



# State Medical Board of Ohio

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

November 9, 2005

Lynne Ellen Zegiob Check, M.D.  
3655 Brush  
Richfield, OH 44286

Dear Doctor Check:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of R. Gregory Porter, Esq., Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on November 9, 2005, including motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

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

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

THE STATE MEDICAL BOARD OF OHIO

Lance A. Talmage, M.D.  
Secretary

LAT:jam  
Enclosures

CERTIFIED MAIL NO. 7002 2410 0002 3141 5103  
RETURN RECEIPT REQUESTED

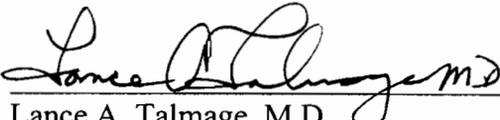
Cc: Douglas E. Graff, Esq.  
CERTIFIED MAIL NO. 7002 2410 0002 3141 5052  
RETURN RECEIPT REQUESTED

MAILED 11-14-05

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 November 9, 2005, 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 Lynne Ellen Zegiob Check, 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)

November 9, 2005  
\_\_\_\_\_  
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

\*

\*

LYNNE ELLEN ZEGIOB CHECK, M.D.

\*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on November 9, 2005.

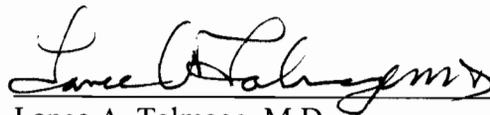
Upon the Report and Recommendation of R. Gregory Porter, State Medical Board Attorney Hearing Examiner, designated in this Matter pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the approval and confirmation by vote of the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

The certificate of Lynne Ellen Zegiob Check, M.D., to practice medicine and surgery in the State of Ohio shall be REVOKED.

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

(SEAL)



Lance A. Talmage, M.D.

Secretary

November 9, 2005

Date

**REPORT AND RECOMMENDATION  
IN THE MATTER OF LYNNE ELLEN ZEGIOB CHECK, M.D.**

The Matter of Lynne Ellen Zegiob Check, M.D., was heard by R. Gregory Porter, Esq., Hearing Examiner for the State Medical Board of Ohio, on May 23, 2005.

**INTRODUCTION**

I. Basis for Hearing

- A. In a Notice of Summary Suspension and Opportunity for Hearing dated January 12, 2005, the State Medical Board of Ohio [Board] notified Lynne Ellen Zegiob Check, M.D., that, pursuant to Section 4731.22(G), Ohio Revised Code, the Board had adopted an Entry of Order summarily suspending her certificate to practice medicine and surgery in Ohio. The Board further advised that continued practice would be considered practicing without a certificate, in violation of Section 4731.41, Ohio Revised Code.

Moreover, the Board notified Dr. Check that it had proposed to take disciplinary action against her certificate based upon allegations that she had violated the probationary terms, conditions, and limitations as provided in a March 2004 Probationary Consent Agreement; and that she had failed to appear for a three-day, inpatient evaluation for chemical dependency as ordered by the Board.

The Board alleged that Dr. Check's violation of probationary terms, conditions, and limitations as provided in the March 2004 Probationary Consent Agreement 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."

The Board further alleged that Dr. Check's failure to appear for a three-day inpatient evaluation for chemical dependency as ordered by the Board constitutes a "[f]ailure to cooperate in an investigation conducted by the board under division (F) of this section, including failure to comply with a subpoena or order issued by the board \* \* \*." as that clause is used in Section 4731.22(B)(35),<sup>[1]</sup> Ohio Revised Code."

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

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<sup>1</sup> Note that, pursuant to S.B. 80 effective April 7, 2005, this subsection was renumbered from 4731.22(B)(35) to 4731.22(B)(34).

- B. By document received by the Board on February 8, 2005, Douglas E. Graff, Esq., requested a hearing on behalf of Dr. Check. (State's Exhibit 1B)

II. Appearances

- A. On behalf of the State of Ohio: Jim Petro, Attorney General, by Jonathan R. Fulkerson, Assistant Attorney General.
- B. On behalf of the Respondent: Douglas E. Graff, Esq.

**EVIDENCE EXAMINED**

I. Testimony Heard

- A. Danielle Bickers
- B. Rebecca Marshall, Esq.

II. Exhibits Examined

A. Presented by the State

- 1. State's Exhibits 1A through 1J: Procedural exhibits.
- 2. State's Exhibit 2: Compact disk containing two audio recordings.
- 3. State's Exhibit 3: Certified copies of documents maintained by the Board concerning Dr. Check.
- 4. State's Exhibit 4: Certified copies of records maintained by the Richfield [Ohio] Mayor's Court concerning Dr. Check.

B. Presented by the Respondent

- 1. Respondent's Exhibit A: A list of treatment providers approved by the Board.
- 2. Respondent's Exhibit A: Copies of pages 14813 through 14817 of the minutes of the January 12, 2005, meeting of the Board.
- 3. Respondent's Exhibit C: Copies of Dr. Check's medical records from Edwin Shaw Hospital for Rehabilitation in Akron, Ohio. [This exhibit has been sealed to protect patient confidentiality and to comply with federal law.]

C. Admitted by the Hearing Examiner Post-Hearing

1. Board Exhibits A through D: Procedural exhibits that were not included with State's Exhibits 1A through 1J, consisting of copies of: a February 16, 2005, Joint Motion for Continuance; a February 15, 2005, Stipulation to Continuance; a May 6, 2005, Notice of Substitution of Counsel; and a May 6, 2005, State Medical Board of Ohio's List of Witnesses and Documents.
2. Board Exhibit E: June 13, 2005, State's Brief Regarding Timing of Suspension.
3. Board Exhibit F: June 30, 2005, Respondent's Brief on Effect of Multiple Board Actions.
4. Board Exhibit G: Transcript of the audio recordings contained in State's Exhibit 2.

### PROCEDURAL MATTERS

The hearing record was held open to give the parties an opportunity to submit briefs concerning legal issues. The record closed on June 30, 2005, the date when the last brief was filed.

### 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. On March 10, 2004, Lynne Ellen Zegiob Check, M.D., entered into a Probationary Consent Agreement with the Board [Consent Agreement], based upon her violations of Sections 4731.22(B)(19) and (B)(35), Ohio Revised Code. (State's Exhibit [St. Ex.] 3 at 34-42) In the Consent Agreement, Dr. Check made certain factual admissions, including the following:
  - In February 2002, after having been charged with Driving Under the Influence, Dr. Check was convicted of an amended charge of Physical Control in Garfield Heights Municipal Court in Garfield Heights, Ohio. This resulted from Dr. Check's personal consumption of narcotic cough medication that she had obtained from office samples, and from a prescription previously issued for a family member by another physician.
  - Dr. Check failed to appear for a chemical dependency evaluation at Shepherd Hill Hospital [Shepherd Hill] as had been ordered by the Board; instead, she unilaterally opted to pursue an inpatient evaluation at Parkside Behavioral Healthcare.

- As a result of the Parkside Behavioral Healthcare evaluation, “Edna Jones, M.D., determined that Dr. Check had diagnoses including major depression and adjustment disorder with mixed mood, for which Dr. Jones recommended that Dr. Check maintain ongoing psychiatric treatment and counseling.”
- “[A]lthough Dr. Jones determined that Dr. Check did not suffer from chemical dependency nor require addiction treatment, Dr. Jones nonetheless made certain recommendations including that Dr. Check abstain from addictive mood altering drugs and alcohol, submit to random witnessed drug screens, and refrain from self-prescribing.”
- Dr. Check subsequently submitted to a three-day evaluation at Shepherd Hill Hospital, where it was determined that she “did not suffer from chemical dependency, but resulted in diagnoses including dysthymia; history of major depression, recurrent; and adjustment disorder with anxiety.”
- Dr. Check had a history of self-prescribing certain medications, and a psychiatric evaluation by Stephen Noffsinger, M.D., resulted in the diagnosis of major depressive disorder, in partial remission.

(St. Ex. 3 at 34-36)

Finally, in the Consent Agreement, Dr. Check agreed to certain terms, conditions, and limitations, including a requirement that she abstain completely from the use of alcohol.  
(St. Ex. 3 at 37)

2. In a section of the Consent Agreement entitled, “Failure to Comply,” Dr. Check contractually agreed to the following,

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

(St. Ex. 3 at 41)

3. On September 30, 2004, Dr. Check appeared before the Richfield Mayor’s Court in Richfield, Ohio, and pled no contest to and was convicted of OVI [Operating a Vehicle under the Influence], in violation of Section 333.010 of the Village of Richfield Ordinances. The court sentenced Dr. Check to a three-day driver intervention program to be completed by December 30, 2004; assessed \$400 in fines and costs; and granted limited driving privileges including permission for Dr. Check to travel to and from her medical

office location and Marymount Hospital for patient care, and permission to travel to and from Edwin Shaw Hospital for Rehabilitation. (St. Ex. 4)

4. On November 15, 2004, Dr. Check voluntarily submitted to an evaluation at Edwin Shaw Hospital for Rehabilitation [Edwin Shaw], a Board-approved treatment provider. She entered the Intensive Outpatient Program at that facility on or about November 17, 2004. On December 15, 2004, Dr. Check entered the continuing care program but did not complete it. (Respondent's Exhibits [Resp. Exs.] A and C; Hearing Transcript [Tr.] at 34)
5. On December 6, 2004, Dr. Check appeared before representatives of the Board for a regularly scheduled quarterly probationary office conference. During the conference, Dr. Check reported that she had relapsed. Dr. Check further reported that, since the time of her previous office conference with the Board in September 2004, she had been convicted of OVI. She stated that, on the evening of the offense, she and her friends had been at a restaurant, and Dr. Check had consumed three glasses of wine over a five-hour period. Dr. Check further stated that, two hours later, she had been arrested. Moreover, Dr. Check stated that a breath test had indicated that her blood-alcohol level had been 0.17. Furthermore, Dr. Check reported that, after her conviction, she had voluntarily gone to Edwin Shaw for an evaluation, that Edwin Shaw had recommended a four-week outpatient program, and that she had completed two weeks of that program at the time of her December 6, 2004, office conference. Finally, Dr. Check reported that she had not attended a 28-day inpatient treatment program. (St. Ex. 2; Board Exhibit G)
6. By letter dated December 17, 2004, the Board advised Dr. Check that, based upon her consumption of alcohol and her conviction of OVI, the Board had determined that it had reason to believe that Dr. Check was in violation of Section 4731.22(B)(26), Ohio Revised Code, to wit: "[i]mpairment of ability to practice according to acceptable in prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice." (R.C. 4731.22[B][26]) The Board ordered Dr. Check to submit to a three-day inpatient examination at Shepherd Hill in Newark, Ohio, and to report to Richard Whitney, M.D., on January 3, 2005, for that purpose. (St. Ex. 3 at 12-14)
7. By facsimile dated December 22, 2004, Board staff advised counsel for Dr. Check that, among other things, the Board's Secretary had denied counsel's request "that Dr. Check be allowed to substitute another approved treatment provider in lieu of presenting to Shepherd Hill as ordered in the Board letter of December 17, 2004." (St. Ex. 3 at 18)
8. By facsimile dated December 31, 2004, Dr. Check advised Board staff as follows,

I recently received a letter from your office instructing me to report to Shepherd Hill for an assessment on Monday, January 3, 2005. I will not be doing so.

