] Police Department that he had had one shot of vodka earlier, Dr. Starr failed several sobriety tests and was arrested. After being transported to the Beavercreek Police Department, Dr. Starr consented to a breath test, which indicated that he had 0.129 grams of alcohol per 210 liters of breath. Dr. Starr was charged with violations of Section 4511.19, Ohio Revised Code, Driving while under the Influence. As of the date of the hearing, these charges had not been adjudicated.

### CONCLUSIONS OF LAW

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

### PROPOSED ORDER

It is hereby ORDERED:

- A. **SUSPENSION OF CERTIFICATE:** The certificate of Tom Reutti Starr, M.D., to practice medicine and surgery in the State of Ohio is SUSPENDED for an indefinite period of time.
- B. **INTERIM MONITORING:** During the period that Dr. Starr’s certificate to practice medicine and surgery in Ohio is suspended, Dr. Starr shall comply with the following terms, conditions, and limitations:
  1. **Obey Laws in Ohio:** Dr. Starr shall obey all federal, state and local laws, and all rules governing the practice of medicine and surgery in Ohio.
  2. **Abstention from Drugs:** Dr. Starr 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. Starr’s history of chemical dependency.
  3. **Abstention from Alcohol:** Dr. Starr shall abstain completely from the use of alcohol.
  4. **Releases:** Dr. Starr shall provide authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever





2. **Continued Compliance with Interim Monitoring Conditions:** Dr. Starr shall have maintained continuing compliance with all interim monitoring terms and conditions of Paragraph B of this Order, unless otherwise determined by the Board.
3. **Completion of Inpatient Treatment:** Dr. Starr shall complete a minimum of twenty-eight days of inpatient or residential treatment, or a combination thereof, for his substance dependency. Such inpatient or residential treatment shall be completed without interruption. Further, such inpatient or residential treatment shall be provided in accordance with Rule 4731-16-08(A)(13), Ohio Administrative Code, by a treatment provider approved under Section 4731.25, Ohio Revised Code.

In addition, upon discharge from treatment, Dr. Starr shall enter into, and thereafter maintain compliance with, a post-discharge aftercare contract which complies with Rule 4731-16-10, Ohio Administrative Code, with a treatment provider approved under Section 4731.25, Ohio Revised Code, who has access to Dr. Starr's treatment records.

4. **Demonstration of Ability to Resume Practice:** Dr. Starr shall demonstrate to the satisfaction of the Board that he can practice in compliance with acceptable and prevailing standards of care under the provisions of his certificate. Such demonstration shall include, but not be limited to, the following:
  - a. Certification from a treatment provider approved under Section 4731.25 of the Revised Code that Dr. Starr has successfully completed the required inpatient treatment.
  - b. Evidence of continuing full compliance with a post-discharge aftercare contract with a treatment provider approved under Section 4731.25 of the Revised Code. Such evidence shall include, but not be limited to, a copy of the signed aftercare contract. The post-discharge aftercare contract must comply with rule 4731-16-10 of the Administrative Code.
  - c. Evidence of continuing full compliance with this Order.
  - d. Two written reports indicating that Dr. Starr's 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 be made by individuals or providers approved by the Board for making such assessments and shall describe the basis for this determination.
5. **Absence from Practice:** In the event that Dr. Starr has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to the submission of his application for reinstatement or restoration, the Board may exercise

its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of Dr. Starr's fitness to resume practice.

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

1. **Terms, Conditions, and Limitations Continued from Suspension Period:** Dr. Starr shall continue to be subject to the interim monitoring terms, conditions, and limitations as specified in paragraph B of this Order, unless otherwise determined by the Board.
2. **Compliance with Terms of Aftercare Contract:** Dr. Starr shall maintain continued compliance with the terms of the aftercare contract entered into with his treatment provider, provided that, where terms of the aftercare contract conflict with terms of this Order, the terms of this Order shall control.
3. **Chart Monitoring and Monitoring Physician:** Before engaging in any medical practice, Dr. Starr shall submit for the Board's prior approval the name of a monitoring physician. In approving an individual to serve in this capacity, the Board will give preference to a physician who practices in the same locale as Dr. Starr and who is engaged in the same or similar practice.

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

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

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

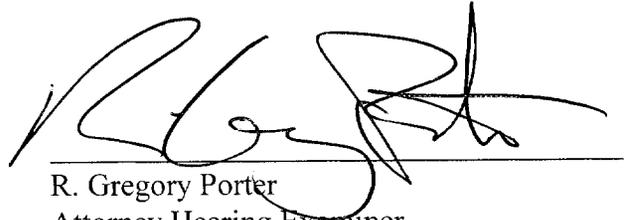
4. **Log of Controlled Substances Prescribed:** Dr. Starr shall keep a log of all controlled substances prescribed. Such log shall be submitted, in a format approved

by the Board, thirty days prior to Dr. Starr's personal appearance before the Board or its designated representative, or as otherwise directed by the Board.