I have completed an intensive outpatient program at Edwin Shaw—a facility approved by the OSMB. I have signed a release for the Board to obtain records from Edwin Shaw.

At this time I would request a hearing with the Board on this matter.

As of this date I will no longer be practicing medicine in any capacity until this matter is resolved.

(St. Ex. 3 at 21)

9. By letter dated January 3, 2005, Dr. Whitney notified Board staff that Dr. Check had not appeared for her examination, nor had she contacted Shepherd Hill to cancel or reschedule the examination. (St. Ex. 3 at 22)
10. On January 12, 2005, the Board issued a Findings, Order and Journal Entry [FOJE] that indefinitely suspended Dr. Check's certificate based upon her failure to appear as ordered for the Shepherd Hill evaluation. The FOJE further states that, by operation of law pursuant to Section 4731.22(B)(26), Ohio Revised Code, Dr. Check's failure to appear for that evaluation had constituted an admission to the allegations set forth in the Board's December 17, 2004, letter. Finally, the Board found Dr. Check to be unable to practice according to acceptable the prevailing standards of care because of "[i]mpairment of ability to practice according to acceptable in prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice." (R.C. 4731.22[B][26]) (St. Ex. 3 at 5-6)

Later on January 12, 2005, the Board issued a Notice of Summary Suspension and Opportunity for Hearing [Notice] to Dr. Check. The Notice advised Dr. Check that her certificate had been summarily suspended based upon the determination of the Secretary and the Supervising Member that there existed clear and convincing evidence that Dr. Check had violated Section 4731.22(B)(15), Ohio Revised Code. In addition, the Notice advised Dr. Check that the Board had proposed taking disciplinary action against her certificate based upon alleged violations of Section 4731.22(B)(15) and Section 4731.22(B)(35), Ohio Revised Code. (St. Ex. 1A)

The minutes of the Board's meeting on January 12, 2005, indicate that the Board had voted to approve the FOJE immediately prior to voting to approve the Notice of Summary Suspension and Opportunity for Hearing. The Board minutes further indicate that the FOJE would be "effective immediately." (Resp. Ex. B at 14815-14816)

11. On February 1, 2005, Dr. Check was discharged from the continuing care program at Edwin Shaw without completing her treatment. This occurred because Dr. Check decided to visit her sister, who lives out-of-state, for over five weeks. (Resp. Ex. C)

12. Rebecca Marshall, Esq., testified on behalf of the State. Ms. Marshall testified that she is an Enforcement Attorney for the Board, and that her job includes coordinating investigations into potential disciplinary matters concerning the Board's licensees. Ms. Marshall further testified that she is familiar with Dr. Check's case. (Tr. at 52-53)

Ms. Marshall testified that the Secretary and the Supervising Member had directed that Dr. Check be evaluated by Shepherd Hill in January 2005 because, when Dr. Check's case had originally begun with the Board, Dr. Check had selected Shepherd Hill for her initial evaluation. Ms. Marshall further testified that the Secretary and the Supervising Member had believed that Shepherd Hill had been in the best position to perform the examination. (Tr. at 80-83)

### LEGAL ISSUES

1. Counsel for the Respondent argued that the Board's January 12, 2005, summary suspension of the Respondent's certificate had been improper. Counsel for the Respondent asserted that, during its January 12, 2005, meeting, the Board had adopted the Findings, Order and Journal Entry [FOJE] indefinitely suspending Dr. Check's certificate "effective immediately" prior to adopting the Notice of Summary Suspension and Opportunity for Hearing. Counsel for the Respondent further argued that, as a result, Dr. Check could not have legally practiced medicine at the time the Notice of Summary Suspension and Opportunity for Hearing was voted upon. Therefore, she could not at that time have presented "a danger of immediate and serious harm to the public[]" as is required by Section 4731.22(G), Ohio Revised Code, for the issuance of a summary suspension. Accordingly, counsel for the Respondent argued that the Board did not have an appropriate basis to order a summary suspension, and requested a finding that issuance of the summary suspension order had been improper. (Board Exhibit F; Tr. at 115-118)

The State argued that the minutes of a Board meeting do not become effective until they have been journalized. In addition, the State argued that "both orders [concerning Dr. Check] control simultaneously as they have independent legal meaning apart from each other." Moreover, the State argued that it is irrelevant as to which order came first, because each order arose as a result of legally distinct conduct. Finally, the State argued that "[t]he suspension for violating a restriction on [Dr. Check's] practice has independent legal 'life' from the FOJE which restricted Dr. Check for not attending a dependency evaluation." (Board Exhibit E)

At the time that the FOJE and the Notice of Summary Suspension and Opportunity for Hearing were entered into the Board's agenda for its January 12, 2005, meeting, and until the Board voted on those documents, there was no way for anyone to know whether the Board would adopt one or the other or both. The Board could have declined to issue the FOJE, which would have meant that Dr. Check's certificate would have remained active unless the summary suspension was issued. For that reason, and for the reasons argued by the State, the Respondent's arguments are unpersuasive.

2. Counsel for the Respondent also argued that the two separate actions taken by the Board against Dr. Check, namely, the summary suspension and the indefinite suspension, violated the double jeopardy clause of the Fifth Amendment to the United States Constitution. This argument is not persuasive.

The FOJE and the Notice of Summary Suspension and Opportunity for Hearing did not constitute “two separate actions predicated on a single event[]” as argued by counsel for the Respondent. The FOJE was issued as a result of Dr. Check’s failure to attend a Board-ordered dependency evaluation; the summary suspension was issued as a result of Dr. Check’s violation of her Consent Agreement by consuming alcohol. Moreover, neither action was taken for the purpose of punishing Dr. Check; rather, the purpose of each action was to protect the public. Accordingly, the double jeopardy clause of the Fifth Amendment to the United States Constitution does not apply to this case.

### **FINDINGS OF FACT**

1. On March 10, 2004, Lynne Ellen Zegiob Check, M.D., entered into a Probationary Consent Agreement with the Board [Consent Agreement], based upon her violations of Sections 4731.22(B)(19) and (B)(35), Ohio Revised Code. In the Consent Agreement, Dr. Check made certain factual admissions, including the following:
  - In February 2002, after having been charged with Driving Under the Influence, Dr. Check was convicted of an amended charge of Physical Control in Garfield Heights Municipal Court in Garfield Heights, Ohio. This resulted from Dr. Check’s personal consumption of narcotic cough medication that she had obtained from office samples, and from a prescription previously issued for a family member by another physician.
  - Dr. Check failed to appear for a chemical dependency evaluation at Shepherd Hill Hospital as had been ordered by the Board; instead, she unilaterally opted to pursue an inpatient evaluation at Parkside Behavioral Healthcare.
  - As a result of the Parkside Behavioral Healthcare evaluation, “Edna Jones, M.D., determined that Dr. Check had diagnoses including major depression and adjustment disorder with mixed mood, for which Dr. Jones recommended that Dr. Check maintain ongoing psychiatric treatment and counseling.”
  - “[A]lthough Dr. Jones determined that Dr. Check did not suffer from chemical dependency nor require addiction treatment, Dr. Jones nonetheless made certain recommendations including that Dr. Check abstain from addictive mood altering drugs and alcohol, submit to random witnessed drug screens, and refrain from self-prescribing.”

- Dr. Check subsequently submitted to a three-day evaluation at Shepherd Hill Hospital, whereupon it was determined that she did not suffer from chemical dependency. Her diagnoses included dysthymia; history of major depression, recurrent; and adjustment disorder with anxiety.”
- Dr. Check had a history of self-prescribing certain medications, and a psychiatric evaluation by Stephen Noffsinger, M.D., resulted in the diagnosis of major depressive disorder, in partial remission.

Finally, Dr. Check agreed to certain terms, conditions, and limitations, including a requirement that she abstain completely from the use of alcohol.

2. The Consent Agreement includes a requirement that Dr. Check abstain completely from the use of alcohol. Despite that requirement, on December 6, 2004, when Dr. Check appeared before representatives of the Board for her regularly scheduled quarterly office conference, she admitted that she had been convicted in September 2004 of OVI, and that the conviction had resulted from her consumption of alcohol and her subsequent arrest for driving with a 0.17 blood alcohol level.
3. In the section of the Consent Agreement entitled, “Failure to Comply,” Dr. Check contractually agreed to the following,

If the Secretary and Supervising Member of the Board determine that there is clear and convincing evidence that Dr. Check has violated any term, condition or limitation of this Consent Agreement, Dr. Check agrees that the violation, as alleged, also constitutes clear and convincing evidence that her continued practice presents a danger of immediate and serious harm to the public for purposes of initiating a summary suspension pursuant to Section 4731.22(G), Ohio Revised Code.
4. On September 30, 2004, in the Richfield Mayor’s Court in Richfield, Ohio, Dr. Check was convicted of OVI [Operating a Vehicle under the Influence], in violation Section 333.010 of the Village of Richfield Ordinances. Dr. Check was ordered to complete a three-day driver intervention program, assessed \$400 in fines and costs, and granted a limited driving privileges including permission to travel to and from her medical office location and Marymount Hospital for patient care, and permission to travel to and from Edwin Shaw Hospital.
5. On January 12, 2005, the Board adopted a Findings, Order and Journal Entry [FOJE] that indefinitely suspended Dr. Check’s certificate to practice medicine and surgery. This action was based upon Dr. Check’s failure to appear as ordered for a three-day inpatient evaluation for chemical dependency which, pursuant to Section 4731.22(B)(26), Ohio Revised Code, by operation of law, constituted her admission of an “[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.”

6. On January 12, 2005, the Board adopted a FOJE as noted in Conclusions of Law 5, above. In addition, the Board also adopted a Notice of Summary Suspension and Opportunity for Hearing that summarily suspended that same certificate. Accordingly, the evidence is not sufficient to support the allegation that, but for the Board's action to summarily suspend Dr. Check's certificate as set forth in the Board's January 12, 2005, Notice of Summary Suspension and Opportunity for Hearing, she would be legally authorized to practice medicine and surgery in Ohio subject to the terms, conditions, and limitations set forth in the Consent Agreement.

Nevertheless, as discussed in Legal Issues 1, above, there was no way for anyone to know whether the Board would adopt one document or the other, or both, until the Board actually voted on those documents. Moreover, as set forth in Findings of Fact 3, above, Dr. Check contractually agreed that the violation of any requirement of her Consent Agreement constitutes "clear and convincing evidence that her continued practice presents a danger of immediate and serious harm to the public for purposes of initiating a summary suspension pursuant to Section 4731.22(G), Ohio Revised Code." Accordingly, the evidence does not support a finding, as was argued by the Respondent, that the Board's issuance of the Notice of Summary Suspension and Opportunity for Hearing had been improper.

### CONCLUSIONS OF LAW

1. The conduct of Lynne Ellen Zegiob Check, M.D., as set forth in Findings of Fact 2 and 4 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 failure of Dr. Check to appear as ordered for a three-day inpatient evaluation for chemical dependency, as set forth in Findings of Fact 5, constitutes a "[f]ailure to cooperate in an investigation conducted by the board under division (F) of this section, including failure to comply with a subpoena or order issued by the board \* \* \*[,]" as that clause is used in Section 4731.22(B)(34),<sup>2</sup> Ohio Revised Code.

\* \* \* \* \*

Dr. Check violated a requirement in her March 2004 Probationary Consent Agreement that she abstain from the use of alcohol. She self-reported that relapse during her December 6, 2004, office conference, which is commendable. However, as she had done previously, Dr. Check then failed to comply with a Board Order that she submit to a three-day chemical dependency evaluation at Shepherd Hill Hospital. It is clear from the evidence that Dr. Check is not presently interested in maintaining a regulatory relationship with the Board.

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<sup>2</sup> Note that, pursuant to S.B. 80 effective April 7, 2005, this subsection was renumbered from 4731.22(B)(35) to 4731.22(B)(34).

**PROPOSED ORDER**

It is hereby ORDERED that:

The certificate of Lynne Ellen Zegiob Check, M.D., to practice medicine and surgery in the State of Ohio shall be REVOKED.

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



R. Gregory Porter, Esq.  
Hearing Examiner



# State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3954 • Website: [www.med.ohio.gov](http://www.med.ohio.gov)

## EXCERPT FROM THE DRAFT MINUTES OF NOVEMBER 9, 2005

### REPORTS AND RECOMMENDATIONS

Dr. Davidson announced that the Board would now consider the findings and order 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: Lynne Ellen Zegiob Check, M.D.; Vikas Kumar Jain, M.D.; and Barry Joseph Politi, M.D. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Mr. Browning	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

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

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Mr. Browning	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

Dr. Davidson noted that, in accordance with the provision in Section 4731.22(F)(2), Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of these matters. In the matters before the Board today, Dr. Talmage

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

Dr. Davidson 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.

.....  
LYNNE ELLEN ZEGIOB CHECK, M.D.

.....  
**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF LYNNE ELLEN ZEGIOB CHECK, M.D. MR. BROWNING SECONDED THE MOTION.**

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

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Mr. Browning	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

The motion carried.

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

LYNNE CHECK, M.D.

Appellant,

vs.

STATE MEDICAL BOARD OF OHIO :

Appellee. :

2005 AUG -8 AM 10:21 Case No. 05CVF-01-938

CLERK OF COURT JUDGE SCHNEIDER

FINAL APPELLABLE ORDER

TERMINATION NO. 18  
DL 8-4-05

ENTRY ON DECISION GRANTING APPELLEE'S MOTION FOR JUDGMENT ON THE RECORD

This matter came before the Court on Appellee's June 10, 2005 motion for judgment on the record. On July 19, 2005 the Court in a decision granted the motion for judgment on the record.

It is hereby ORDERED, ADJUDGED AND DECREED that judgment on the record is granted with costs taxed to Appellant.

IT IS SO ORDERED.

Date

Approved:

SUBMITTED NO RESPONSE  
DOUGLAS E. GRAFF (0013222)  
604 East Rich Street  
Columbus, Ohio 43215-5341  
(614) 228-5800  
(614) 228-8811 Fax

JUDGE SCHNEIDER

JIM PETRO (0022096)  
Attorney General

  
JONATHAN R. FULKERSON (0068360)  
Deputy Attorney General  
Health and Human Services Section  
30 East Broad Street, 26<sup>th</sup> Floor  
Columbus, Ohio 43215-3428  
(614) 466-8600  
Fax: (614) 466-6090

STATE MEDICAL BOARD  
OF OHIO

2005 SEP 16 A 9:01

FILED  
COMMON PLEAS COURT  
FRANKLIN COUNTY, OHIO  
2005 JUL 21 AM 9:15

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

CLERK OF COURTS  
CIVIL DIVISION

HEALTH & HUMAN

JUL 25 2005

SERVICES SECTION

LYNNE CHECK, M.D., :

Appellant, :

v. :

Case No. 05CVF01-938

STATE MEDICAL BOARD OF OHIO, :

Judge Schneider

Appellee. :

OHIO STATE MEDICAL BOARD

JUL 25 2005

**DECISION GRANTING APPELLEE'S MOTION FOR JUDGMENT ON THE RECORD.**

**FILED JUNE 10, 2005**

(Case Terminated)

Rendered this 19<sup>th</sup> day of July, 2005.

Schneider, C., J.

I. Administrative Appeals

.... An appeal from an administrative agency in Ohio is governed by R.C. 119.12, which states in pertinent part: "The court may affirm the order of the agency complained of in the appeal if it finds, upon consideration of the entire record and such additional evidence as the court has admitted, that the order is supported by reliable, probative, and substantial evidence and is in accordance with law. In the absence of such a finding, it may reverse, vacate, or modify the order or make such other ruling as is supported by reliable, probative, and substantial evidence and is in accordance with law." The court of common pleas is restricted to determining whether the order is so supported.

The evidence required by R.C. 119.12 can be defined as follows: (1) "Reliable" evidence is dependable; that is, it can be confidently trusted. In order to be reliable, there must be a reasonable probability that the evidence is true. (2) "Probative" evidence is evidence that tends to prove the issue in question; it must be relevant in determining the issue. (3) "Substantial" evidence is evidence with some weight; it must have importance and value.

## OHIO STATE MEDICAL BOARD

JUL 25 2005

Our Place, Inc. v. Ohio Liquor Control Comm'n (1992), 63 Ohio St. 3d 570, 571 (internal footnotes omitted).

As such, "[t]he appeal to the common pleas court is not a trial de novo because the court is limited to an examination of the record of the hearing before the administrative agency and such additional evidence as the court, in its discretion, may allow to be presented upon the theory that it is newly discovered." Asad v. State Med. Bd. (Franklin 1992), 79 Ohio App. 3d 143, 146; see Columbia Gas Transmission Corp. v. Dep't of Trans. (Franklin 1995), 104 Ohio App. 3d 1, 4 ("The Court of Comm on Pleas must give due deference to the administrative resolution of evidentiary conflicts.") (quoting Conrad, 63 Ohio St. 2d at 111).

## II. Discussion

On February 11, 2005, appellee filed its "Motion to Dismiss Appeal of Order of Summary Suspension"; this motion was granted in a decision filed March 21 and an entry filed April 1. On March 23, the parties filed their joint motion to suspend the briefing-schedule; this motion was granted in a decision filed March 29 and an entry filed April 22.

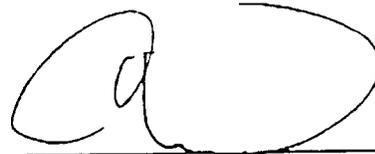
On April 1, appellant filed her motion for reconsideration of the March 21 decision and April 1 entry; this motion was denied in a decision filed May 9 and an entry filed May 27.

On June 10, appellee filed its motion for judgment on the record. This motion is unopposed. Appellee's order is supported by reliable, probative, and substantial evidence and is in accordance with law. Thus, appellee's motion is warranted.

Therefore, appellee's motion for judgment on the record is GRANTED. Counsel for appellee shall prepare an appropriate entry and submit the proposed entry to counsel for the adverse party pursuant to Loc. R. 25.01. A copy of this decision shall accompany the proposed entry when presented to the Court for signature.

**OHIO STATE MEDICAL BOARD**

**JUL 25 2005**

A handwritten signature in black ink, appearing to be 'CS', written over a horizontal line.

CHARLES A. SCHNEIDER, JUDGE

Copies to:

Douglas E. Graff, Esq.  
Attorney for Appellant

Rebecca Albers, Esq.  
Assistant Attorney General  
Attorney for Appellee

IN THE COURT OF COMMON PLEAS  
FRANKLIN COUNTY, OHIO

LYNNE CHECK, M.D.

Appellant,

vs.

STATE MEDICAL BOARD OF OHIO

Appellee.

:  
:  
:  
:  
:

Case No. 05CVF-01-938

JUDGE SCHNEIDER

CLERK OF COURTS

2005 MAY 27 PM 3:26

FILED  
COMMON PLEAS COURT  
FRANKLIN CO. OHIO

**JUDGMENT ENTRY DENYING APPELLANT'S  
MOTION FOR RECONSIDERATION**

This matter came before the Court on Appellant's Motion For Reconsideration filed April 1, 2005 and Appellee's Memorandum in Opposition. For the reasons stated in the decision of this Court rendered on May 7, 2005, and filed on May 9, 2005, which decision is attached hereto and incorporated by reference as if fully rewritten herein, it is hereby

ORDERED, ADJUDGED AND DECREED that Appellant, Lynne Check, M.D.'s Motion for Reconsideration is hereby DENIED.

IT IS SO ORDERED.

\_\_\_\_\_  
JUDGE SCHNEIDER

\_\_\_\_\_  
Date

Approved:

JIM PETRO (0022096)  
Attorney General

*Rebecca J. Albers*  
LAWRENCE D. PRATT (0021870)  
REBECCA J. ALBERS (0059203)  
Assistant Attorneys General  
Health and Human Services Section  
30 East Broad Street, 26<sup>th</sup> Floor  
Columbus, Ohio 43215-3428  
(614) 466-8600 Fax: (614) 466-6090

*Submitted, not returned.*  
DOUGLAS E. GRAFF (0013222)  
604 East Rich Street  
Columbus, Ohio 43215-5341  
(614) 228-5800  
(614) 228- 8811 Fax

FILED  
COMMON PLEAS COURT  
FRANKLIN COUNTY, OHIO  
IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO  
2005 MAY -9 AM 10:14

CIVIL DIVISION  
CLERK OF COURTS

LYNNE CHECK, M.D.,

Appellant,

v.

STATE MEDICAL BOARD OF OHIO,

Appellee.

Case No. 05CVF01-938

Judge Schneider

**DECISION DENYING APPELLANT'S MOTION FOR RECONSIDERATION,**  
**FILED APRIL 1, 2005**

Rendered this 7 day of <sup>May</sup> April, 2005.

Schneider, C., J.

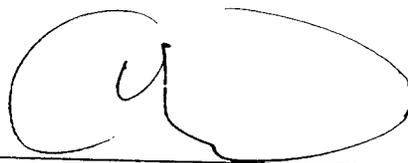
On February 11, 2005, appellee filed its "Motion to Dismiss Appeal of Order of Summary Suspension"; this motion was granted in a decision filed March 21 and an entry filed April 1. On March 23, the parties filed their joint motion to suspend the briefing-schedule; this motion was granted in a decision filed March 29.

On April 1, appellant filed her motion for reconsideration of the March 21 decision and April 1 entry. Appellant argues that "[t]he Court should have [withheld] the ruling on the Motion to Dismiss Appeal of Summary Suspension due to the Motion to Suspend the Briefing Schedule" and that "Appellants have a meritorious defense and timely filed the Motion to Suspend the Briefing Schedule."