5. **Prohibition against Administering, Dispensing, or Possessing Controlled Substances:** Dr. Starr shall not, without prior Board approval, administer, dispense, or possess (except as allowed under Paragraphs B.4 and B.11, above) any controlled substances as defined by state or federal law. In the event that the Board agrees at a future date to modify this Order to allow Dr. Starr to administer or dispense controlled substances, Dr. Starr shall keep a log of all controlled substances prescribed, administered, or dispensed. Such log shall be submitted, in the format approved by the Board, thirty days prior to Dr. Starr's personal appearance before the Board or its designated representative, or as otherwise directed by the Board.
  6. **Absence from Ohio:** In the event that Dr. Starr should leave Ohio for three continuous months, or reside or practice outside the State, Dr. Starr must notify the Board in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of this period under the Order, unless otherwise determined by the Board in instances where the Board can be assured that probationary monitoring is otherwise being performed.
  7. **Failure to Comply; Reduction of Probationary Period:** In the event Dr. Starr 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.
  8. **Violation of Probation; Discretionary Sanction Imposed:** If Dr. Starr violates probation in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of Dr. Starr's certificate.
- E. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Starr's certificate will be fully restored.
- F. **REQUIRED REPORTING BY LICENSEE TO EMPLOYERS AND HOSPITALS:** Within thirty days of the effective date of this Order, Dr. Starr shall provide a copy of this Order to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Starr shall provide a copy of this Order to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments.

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

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



R. Gregory Porter  
Attorney Hearing Examiner



# State Medical Board of Ohio

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

## EXCERPT FROM THE DRAFT MINUTES OF AUGUST 8, 2001

### REPORTS AND RECOMMENDATIONS

Dr. Bhati announced that the Board would now consider the findings and orders appearing on the Board's agenda.

Dr. Bhati asked whether each member of the Board had received, read, and considered the hearing record, the proposed findings, conclusions, and orders, and any objections filed in the matter of Warrick Lee Barrett, M.D.; Christopher Chen, M.D.; Brian W. Davies, M.D.; Daniel X. Garcia, M.D.; Alan P. Skora, D.O.; Rezso Spruch, M.D.; Tom Reutti Starr, M.D.; Joseph A. Tore, M.D.; Quirino B. Valeros, M.D. and Dirk Gregory Wood, M.D. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Somani	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Agresta	- aye
	Dr. Steinbergh	- aye
	Dr. Bhati	- aye

Dr. Bhati 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. Somani	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Agresta	- aye
	Dr. Steinbergh	- aye
	Dr. Bhati	- aye

Dr. Bhati 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.

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

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

.....

TOM REUTTI STARR, M.D.

.....

**DR. AGRESTA MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF TOM REUTTI STARR, M.D. MR. BROWNING SECONDED THE MOTION.**

.....

A vote was taken on Dr. Agresta's motion to approve and confirm:

Vote:	Mr. Albert	- abstain
	Dr. Talmage	- aye
	Dr. Somani	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Agresta	- aye
	Dr. Steinbergh	- aye
	Dr. Bhati	- aye

The motion carried.

.....

**DR. TALMAGE MOVED TO RECONSIDER THE MATTER OF TOM REUTTI STARR, M.D., FOR THE PURPOSE OF REVIEWING A CHANGE IN THE LAW, OF WHICH HE BELIEVED THE BOARD MIGHT HAVE BEEN UNAWARE WHEN IT ADOPTED THE ORDER. DR. SOMANI SECONDED THE MOTION. A vote was taken:**

Vote:	Mr. Albert	- abstain
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Dr. Talmage	- aye
Dr. Somani	- aye
Dr. Buchan	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Agresta	- aye
Dr. Steinbergh	- aye
Dr. Bhati	- aye

The motion carried.

Dr. Talmage stated that, in the earlier discussion of this case, the Board members might have assumed that the law required Dr. Starr to complete inpatient treatment. That, in fact, is not correct. The Board rule provides an exception for someone who has remained sober for longer than one year after his or her previous inpatient treatment. Dr. Talmage's proposed amendment addresses that exception by substituting language similar to that used in the Tore case to require Dr. Starr to submit to a 72-hour inpatient examination to determine whether he does, in fact, need longer inpatient treatment. Further, the amendment deletes the words "post-discharge" in connection with the aftercare contract requirement in paragraph C.4.b., since inpatient treatment might not ultimately prove to be necessary.