However, appellant's motion is unwarranted. First, the decision granting the "Motion to Dismiss Appeal of Order of Summary Suspension" was filed before the parties

even filed their joint motion to suspend the briefing-schedule. Second, the joint motion to suspend the briefing-schedule did not address the merits of the "Motion to Dismiss Appeal of Order of Summary Suspension" and did not raise the issue of appellant's defense. Third, appellant has failed to show that the suspension of the briefing-schedule precluded a ruling on the "Motion to Dismiss Appeal of Order of Summary Suspension." Fourth, appellant has failed to show that the March 21 decision is erroneous.

Therefore, appellant's motion for reconsideration is DENIED. Counsel for appellee shall prepare an appropriate entry and submit the proposed entry to counsel for the adverse party pursuant to Loc. R. 25.01. A copy of this decision shall accompany the proposed entry when presented to the Court for signature.

A handwritten signature in black ink, appearing to read 'CS', is written over a horizontal line.

CHARLES A. SCHNEIDER, JUDGE

Copies to:

Douglas E. Graff, Esq.  
Attorney for Appellant

Rebecca Albers, Esq.  
Assistant Attorney General  
Attorney for Appellee

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

LYNNE CHECK, M.D. :  
Appellant, : Case No. 05CVF-01-938  
vs. : JUDGE SCHNEIDER  
STATE MEDICAL BOARD OF OHIO :  
Appellee. :

**JUDGMENT ENTRY GRANTING APPELLEE'S  
MOTION TO DISMISS APPEAL OF SUMMARY SUSPENSION**

This matter came before the Court on motion of Appellee, the State Medical Board, to dismiss the appeal of the summary suspension order issued on January 12, 2005. The motion was unopposed. For the reasons stated in the decision of this Court rendered on March 18, 2005, and filed on March 21, 2005, which decision is incorporated by reference as if fully rewritten herein, it is hereby

ORDERED, ADJUDGED AND DECREED that Appellee State Medical Board's Motion to Dismiss Appeal of Summary Suspension is hereby GRANTED.

IT IS SO ORDERED.

Date

Approved:

*Submitted, not approved.*

DOUGLAS E. GRAFF (0013222)  
604 East Rich Street  
Columbus, Ohio 43215-5341  
(614) 228-5800  
(614) 228- 8811 Fax

JUDGE SCHNEIDER

JIM PETRO (0022096)  
Attorney General

*Yellicca J. Albers*  
LAWRENCE D. PRATT (0021870)  
REBECCA J. ALBERS (0059203)  
Assistant Attorneys General  
Health and Human Services Section  
30 East Broad Street, 26<sup>th</sup> Floor  
Columbus, Ohio 43215-3428  
(614) 466-8600 Fax: (614) 466-6090

FILED  
COMMON PLEAS COURT  
FRANKLIN CO. OHIO  
2005 APR -1 PM 3:37  
CLERK OF COURTS-CV

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

COMMON PLEAS COURT  
FRANKLIN COUNTY  
CIVIL DIVISION

2005 MAR 21 AM 10:13

HEALTH & HUMAN

MAR 23 2005

SERVICES SECTION

LYNNE CHECK, M.D.,

Appellant, CLERK OF COURTS

v.

Case No. 05CVF01-938

STATE MEDICAL BOARD OF OHIO,

Judge Schneider

Appellee.

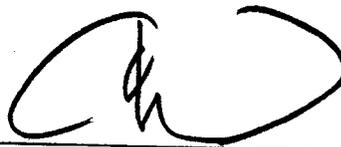
**DECISION GRANTING APPELLEE'S "MOTION TO DISMISS APPEAL OF ORDER OF SUMMARY SUSPENSION," FILED FEBRUARY 11, 2005**  
(Case Not Terminated)

Rendered this 18 day of March, 2005.

Schneider, C., J.

On February 11, 2005, appellee filed its "Motion to Dismiss Appeal of Order of Summary Suspension." Appellee argues that "Dr. Check filed a notice of appeal of both the Entry of Order of Summary Suspension and the Findings, Order and Journal Entry on January 26, 2005" and that "[t]he Board is asking the Court to dismiss only the appeal of the Entry of Order of Summary Suspension because . . . an order of summary suspension is not a final appealable order." This motion is unopposed.

Therefore, appellee's "Motion to Dismiss Appeal of Order of Summary Suspension" is GRANTED. Counsel for appellee shall prepare an appropriate entry and submit the proposed entry to counsel for the adverse party pursuant to Loc. R. 25.01. A copy of this decision shall accompany the proposed entry when presented to the Court for signature.



CHARLES A. SCHNEIDER, JUDGE

Copies to:

Douglas E. Graff, Esq.  
Attorney for Appellant

Lawrence Pratt, Esq.  
Rebecca Albers, Esq.  
Assistant Attorneys General  
Attorney for Appellee

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

STATE MEDICAL BOARD OF OHIO  
2005 FEB -3 P 12:15

05 CV F 01 938

Lynne Check, M.D  
3655 Brush  
Richfield, Ohio 44286

Appellant,

vs.

STATE MEDICAL BOARD OF OHIO  
77 South High Street, 17th Floor  
Columbus, Ohio 43215-6127,

Appellee.

Case No.

Judge

STATE MEDICAL BOARD OF OHIO  
2005 JUN 26 P 1:59

**NOTICE OF APPEAL OF THE ENTRY OF ORDER AND FINDINGS, ORDER AND JOURNAL ENTRY FROM THE STATE MEDICAL BOARD OF OHIO DATED JANUARY 12, 2005**

Appellant, Lynne Check, M.D., by and through her attorney, hereby gives Notice of Appeal to the Common Pleas Court of Franklin County, Ohio from the Entry of Order and Findings, Order and Journal Entry from the State Medical Board Of Ohio , dated January 12, 2005 attached hereto as Exhibits A and B. The Entry of Order and Findings, Order and Journal Entry of the State Medical Board was mailed to Appellant on the 13th day of January 2005. Appellant contends that the Entry of Order and Findings, Order and Journal Entry appealed from are not supported by the reliable, probative, and substantial evidence necessary and are not otherwise in accordance with the law.

Further, and without limiting the generality of the foregoing, Appellant contends that the Entry of Order and Findings, Order and Journal Entry and the related investigation conducted by the

Board violated the protection afforded to the Appellant pursuant to the Constitution of the State of Ohio and the Constitution of the United States including, without limitation, the due process protections thereof.

Respectfully submitted,

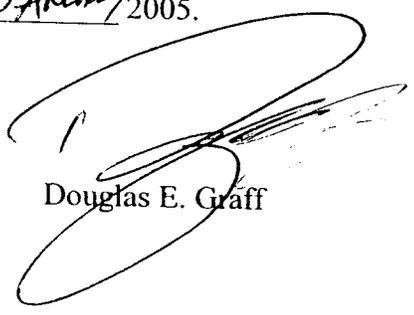
GRAFF & ASSOCIATES, L.P.A.

  
Douglas E. Graff  
604 East Rich Street  
Columbus, Ohio 43215-5341  
(614) 228-5800  
(614) 228-8811 Fax  
Attorney for Appellant

(0013222)

**CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the foregoing Notice of Appeal was delivered to the State Medical Board of Ohio, 77 South High Street, 17th Floor, Columbus, Ohio 43266-0315, by regular U.S. mail, this 6<sup>th</sup> day of January 2005.

  
Douglas E. Graff

STATE MEDICAL BOARD  
OF OHIO  
2005 FEB -3 PM 12:15



# State Medical Board of Ohio

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

January 12, 2005

Lynne Ellen Zegiob Check, M.D.  
3655 Brush  
Richfield, Ohio 44286

Dear Doctor Check:

Please find enclosed a certified copy of the Findings, Order and Journal Entry approved and confirmed by the State Medical Board meeting in regular session on January 12, 2005.

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

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 within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

Very truly yours,

Lance A. Talmage, M.D.  
Secretary

LAT/blt  
Enclosures

CERTIFIED MAIL # 7000 0600 0024 5143 7728  
RETURN RECEIPT REQUESTED

cc: Douglas Graff, Esq.  
604 East Rich Street  
Columbus, OH 43215-5341

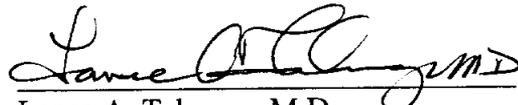
CERTIFIED MAIL #7000 0600 0024 5143 7735  
RETURN RECEIPT REQUESTED

MAILED 1-13-05

CERTIFICATION

I hereby certify that the attached copy of the Findings, Order and Journal Entry approved by the State Medical Board, meeting in regular session on January 12, 2005, constitutes a true and complete copy of the Findings, Order and Journal Entry in the Matter of Lynne Ellen Zeglob Check, M.D., as it appears in the Journal of the State Medical Board of Ohio.

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



Lance A. Talmage, M.D.  
Secretary

(SEAL)

January 12, 2005

Date

**THE STATE MEDICAL BOARD OF OHIO**

**IN THE MATTER OF**

\*

\*

**LYNNE ELLEN ZEGIOB CHECK, M.D.\***

**FINDINGS, ORDER AND JOURNAL ENTRY**

On December 17, 2004, the State Medical Board of Ohio sent to Lynne Ellen Zegiob Check, M.D., a letter via certified mail, return receipt requested, stating that the Board had reason to believe that Dr. Check was unable to practice according to acceptable and prevailing standards of care pursuant to Section 4731.22(B)(26), Ohio Revised Code, to wit: “[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.” Further, copies of the aforementioned letter were also sent to Dr. Check by regular mail and hand delivered to Dr. Check’s residence by a Board Investigator on or about December 20, 2004.

The letter further indicated that this determination was based upon one or more of the following reasons:

- (1) On or about March 10, 2004, Dr. Check entered into a Probationary Consent Agreement with the Board [March 2004 Probationary Consent Agreement], based upon her violations of Sections 4731.22(B)(19) and (B)(35), Ohio Revised Code. In the March 2004 Probationary Consent Agreement, Dr. Check made certain factual admissions, including that after being charged with Driving Under the Influence, she was convicted on February 12, 2002, of the amended charge of Physical Control; that the aforementioned traffic conviction was related to her personally consuming narcotic cough medication which she obtained from office samples and from a prescription previously issued for a family member by another physician; that the Board ordered her to submit to a three-day in-patient evaluation at Shepherd Hill Hospital for which she failed to appear as ordered; and that despite the existing Board order for her to be evaluated at Shepherd Hill Hospital, she instead unilaterally opted to pursue evaluation by Parkside Behavioral Healthcare. Dr. Check further admitted that as a result of the Parkside Behavioral Healthcare in-patient assessment, Edna Jones, M.D., determined that Dr. Check had diagnoses including major depression and adjustment disorder with mixed mood, for which Dr. Jones recommended that Dr. Check maintain ongoing psychiatric treatment and counseling; that although Dr. Jones determined that Dr. Check did not suffer from chemical dependency nor require addiction treatment,

Dr. Jones nonetheless made certain recommendations including that Dr. Check abstain from addictive mood altering drugs and alcohol, submit to random witnessed drug screens, and refrain from self-prescribing; and that Dr. Check subsequently submitted to a three-day in-patient evaluation at Shepherd Hill Hospital, which determined that she did not suffer from chemical dependency, but resulted in diagnoses including dysthymia, history of major depression, recurrent, and adjustment disorder with anxiety.

In the March 2004 Probationary Consent Agreement, Dr. Check further admitted that she was psychiatrically evaluated by Stephen Noffsinger, M.D., who assigned Dr. Check the diagnosis of major depressive disorder, in partial remission; and she disclosed that at various times in the past, she had self-prescribed medications including Lexapro, Celexa, Paxil, and Zoloft.

Further, in the March 2004 Probationary Consent Agreement, Dr. Check agreed to certain terms, conditions, and limitations, including the requirement that she abstain completely from the use of alcohol.

- (2) On or about December 6, 2004, Dr. Check appeared before representatives of the Board for her regularly scheduled quarterly probationary office conference as required by the March 2004 Probationary Consent Agreement. When asked about her compliance with the agreement, Dr. Check indicated that she had recently been convicted of Driving Under the Influence. Upon questioning, Dr. Check indicated that in September 2004, she had consumed three glasses of wine over a five-hour period and had been arrested with a 0.17 blood alcohol level approximately two hours later, seven hours from the time she began drinking. When further questioned by representatives of the Board about the apparent scientific discrepancy in correlation between the high blood alcohol level measured at the time of her arrest as compared to the timing and amount of alcohol consumption she was reporting, Dr. Check stated, "There is no explanation." When the Board's Supervising Member opined that he believed Dr. Check had a chemical dependency problem, Dr. Check responded that she was "taking care of that" by participating in an out-patient treatment program, but Dr. Check also stated during the probationary office conference that she did not consider herself to be an alcoholic.

The December 17, 2004, certified letter from the Board further notified Lynne Ellen Zegiob Check, M.D., that, pursuant to Section 4731.22(B)(26), Ohio Revised Code, she was ordered to submit to a three-day in-patient evaluation. The examination was scheduled to take place at Shepherd Hill with Richard Whitney, M.D., commencing at 9:00 a.m. on Monday, January 3, 2005.

The December 17, 2004, certified letter from the Board further notified Dr. Check that failure of an individual to submit to an examination as directed constitutes an admission

of the allegations against the individual unless the failure is due to circumstances beyond the individual's control. Finally, the letter notified Dr. Check that if she failed to submit to the examination, and such failure was not due to circumstances beyond her control, the Board would be authorized to enter a default and final order without the taking of testimony or presentation of evidence.

Dr. Check was duly notified of the examination order and its scheduled date. Although the certified mail receipt intended to document Dr. Check's acceptance signature for the December 17, 2004, certified letter was returned to the Board by the postal service as unclaimed by Dr. Check, the Acknowledgment of Receipt of Correspondence From the Board form obtained by the Board Investigator at the time a copy of the aforementioned letter was hand delivered to Dr. Check's residence is signed by Dr. Check's adult son and dated December 20, 2004. Additionally, the copy of the letter sent to Dr. Check by regular mail is presumed to have been delivered in normal course, as it was not returned to the Board's offices by the postal service. Dr. Check failed to appear for the chemical dependency evaluation that the Board scheduled for her. Dr. Check faxed a letter to the Board dated December 31, 2004, in which she stated, "I recently received a letter from your office instructing me to report to Shepherd Hill for an assessment on Monday, January 3, 2005. I will not be doing so." However, at no time did Dr. Check inform the Board that her failure to appear was due to circumstances beyond her control.

WHEREFORE, upon consideration of the sworn affidavits of Rebecca J. Marshall, Enforcement Attorney, and Debra L. Jones, CME & Renewal Officer, copies of which are attached hereto and fully incorporated herein, and pursuant to Section 4731.22(B)(26), Ohio Revised Code, the Board hereby FINDS that by operation of law, Lynne Ellen Zegiob Check, M.D., has admitted the truth of the allegations set forth in the December 17, 2004, letter from the Board to Dr. Check. The Board further FINDS that Dr. Check is unable to practice according to acceptable and prevailing standards of care pursuant to Section 4731.22(B)(26), Ohio Revised Code, to wit: "[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."

WHEREFORE, it is hereby ORDERED that:

1. The certificate of Dr. Check to practice medicine and surgery in the State of Ohio shall be **SUSPENDED** for an indefinite period of time.
2. The Board shall not consider reinstatement of Dr. Check's certificate to practice medicine and surgery unless and until all of the following conditions are met:
  - a. Dr. Check shall submit an application for reinstatement, accompanied by appropriate fees, if any;

- b. Dr. Check shall demonstrate to the satisfaction of the Board that she can resume practice in compliance with acceptable and prevailing standards of care under the provisions of her certificate. Such demonstration shall include but shall not be limited to the following:
- i. Certification from a treatment provider approved under Section 4731.25 of the Revised Code that Dr. Check has successfully completed any required inpatient treatment, including at least twenty-eight days of inpatient or residential treatment for chemical dependency, as set forth in Rules 4731-16-02 and 4731-16-08, Ohio Administrative Code.
  - ii. Evidence of continuing full compliance with a post-discharge aftercare contract with a treatment provider approved under Section 4731.25 of the Revised Code. Such evidence shall include, but not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with Rule 4731-16-10 of the Ohio Administrative Code.
  - iii. Two written reports indicating that Dr. Check's ability to practice has been assessed and that she has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by physicians knowledgeable in the area of addictionology and who are either affiliated with a current Board-approved treatment provider or otherwise have been approved in advance by the Board to provide an assessment of Dr. Check. Prior to the assessments, Dr. Check shall provide the evaluators with copies of patient records from any evaluations and/or treatment that she has received, and a copy of this Order. The reports from the evaluators shall include any recommendations for treatment, monitoring, or supervision of Dr. Check, and any conditions, restrictions, or limitations that should be imposed on Dr. Check's practice. The reports shall also describe the basis for the evaluator's determinations.

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

- c. Dr. Check shall provide authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, by any and all parties that provide treatment or evaluation for Dr. Check's chemical dependency 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. Check shall provide the Board written consent permitting any treatment provider from whom she obtains treatment to notify the Board in the event she fails to agree to or comply with her treatment plan.

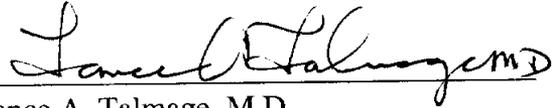
- d. Dr. Check shall enter into a written consent agreement including probationary terms, conditions and limitations as determined by the Board for a minimum period, to be determined by the Board, or, if the Board and Dr. Check are unable to agree on the terms of a written consent agreement, then Dr. Check shall abide by any terms, conditions, and limitations imposed by Board Order after a hearing conducted pursuant to Chapter 119. of the Ohio Revised Code.

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

3. In the event that Dr. Check has not been engaged in the active practice of medicine for a period in excess of two years prior to application for reinstatement, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of Dr. Check's fitness to resume practice.
4. Within thirty days of the effective date of this Order, Dr. Check shall provide a copy of this Order to all employers or entities with which she is under contract to provide physician services or is receiving training, and the Chief of Staff at each hospital where she has privileges or appointments. Further, within thirty days of the effective date of this Order, Dr. Check 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 she currently holds or applies for any professional license or reinstatement of any professional license. Dr. Check shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

This Order shall become effective immediately upon the date of mailing of approval by the State Medical Board of Ohio.

This Order is hereby entered upon the Journal of the State Medical Board of Ohio for the 12th day of January, 2005, and the original thereof shall be kept with said Journal.



Lance A. Talmage, M.D.  
Secretary

(SEAL)

January 12, 2005

Date

## AFFIDAVIT

The State of Ohio:

Franklin County:

ss:

I, Rebecca J. Marshall, being first duly cautioned and sworn, state that I am at least eighteen years of age, legally competent, and declare the following to be true based upon my first-hand knowledge:

1. I am an Enforcement Attorney employed by the State Medical Board of Ohio [Board]. My duties include coordinating the investigation of complaints against applicants and licensees under the jurisdiction of the Board and assembling the evidence necessary to prove potential violations of the Medical Practices Act of Ohio, Chapter 4731, Ohio Revised Code.
2. I coordinated the investigation of Lynne Ellen Zegiob Check, M.D., which resulted in an order from the Board for Dr. Check to submit to a three-day in-patient evaluation for chemical dependency pursuant to Section 4731.22(B)(26), Ohio Revised Code.
3. On December 17, 2004, a letter was sent via certified mail, return receipt requested, to Dr. Check at the following address: 3655 Brush, Richfield, Ohio 44286. Due to the fact that Dr. Check has failed to sign for acceptance of certified mail from the Board in the past, I also sent a copy of the aforementioned letter to Dr. Check's address by regular mail, and further arranged for a copy of the letter to be hand delivered to Dr. Check's residence by a Board Investigator. Additionally, I forwarded a copy of the letter by certified mail, return receipt requested, to Dr. Check's attorney, Douglas Graff, Esq., at his office address of 604 East Rich Street, Columbus, Ohio 43215. A copy of the Board's December 17, 2004, letter, by which Dr. Check was ordered to submit to a three-day in-patient evaluation at Shepherd Hill commencing at 9:00 a.m. on Monday, January 3, 2005, is attached hereto and fully incorporated herein.
4. On December 20, 2004, the Board received a certified mail return receipt showing that the copy of the certified letter had been delivered to the offices of Dr. Check's attorney and had been signed for by Douglas Graff. A copy of said certified mail return receipt is attached hereto and fully incorporated herein.
5. At this time the certified mail return receipt sent to Dr. Check at the address set forth in paragraph 3 has not yet been received in the Board's offices; however, the Acknowledgment of Receipt of Correspondence From the Board form obtained by the Board Investigator when he hand delivered a copy of the letter to Dr. Check's residence was signed for by Dr. Check's adult son and dated December 20, 2004. Additionally, the copy of the letter sent to Dr. Check by regular mail is presumed to have been delivered in normal course, as it has not been returned to the Board's offices by the postal service to date. A copy of the certified

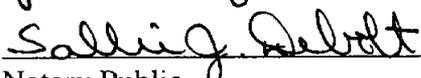
mail slip documenting outgoing certified mail service of the Board's December 17, 2004, letter to Dr. Check, return receipt requested, is attached hereto and fully incorporated herein. Further, a copy of said Acknowledgment of Receipt of Correspondence From the Board form is attached hereto and fully incorporated herein.

6. On December 22, 2004, Mr. Graff telephoned me with a request that Dr. Check be allowed to seek evaluation at a treatment provider of her choosing rather than report to Shepherd Hill as ordered by the Board. On the afternoon of December 22, 2004, by both voicemail and facsimile, I informed Mr. Graff that the Secretary of the Board had denied this request, that the Secretary had stated that no further requests concerning Dr. Check's pending evaluation would be entertained, and that as specified in the Board's letter ordering Dr. Check to the Shepherd Hill evaluation, Dr. Check's failure to appear at the Shepherd Hill examination as ordered would result in further formal disciplinary action. A copy of said December 22, 2004, facsimile is attached hereto and fully incorporated herein. A copy of the transmittal report printout from the Board's facsimile machine confirming successful electronic communication to Mr. Graff's facsimile machine phone number is attached hereto and fully incorporated herein.
7. On or about December 31, 2004, Dr. Check directed a facsimile to the Board's offices in which she stated, in part, "I recently received a letter from your office instructing me to report to Shepherd Hill for an assessment on Monday, January 3, 2005. I will not be doing so." A copy of said facsimile is attached hereto and fully incorporated herein.
8. On January 3, 2005, I received a voicemail message from a representative in the Admissions Department of Shepherd Hill, notifying me that Dr. Check had failed to appear at that facility for the examination as scheduled. On January 4, 2005, I received a letter dated January 3, 2005, from Richard Whitney, M.D., of Shepherd Hill, confirming that Dr. Check did not present for the chemical dependency evaluation as ordered by the Board and stating that Dr. Check had not contacted Shepherd Hill concerning the evaluation. A copy of said letter is attached hereto and fully incorporated herein.
9. Although Dr. Check forwarded information to the Board indicating her decision to refuse the chemical dependency evaluation as ordered by the Board, at no time did Dr. Check inform the Board of any circumstances beyond her control related to her failure to appear for the examination ordered by the Board.