**DR. TALMAGE MOVED THAT THE ORDER IN THE MATTER OF TOM REUTTI STARR, M.D., ADOPTED BY THE STATE MEDICAL BOARD OF OHIO ON AUGUST 8, 2001, BE AMENDED AS FOLLOWS:**

**1. BY SUBSTITUTING THE FOLLOWING FOR PARAGRAPH C.3.:**

- 3. Inpatient Examination/Treatment/Aftercare:** Within thirty (30) days of the effective date of this Order, Dr. Starr shall submit to a seventy-two (72) hour inpatient examination to be conducted by a treatment provider approved under Section 4731.25, Ohio Revised Code, for purposes of determining his current treatment needs. Prior to the examination, Dr. Starr shall notify the State Medical Board in writing of the scheduled dates of the examination and shall provide the approved treatment provider conducting such examination with copies of patient records from any other evaluations and/or treatment that he has received, and a copy of this Order.

If current treatment needs are identified, Dr. Starr shall enter into treatment, to include inpatient or residential treatment provided in accordance with Rule 4731-16-08(A)(13), Ohio Administrative Code, to be provided by a treatment provider approved under Section 4731.25, Ohio Revised Code, within forty-eight (48) hours of the determination that treatment is necessary; shall complete any required treatment without interruption; and shall enter into an aftercare contract which complies with Rule 4731-16-10, Ohio Administrative Code, with such treatment provider. If no current treatment needs are identified, Dr. Starr shall

enter into an aftercare contract which complies with Rule 4731-16-10, Ohio Administrative Code, with such treatment provider.

**2. BY DELETING THE LANGUAGE “POST-DISCHARGE” WHERE IT APPEARS IN PARAGRAPH C.4.b.**

**DR. AGRESTA SECONDED THE MOTION.**

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

Dr. Steinbergh spoke against the amendment, stating that she felt very strongly about the appropriateness of her amendment in Dr. Tore’s case. These are not cases that can be compared in any way. Dr. Starr is an impaired physician who needs to go through a treatment program. What was done in Dr. Tore’s case was unusual because of the unusual facts of that particular case. The same approach is not appropriate in Dr. Starr’s case. She does not support this motion.

Dr. Talmage stated that he didn’t say that these were comparable cases. He said that the 72-hour examination language used for Dr. Tore would be appropriate in this case. This is to address the fact that the law does not require the inpatient treatment required by the original Order. Dr. Talmage stated that it would seem to him to be appropriate for the Board to state for the record that, although the law does not require the 28-day inpatient treatment, the Board believes that it should be required in this case.

Dr. Somani stated that the Board doesn’t want to make a 72-hour examination an option available in routine impairment cases, particularly when there has been a relapse. The Board knows from experience that when physicians do relapse, inpatient management is required before they go into the outpatient setting. The Board has seen time and time again that, in the case of relapse, outpatient treatment doesn’t work.

Mr. Albert stated that he will not address this particular case, but does wish to make a general statement. The Board’s rules require a minimum of 28-days inpatient treatment in impairment cases involving relapse. The evaluator might recommend a longer period.

Dr. Buchan stated that, by Dr. Starr’s own admission, he has resumed the consumption of alcohol. This is, indeed, a relapse situation and he feels now, as he did earlier, that the original Order is reasonable and appropriate.

Mr. Dilling stated that the Board can take that position. It simply needs to understand that the 28 days is not mandated by law. What Dr. Talmage is saying about the law is pertinent to the discussion. He just wants to make sure that everybody understands that the Board does have the discretion. It may feel that 28 days is needed based on the facts in this case. Then again, the Board’s rule was written in a way to include an exception that essentially allows the Board to use its discretion in cases where somebody has relapsed after being sober for a long period of time, which is what happened in this case.

Dr. Talmage stated that, with the understanding that the rule allows the Board some discretion, he will vote against his own motion. He's addressed the law as it exists. Other members should vote in the way that they feel is most appropriate as well.

Dr. Bhati stated that he feels that relapses are more serious than the first stage of impairment. A high percentage of people who relapse are likely to relapse again. Requiring inpatient treatment for 28 days will do this doctor more good than harm.

Dr. Steinbergh agreed. She noted that treatment today will be different from what Dr. Starr went through ten years ago.

Ms. Collis thanked Dr. Talmage for raising this issue today. The only thing that she would like to assert on behalf of Dr. Starr is that the way this amendment is drafted does protect the citizens of the State of Ohio because it gives him an opportunity to have this evaluation. If the evaluator, who specializes in chemical dependency evaluations, determines after 72 hours that Dr. Starr needs treatment, he would go directly into treatment within 48 hours. At the same time, the amendment gives Dr. Starr the opportunity, if he is found to not be in need of that inpatient treatment, to not have to undergo it.