Further Affiant Sayeth Naught.

  
\_\_\_\_\_  
Rebecca J. Marshall, Esq.

Sworn to and signed before me this 10<sup>th</sup> day of January, 2005.

  
\_\_\_\_\_  
Notary Public  
**SALLIE J. DEBOLT, Attorney At Law**  
NOTARY PUBLIC, STATE OF OHIO  
My commission has no expiration date.  
Section 147.03 R.C.



# State Medical Board of Ohio

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

December 17, 2004

## Personal and Confidential

Lynne Ellen Zegiob Check, M.D.  
3655 Brush  
Richfield, Ohio 44286

Dear Doctor Check:

The State Medical Board of Ohio [Board] has determined that it has reason to believe that you are in violation of Section 4731.22(B)(26), Ohio Revised Code, to wit: “[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.”

This determination is based upon one or more of the following reasons:

- (1) On or about March 10, 2004, you entered into a Probationary Consent Agreement with the Board [March 2004 Probationary Consent Agreement], based upon your violations of Sections 4731.22(B)(19) and (B)(35), Ohio Revised Code. In the March 2004 Probationary Consent Agreement, you made certain factual admissions, including that after being charged with Driving Under the Influence, you were convicted on February 12, 2002, of the amended charge of Physical Control; that the aforementioned traffic conviction was related to you personally consuming narcotic cough medication which you obtained from office samples and from a prescription previously issued for a family member by another physician; that the Board ordered you to submit to a three-day in-patient evaluation at Shepherd Hill Hospital for which you failed to appear as ordered; and that despite the existing Board order for you to be evaluated at Shepherd Hill Hospital, you instead unilaterally opted to pursue evaluation by Parkside Behavioral Healthcare. You further admitted that as a result of the Parkside Behavioral Healthcare in-patient assessment, Edna Jones, M.D., determined that you had diagnoses including major depression and adjustment disorder with mixed mood, for which Dr. Jones recommended that you maintain ongoing psychiatric treatment and counseling; that although Dr. Jones determined that you

Exam Letter

Lynne Ellen Zegiob Check, M.D.

Page 2

did not suffer from chemical dependency nor require addiction treatment, Dr. Jones nonetheless made certain recommendations including that you abstain from addictive mood altering drugs and alcohol, submit to random witnessed drug screens, and refrain from self-prescribing; and that you subsequently submitted to a three-day in-patient evaluation at Shepherd Hill Hospital, which determined that you did not suffer from chemical dependency, but resulted in diagnoses including dysthymia, history of major depression, recurrent, and adjustment disorder with anxiety.

In the March 2004 Probationary Consent Agreement, you further admitted that you were psychiatrically evaluated by Stephen Noffsinger, M.D., who assigned you the diagnosis of major depressive disorder, in partial remission; and that at various times in the past you have self-prescribed medications including Lexapro, Celexa, Paxil, and Zoloft.

Further, in the March 2004 Probationary Consent Agreement, you agreed to certain terms, conditions, and limitations, including the requirement that you abstain completely from the use of alcohol.

- (2) On or about December 6, 2004, you appeared before representatives of the Board for your regularly scheduled quarterly probationary office conference as required by the March 2004 Probationary Consent Agreement. When asked about your compliance with the agreement, you indicated that you had recently been convicted of Driving Under the Influence. Upon questioning, you indicated that in September 2004, you had consumed three glasses of wine over a five-hour period and had been arrested with a 0.17 blood alcohol level approximately two hours later, seven hours from the time you began drinking. When further questioned by representatives of the Board about the apparent scientific discrepancy in correlation between the high blood alcohol level measured at the time of your arrest as compared to the timing and amount of alcohol consumption you were reporting, you stated, "There is no explanation." When the Board's Supervising Member opined that he believed you had a chemical dependency problem, you responded that you were "taking care of that" by participating in an out-patient treatment program, but you also stated during the probationary office conference that you did not consider yourself to be an alcoholic.

By the authority vested in the Board by Section 4731.22(B)(26), Ohio Revised Code, you are ordered to submit to a three-day examination. This examination will take place at Shepherd Hill, 200 Messimer Drive, Newark, Ohio telephone number (740) 348-4870. You are to report to Richard Whitney, M.D., on **Monday, January 3, 2005, at 9:00 a.m.** for a three-day in-patient evaluation.

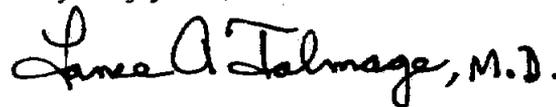
Exam Letter  
Lynne Ellen Zeglob Check, M.D.  
Page 3

Pursuant to Section 4731.22(B)(26), Ohio Revised Code, you are responsible for the expense of this evaluation. The total estimated cost of this evaluation is \$3,576.00. You must present a certified check or money order in the amount of \$3,200.00 made payable to Shepherd Hill and a certified check or money order in the amount of \$376.00 made payable to Licking Memorial Health Professionals to the examiner prior to the beginning of the examination. Failure to present a certified check or money order in the amounts specified to the examiner will result in the examination being cancelled, and will be deemed by the Board to be a failure to submit to the examination as directed due to circumstances within your control.

Please be advised that failure to submit to this examination as directed constitutes an admission of the allegations against you unless the failure is due to circumstances beyond your control, and that a default and final order may thereupon be entered without the taking of testimony or presentation of evidence.

Copies of the applicable statute sections are enclosed for your information.

Very truly yours,



Lance A. Talmage, M.D.  
Secretary

LAT/blt  
Enclosures

ORIGINAL BY HAND DELIVERY WITH COPIES  
BY BOTH REGULAR U.S. MAIL AND  
CERTIFIED MAIL # 7000 0600 0024 5143 1931  
RETURN RECEIPT REQUESTED

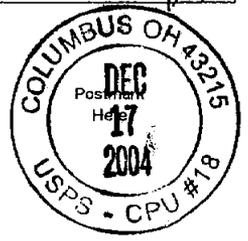
cc: Douglas Graff, Esq.  
604 East Rich Street  
Columbus, OH 43215-5341

CERTIFIED MAIL # 7000 0600 0024 5143 1924  
RETURN RECEIPT REQUESTED

**U.S. Postal Service**  
**CERTIFIED MAIL RECEIPT**  
*(Domestic Mail Only; No Insurance Coverage Provided)*

7000 0600 0024 5143 1924

Postage	\$ 37
Certified Fee	2.30
Return Receipt Fee (Endorsement Required)	1.75
Restricted Delivery Fee (Endorsement Required)	
<b>Total Postage &amp; Fees</b>	<b>\$ 4.42</b>



Recipient's Name (Please Print Clearly) (to be completed by mailer) \_\_\_\_\_  
 Street, Apt. **Douglas Graff, Esq.** \_\_\_\_\_  
 City, State **604 East Rich Street** \_\_\_\_\_  
**Columbus, OH 43215** \_\_\_\_\_

PS Form 3800, February 2000. See Reverse for Instructions.

**SENDER: COMPLETE THIS SECTION**

- I am enclosing the money order, check, or cash.
- I am enclosing the article and the return address.
- I am enclosing the article and the return address on a separate piece of paper.

**Douglas Graff, Esq.**  
**604 East Rich Street**  
**Columbus, OH 43215**

**COMPLETE THIS SECTION ON DELIVERY**

1. Signature of Addressee (Print Name) \_\_\_\_\_  
 2. Delivery address (Print Name and Number) \_\_\_\_\_  
 (If Same as Above) \_\_\_\_\_

3. SERVICE (Check one)  
 Certified Mail  Registered Mail  Insured Mail  Restricted Delivery  Signature Required  Signature Restricted  Signature Restricted with Return Receipt  Signature Restricted with Return Receipt and Restricted Delivery

2. Article Number (Transfer from service label) **7000 0600 0024 5143 1924**

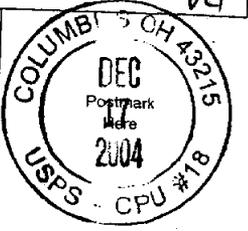
PS Form 3811, February 2004 Domestic Return Receipt (02595-02-14-1)

**U.S. Postal Service**  
**CERTIFIED MAIL RECEIPT**  
*(Domestic Mail Only; No Insurance Coverage Provided)*

7000 0604 4200 0090 0002

\_\_\_\_\_ **BLT**

Postage	\$ .37
Certified Fee	2.30
Return Receipt Fee (Endorsement Required)	1.75
Restricted Delivery Fee (Endorsement Required)	
<b>Total Postage &amp; Fees</b>	<b>\$ 4.42</b>



*Recipient's Name (Please Print Clearly) (to be completed by mailer)*  
 Street, Apt. # **Lynne Check, M.D.**  
**3655 Brush**  
 City, State, Z **Richfield, OH 44286**



# State Medical Board of Ohio

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

## ACKNOWLEDGMENT OF RECEIPT OF CORRESPONDENCE FROM THE BOARD

The undersigned acknowledges that he/she received by hand delivery a letter dated December 17, 2004, directed to Lynne Ellen Zegiob Check, M.D., from the State Medical Board of Ohio.

Jeremy Nohy (son)

12/20/04

Date



## State Medical Board Of Ohio

77 South High Street, 17th floor \* Columbus, Ohio 43215-6127 \* (614) 466-3934  
<http://www.state.oh.us/med/>

### FACSIMILE TRANSMITTAL COVER SHEET

**FROM:** Rebecca J. Marshall, Esq.  
Enforcement Attorney  
[Rebecca.Marshall@med.state.oh.us](mailto:Rebecca.Marshall@med.state.oh.us)

**TELEPHONE NUMBER:** (614) 728-3056

**FACSIMILE NUMBER:** (614) 728-5946

**TO:** Doug Graff, Esq

**FACSIMILE NUMBER:** 228-8811

**TOTAL NUMBER OF PAGES (INCLUDING THIS COVER PAGE):** 1

**DATE:** December 22, 2004

**SUBJECT:**

This fax is in follow-up to our telephone conversation this afternoon, as well as the message I left on your voicemail at approximately 4:15 p.m. today. The Board's Secretary has DENIED your request that Dr. Check be allowed to substitute another approved treatment provider in lieu of presenting to Shepherd Hill as ordered in the Board's letter of December 17, 2004. Additionally, please be advised that the Secretary has stated that no further requests concerning Dr. Check's pending evaluation will be entertained, and as specified in the Board's letter ordering Dr. Check to the Shepherd Hill evaluation, Dr. Check's failure to appear at the Shepherd Hill examination as ordered will result in further formal disciplinary action.

This facsimile contains confidential material. Should you receive this fax in error or if any pages were not received, please notify the sender at the above telephone number.

\*\*\*\*\* -IND. XMT JOURNAL- \*\*\*\*\* DATE DEC-22-2004 \*\*\*\*\* TIME 16:39 \*\*\*\*\*

DATE/TIME = DEC-22-2004 16:38

JOURNAL No. = 94

COMM. RESULT = OK

PAGE(S) = 001/001

DURATION = 00:00:23

FILE No. = 212

MODE = MEMORY TRANSMISSION

DESTINATION = 92288811

RECEIVED ID =

RESOLUTION = STD

-OHIO MEDICAL BOARD -

\*\*\*\*\*

- \*\*\*\*\* -

614 728 5946- \*\*\*\*\*

TO: REBECCA MARSHALL, ESQ

From: LYNNE CHECK, MD

2 pages including cover

STATE MEDICAL BOARD  
OF OHIO

2005 JAN -3 A 8:20

~~STATE MEDICAL BOARD  
OF OHIO~~

~~2004 DEC 30 A 8:19~~

December 31, 2004

Dear Rebecca Marshall:

I recently received a letter from your office instructing me to report to Shepherd Hill for an assessment on Monday, January 3, 2005.

I will not be doing so.

I have completed an intensive outpatient program at Edwin Shaw - a facility approved by the OSMB. I have signed a release for the Board to obtain records from Edwin Shaw.

At this time I would request a hearing with the Board on this matter.

As of this date I will no longer be practicing medicine in any capacity until this matter is resolved.

Sincerely yours,  
Lynne S. Black

cc Douglas Graft

STATE MEDICAL BOARD  
OF OHIO  
2005 JAN -3 A 8:11



**Prohibition On Redisclosure Of Information Concerning Client In Alcohol Or Drug Abuse Treatment**

This notice has been disclosed to you from records protected by the federal confidentiality rules (42 CFR Part 2). The Federal rules prohibit you from making any further disclosure of this information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or as is otherwise permitted by 42 CFR Part 2. A general authorization for the release of medical or other information is NOT sufficient for this purpose. The Federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse patient.

January 3, 2005

Rebecca Marshall, Enforcement Attorney  
State Medical Board of Ohio  
77 S. High Street, 17<sup>th</sup> Floor  
Columbus, OH 43215-6127

RE: Lynne E. Check, M.D.

Dear Ms. Marshall:

As per your request, this letter is to advise you that Dr. Lynne Check did not arrive for admission to a 72-hour inpatient evaluation, as ordered by the State Medical Board of Ohio. Additionally, Dr. Check did not contact Shepherd Hill to cancel or reschedule the 72-hour evaluation.

Sincerely,

Richard N. Whitney, M.D.  
Certified, American Society of Addiction Medicine

STATE MEDICAL BOARD  
OF OHIO  
2005 JAN -4 A 10: 59

**SUPPLEMENTAL AFFIDAVIT**

The State of Ohio:  
Franklin County:  
ss:

I, Rebecca J. Marshall, being first duly cautioned and sworn, state that I am at least eighteen years of age, legally competent, and declare the following to be true based upon my first-hand knowledge:

1. I am an Enforcement Attorney employed by the State Medical Board of Ohio [Board]. My duties include coordinating the investigation of complaints against applicants and licensees under the jurisdiction of the Board and assembling the evidence necessary to prove potential violations of the Medical Practices Act of Ohio, Chapter 4731, Ohio Revised Code.
2. I coordinated the investigation of Lynne Ellen Zegiob Check, M.D., which resulted in an order from the Board for Dr. Check to submit to a three-day in-patient evaluation for chemical dependency pursuant to Section 4731.22(B)(26), Ohio Revised Code.
3. On January 11, 2005, the Board's December 17, 2004, letter that had been directed to Lynne Check, M.D., 3655 Brush, Richfield, Ohio, 44286, by certified mail, return receipt requested, was returned to the Board by the postal service as unclaimed.

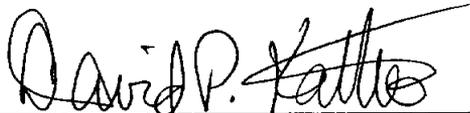
Further Affiant Sayeth Naught.

  
\_\_\_\_\_  
Rebecca J. Marshall, Esq.

Sworn to and signed before me this 11<sup>th</sup> day of January, 2005.



**DAVID P. KATKO, ATTORNEY AT LAW**  
NOTARY PUBLIC, STATE OF OHIO  
My commission has no expiration date.  
Section 147.03 R.C.

  
\_\_\_\_\_  
Notary Public

**AFFIDAVIT**

The State of Ohio:  
Franklin County:  
ss:

I, Debra L. Jones, being first duly cautioned and sworn, state that I am at least eighteen years of age, legally competent, and declare the following to be true based upon my first-hand knowledge:

1. I am employed by the State Medical Board of Ohio [Board].
2. I serve the Board in the position of CME & Renewal Officer.
3. In such position I am the responsible custodian of certain demographic information maintained by the Board pursuant to Chapter 4731., Ohio Revised Code, including the addresses of record for the Board's licensees.
4. I have this day carefully examined the associated records of the Board pertaining to Dr. Lynne Ellen Zegiob Check and have found the last known address of record of Dr. Check to be: 3655 Brush, Richfield, Ohio 44286.
5. Further, Affiant Sayeth Naught.

  
\_\_\_\_\_  
Debra L. Jones, CME & Renewal Officer

Sworn to and signed before me this 10<sup>th</sup> day of January, 2005.

  
\_\_\_\_\_  
Notary Public



**REBECCA J. MARSHALL**  
Attorney at Law  
Notary Public, State of Ohio  
My Commission Has No Expiration  
Section 147.03 R.C.



# State Medical Board of Ohio

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

January 12, 2005

Lynne Ellen Zegiob Check, M.D.  
3655 Brush  
Richfield, Ohio 44286

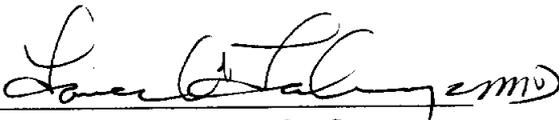
Dear Doctor Check:

Enclosed please find certified copies of the Entry of Order, the Notice of Summary Suspension and Opportunity for Hearing, and an excerpt of the Minutes of the State Medical Board, meeting in regular session on January 12, 2005, including a Motion adopting the Order of Summary Suspension and issuing the Notice of Summary Suspension and Opportunity for Hearing.

You are advised that continued practice after receipt of this Order shall be considered practicing without a certificate, in violation of Section 4731.41, Ohio Revised Code.

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

THE STATE MEDICAL BOARD OF OHIO

  
Lance A. Talmage, M.D., Secretary

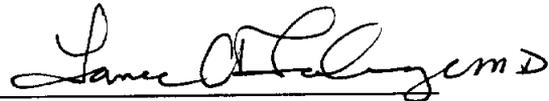
LAT:blt  
Enclosures

MAILED 1-13-05

**CERTIFICATION**

I hereby certify that the attached copies of the Entry of Order of the State Medical Board of Ohio and the Motion by the State Medical Board, meeting in regular session on January 12, 2005, to Adopt the Order of Summary Suspension and to Issue the Notice of Summary Suspension and Opportunity for Hearing, constitute true and complete copies of the Motion and Order in the matter of Lynne Ellen Zegiob Check, M.D., as they appear in the Journal of the State Medical Board of Ohio.

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



Lance A. Talmage, M.D., Secretary

(SEAL)

January 12, 2005

**BEFORE THE STATE MEDICAL BOARD OF OHIO**

IN THE MATTER OF :  
 :  
LYNNE ELLEN ZEGIOB CHECK, M.D. :

**ENTRY OF ORDER**

This matter came on for consideration before the State Medical Board of Ohio the 12th day of January, 2005.

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

Pursuant to their determination, based upon their review of the information supporting the allegations as set forth in the Notice of Summary Suspension and Opportunity for Hearing, that there is clear and convincing evidence that Lynne Ellen Zegiob Check, M.D., has violated Section 4731.22(B)(15), Ohio Revised Code, as alleged in the Notice of Summary Suspension and Opportunity for Hearing that is enclosed herewith and fully incorporated herein; and,

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

Pursuant to the terms of the Probationary Consent Agreement Between Lynne Ellen Zegiob Check, M.D., and The State Medical Board of Ohio, effective March 10, 2004, which states:

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

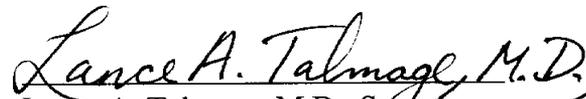
The following Order is hereby entered on the Journal of the State Medical Board of Ohio for the 12th day of January, 2005:

It is hereby ORDERED that the certificate of Lynne Ellen Zegiob Check, M.D., to practice medicine or surgery in the State of Ohio be summarily suspended.

It is hereby ORDERED that Lynne Ellen Zegiob Check, M.D., shall immediately cease the practice of medicine and surgery and immediately refer all active patients to other appropriate physicians.

This Order shall become effective immediately.

(SEAL)

  
Lance A. Talmage, M.D., Secretary 

January 12, 2005 \_\_\_\_\_

Date



# State Medical Board of Ohio

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

## EXCERPT FROM DRAFT MINUTES OF JANUARY 12, 2005

### CITATIONS, PROPOSED DENIALS AND ORDERS OF SUMMARY SUSPENSION

#### LYNNE E. ZEGIOB CHECK, M.D. – ORDER OF SUMMARY SUSPENSION AND NOTICE OF OPPORTUNITY FOR HEARING

At this time Mr. Dilling noted that before the Board is a proposed Order of Summary Suspension and notice of opportunity for hearing. He remarked that the Secretary and the Supervising Member have determined that, based upon their review of this matter, there is clear and convincing evidence that Dr. Check has violated Section 4731.22 (B)(15), Ohio Revised Code, and that, in accordance with her March 10, 2004 Consent Agreement, such violation constitutes clear and convincing evidence that her continued practice presents a danger of immediate and serious harm to the public. Mr. Dilling noted that the Secretary and Supervising Member recommend that the Board suspend Dr. Check's certificate without a prior hearing. At this time, the Board members were given the opportunity to review the proposed notice.

**DR. BUCHAN MOVED TO ENTER AN ORDER OF SUMMARY SUSPENSION IN THE MATTER OF LYNNE E. ZEGIOB CHECK, M.D., IN ACCORDANCE WITH SECTION 4731.22(G), OHIO REVISED CODE, AND TO ISSUE THE NOTICE OF SUMMARY SUSPENSION AND OPPORTUNITY FOR HEARING. MR. BROWNING SECONDED THE MOTION. A vote was taken:**

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

The motion carried.