Dr. Bhati stated that the Board understands that. He stated that the problem is that the Board deals with cases such as this day in and day out. The Board knows that people in relapse situations need more care than the first-timers. He believes 28 days of inpatient treatment will help Dr. Starr. The Board knows that those who participate in 28 days of inpatient treatment do much better and have a lesser chance of relapse than those in outpatient treatment. Dr. Bhati stated that he believes the Board is doing Dr. Starr a favor.

Mr. Dilling stated that it is his recollection that the Board put this exception into the rule for people in the relapse situation because of the testimony that a relapse isn't always the same as the initially identified impairment. In a relapse situation, there is room for discretion. What he hears Dr. Bhati saying is that, based upon his review of the record and based upon his experience with other practitioners who have come before the Board, he feels that imposing a 28-day inpatient requirement is appropriate in this case.

Mr. Schmidt stated that if that is what the Board is deciding, that is certainly within its discretion. He noted that when the rule was drafted, this was a point of controversy.

Dr. Bhati stated that he would like to call the question, if there is no further discussion.

Dr. Steinbergh stated that she wants to understand this. Does the Board have a problem with the adopted Order that needs to be addressed? To the Board members, it appeared to be an appropriate Order. Is there something that is inappropriate that the Board is missing in the discussion?

Dr. Bhati stated that the issue is whether or not the Board members are aware that they do not have to require 28 days of inpatient treatment.

Dr. Talmage stated that it is important that the Board had this discussion to demonstrate to a reviewing

court, should an appeal be taken, that the Board understood that the 28-day treatment requirement was optional. He believes that the Board's discussion reflects that the Board does not assume that it must require that 28-day inpatient treatment, but does feel that it is appropriate in this case.

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

Vote:	Mr. Albert	- abstain
	Dr. Talmage	- nay
	Dr. Somani	- nay
	Dr. Buchan	- nay
	Mr. Browning	- nay
	Ms. Sloan	- nay
	Dr. Agresta	- nay
	Dr. Steinbergh	- nay
	Dr. Bhati	- nay

The motion carried.

**DR. BUCHAN MOVED TO AFFIRM THE BOARD'S ORIGINALLY ADOPTED ORDER IN THE MATTER OF TOM REUTTI STARR, M.D. MR. BROWNING SECONDED THE MOTION. A vote was taken:**

Vote:	Mr. Albert	- abstain
	Dr. Talmage	- aye
	Dr. Somani	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Agresta	- aye
	Dr. Steinbergh	- aye
	Dr. Bhati	- aye

The motion carried.



# State Medical Board of Ohio

77 S. High Street, 17th Floor • Columbus, Ohio 43266-0315 • 614/ 466-3934 • Website: [www.state.oh.us/med/](http://www.state.oh.us/med/)

March 14, 2001

Tom Reutti Starr, M.D.  
1044 South Main Street  
Dayton, Ohio 45409

Dear Doctor Starr:

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

- (1) On or about October 8, 1991, you admitted yourself to Shepherd Hill Hospital in Newark, Ohio. You were diagnosed as suffering from alcohol dependence and benzodiazepine abuse. You were discharged on or about November 4, 1991.

On or about January 9, 2001, you admitted to a State Medical Board of Ohio Enforcement Investigator that you had consumed alcohol with friends, and that you last drank alcohol approximately one week ago. You admitted that you drink vodka straight, one or two shots at a time. You also told the Enforcement Investigator that you had smoked marijuana once.

On or about March 2, 2001, after you told an officer from the Beavercreek Police Department that you had one shot of vodka earlier, you failed several sobriety tests, and were arrested and charged with violations of Section 4511.19, Ohio Revised Code, Driving while under the Influence. After being transported to the Beavercreek Police Department, you consented to a breath test, which indicated that you had .129 grams of alcohol per 210 liters of your breath.

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

Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty (30) days of the time of mailing of this notice.

*Mailed 3-15-01*

TOM REUTTI STARR, M.D.

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

In the event that there is no request for such hearing received within thirty (30) days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand or place you on probation.

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, effective March 9, 1999, provides that "[w]hen the board refuses to grant a certificate to an applicant, revokes an individual's certificate to practice, refuses to register an applicant, or refuses to reinstate an individual's certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate."

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Anand G. Garg, M.D.  
Secretary

AGG/krt

Enclosures

CERTIFIED MAIL # 7000 0600 0024 5140 5222  
RETURN RECEIPT REQUESTED

cc: Dennis A. Lieberman  
Flanagan Lieberman Hoffman & Swaim  
318 West 4<sup>th</sup> Street  
Dayton, Ohio 45402-1437

CERTIFIED MAIL # 7000 0600 0024 5140 5246  
RETURN RECEIPT REQUESTED