# State Medical Board of Ohio

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

## NOTICE OF SUMMARY SUSPENSION AND OPPORTUNITY FOR HEARING

January 12, 2005

Lynne Ellen Zegiob Check, M.D.  
3655 Brush  
Richfield, Ohio 44286

Dear Doctor Check:

The Secretary and the Supervising Member of the State Medical Board of Ohio [Board] have determined that there is clear and convincing evidence that you have violated Section 4731.22(B)(15), Ohio Revised Code, and have further determined that, in accordance with the Probationary Consent Agreement referenced in paragraph (1) below, such violation constitutes clear and convincing evidence that your continued practice presents a danger of immediate and serious harm to the public, as set forth in paragraphs (1) through (5), below.

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

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

- (1) On or about March 10, 2004, you entered into a Probationary Consent Agreement with the Board [March 2004 Probationary Consent Agreement], a copy of which is attached hereto and fully incorporated herein, based upon your violations of Sections 4731.22(B)(19) and (B)(35), Ohio Revised Code. In the March 2004 Probationary Consent Agreement, you made certain factual admissions, including that after being charged with Driving Under the Influence you were convicted of the amended charge of Physical Control in February 2002 arising from your personal consumption of narcotic cough medications you obtained from office samples and from a prescription previously issued for a family member by another physician;

that you had failed to appear for an evaluation for chemical dependency at Shepherd Hill Hospital as ordered by the Board; that you had unilaterally opted to pursue evaluation at Parkside Behavioral Healthcare; that as a result of the Parkside Behavioral Healthcare in-patient assessment, Edna Jones, M.D., determined that you had diagnoses including major depression and adjustment disorder with mixed mood, for which Dr. Jones recommended that you maintain ongoing psychiatric treatment and counseling; that although Dr. Jones determined that you did not suffer from chemical dependency nor require addiction treatment, Dr. Jones nonetheless made certain recommendations including that you abstain from addictive mood altering drugs and alcohol, submit to random witnessed drug screens, and refrain from self-prescribing; and that you had subsequently submitted to a three-day evaluation at Shepherd Hill Hospital, which determined that you did not suffer from chemical dependency, but resulted in diagnoses including dysthymia, history of major depression, recurrent, and adjustment disorder with anxiety. You also admitted that you had a history of self-prescribing certain medications, and that a psychiatric evaluation by Stephen Noffsinger, M.D., had resulted in the diagnosis of major depressive disorder, in partial remission.

Further, in the March 2004 Probationary Consent Agreement, you agreed to certain terms, conditions, and limitations, including the requirement that you abstain completely from the use of alcohol.

- (2) Despite the requirement in the March 2004 Probationary Consent Agreement that you abstain completely from the use of alcohol, on or about December 6, 2004, when you appeared before representatives of the Board for your regularly scheduled quarterly probationary office conference, you indicated that you had been convicted of Driving Under the Influence in September 2004 related to your acts of consuming alcohol and being arrested for driving with a 0.17 blood alcohol level.
- (3) Certified copies of court documents demonstrate that on or about September 30, 2004, in the Richfield Mayor's Court, Richfield, Ohio, you were convicted of the charge of OVI [Operating a Vehicle Under the Influence], in violation Section 333.010 of the Village of Richfield Ordinances. You were ordered to complete a three-day driver intervention program, assessed \$400 in fines and costs, and granted limited driving privileges including permission to travel to and from your medical office location and Marymount Hospital for patient care, and permission to travel to and from Edwin Shaw Hospital [for treatment].
- (4) But for the Board's action to summarily suspend your certificate as set forth herein, you would be legally authorized to practice medicine and surgery in Ohio subject to the terms, conditions, and limitations set forth in the aforementioned March 2004 Probationary Consent Agreement.

- (5) In the "Failure to Comply" provision of the March 2004 Probationary Consent Agreement, you contractually agreed:

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

- (6) On or about January 12, 2005, the Board issued a Findings, Order and Journal Entry that indefinitely suspended your certificate to practice medicine and surgery based upon your failure to appear as ordered for a three-day in-patient evaluation for chemical dependency, which, pursuant to Section 4731.22(B)(26), Ohio Revised Code, by operation of law constituted your admission of an "[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."

Your acts, conduct, and/or omissions as alleged in paragraphs (2) and (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 paragraph (6) above, individually and/or collectively, constitute a "[f]ailure to cooperate in an investigation conducted by the board under division (F) of this section, including failure to comply with a subpoena or order issued by the board . . ." as that clause is used in Section 4731.22(B)(35), Ohio Revised Code.

Pursuant to Chapter 119., Ohio Revised Code, and Chapter 4731., Ohio Revised Code, you are hereby advised that you are entitled to a hearing 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.

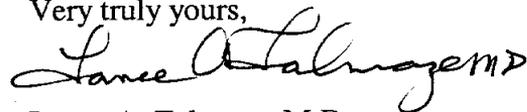
Notice of Summary Suspension  
& Opportunity for Hearing  
Lynne Ellen Zegiob Check, M.D.  
Page 4

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,



Lance A. Talmage, M.D.  
Secretary

LAT/blt  
Enclosures

CERTIFIED MAIL # 7000 0600 0024 5143 7759  
RETURN RECEIPT REQUESTED

cc: Douglas Graff, Esq.  
604 East Rich Street  
Columbus, OH 43215-5341

CERTIFIED MAIL # 7000 0600 0024 5143 7742  
RETURN RECEIPT REQUESTED

**PROBATIONARY CONSENT AGREEMENT  
BETWEEN  
LYNNE ELLEN ZEGIOB CHECK, M.D.,  
AND  
THE STATE MEDICAL BOARD OF OHIO**

This Consent Agreement is entered into by and between Lynne Ellen Zegiob Check, M.D. [Dr. Check], and the State Medical Board of Ohio [Board], a state agency charged with enforcing Chapter 4731., Ohio Revised Code.

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

**BASIS FOR ACTION**

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

- A. The Board is empowered by Section 4731.22(B), Ohio Revised Code, to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for violation of 4731.22(B)(19), Ohio Revised Code, “[i]nability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills; and/or Section 4731.22(B)(35), Ohio Revised Code, “[f]ailure to cooperate in an investigation conducted by the board under division (F) of this section, including failure to comply with a subpoena or order issued by the board . . .”
- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violations of Sections 4731.22(B)(19) and (35), Ohio Revised Code, as set forth in Paragraph E below, and expressly reserves the right to institute formal proceedings based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Consent Agreement.
- C. Dr. Check is licensed to practice medicine and surgery in the State of Ohio, License # 35-033827.
- D. Dr. Check states that she is not licensed to practice medicine or surgery in any other state or jurisdiction.

- E. Dr. Check admits that on or about November 30, 2002, she submitted to the Board a license renewal card on which she indicated that she had been found guilty of a misdemeanor since her last application for renewal of her license to practice medicine and surgery. Dr. Check further admits that in response to the Board's initial written inquiry, she submitted documentation indicating that after being charged with Driving Under the Influence, she was convicted on or about February 12, 2002, in the Garfield Heights Municipal Court, Garfield Heights, Ohio, of the amended charge of Physical Control, for which she was fined and ordered to complete one year of probation, to continue [psychiatric] treatment, and to take all prescribed medications. Dr. Check further admits that on or about February 27, 2003, she appeared for an investigative office conference with representatives of the Board. Dr. Check further admits that upon questioning during the course of such office conference, at which she was represented by legal counsel, Dr. Check stated that she was being treated for depression and that the aforementioned traffic conviction was related to personally consuming narcotic cough medication which she obtained from office samples and from a prescription previously issued for a family member by another physician. Dr. Check further admits that following the aforementioned office conference, she voluntarily pursued a brief out-patient chemical dependency assessment at Shepherd Hill Hospital, a Board approved treatment provider in Newark, Ohio, but failed to follow through at that time with Shepherd Hill Hospital's recommendation that she undergo a three-day in-patient evaluation.

Dr. Check further admits that on or about July 16, 2003, by certified mail, return receipt requested, the Board ordered her to submit to a three-day in-patient evaluation at Shepherd Hill Hospital commencing on July 28, 2003. Dr. Check further admits that the return receipt demonstrates that Dr. Check received such certified mail on July 18, 2003, and that although Dr. Check at no time notified the Board that she was unable to attend the evaluation due to circumstances beyond her control, she nonetheless failed to appear for the evaluation as ordered. Dr. Check further admits that despite the existing Board order for her to be evaluated at Shepherd Hill Hospital, she instead unilaterally opted to pursue evaluation by a different provider, Parkside Behavioral Healthcare, a Board approved treatment provider in Columbus, Ohio, on or about August 5, 2003. Dr. Check further admits that as a result of the Parkside Behavioral Healthcare in-patient assessment, Edna Jones, M.D., determined that Dr. Check had diagnoses including major depression and adjustment disorder with mixed mood, for which Dr. Jones recommended that Dr. Check maintain ongoing psychiatric treatment and counseling. Dr. Check further admits that although Dr. Jones determined that Dr. Check did not suffer from chemical dependency nor require addiction treatment, Dr. Jones nonetheless made certain recommendations including that Dr. Check abstain from addictive mood altering drugs and alcohol, submit to random witnessed drug screens, and refrain from self-prescribing. Dr. Check further admits that on or about September 8, 2003, she subsequently submitted to a three-day in-patient evaluation at Shepherd Hill Hospital, which determined that Dr. Check did

not suffer from chemical dependency, but resulted in diagnoses including dysthymia; history of major depression, recurrent; and adjustment disorder with anxiety.

Dr. Check further admits that on or about September 3, 2003, she was psychiatrically evaluated by Stephen Noffsinger, M.D., who assigned Dr. Check the diagnosis of major depressive disorder, in partial remission. Dr. Check admits that she has suffered from depressive symptoms since during or about 1985, that she has been under the care of a psychiatrist and a psychologist since during or about October 2000 for diagnoses including major depression and anxiety, and that she is currently prescribed Wellbutrin and Prozac by her treating psychiatrist. Dr. Check further admits that during the aforementioned psychiatric evaluation by Dr. Noffsinger, she disclosed to the evaluator that at various times in the past she has self-prescribed medications including Lexapro, Celexa, Paxil, and Zoloft, and that she has attempted to wean herself from Wellbutrin on several occasions, only to experience a return of her depressive symptoms. Dr. Check further admits that Dr. Noffsinger opined that Dr. Check is able to practice medicine according to acceptable and prevailing standards of care based upon the fact that her major depressive disorder is reasonably controlled with treatment, and further recommended that Dr. Check continue out-patient treatment with a qualified psychiatrist and that she remain on antidepressant medication for the indefinite future given the chronic and recurrent nature of her major depressive disorder.

### **AGREED CONDITIONS**

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, Lynne Ellen Zegiob Check, M.D., is hereby **REPRIMANDED** based upon her failure to cooperate in an investigation by the Board as set forth in Paragraph E herein.

Further, Dr. Check knowingly and voluntarily agrees with the Board to the following **PROBATIONARY** terms, conditions and limitations:

1. Dr. Check shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.
2. Dr. Check 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 Consent Agreement. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which this Consent Agreement becomes effective. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

3. Dr. Check shall appear in person for an interview before the full Board or its designated representative during the third month following the effective date of this Consent Agreement. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
4. In the event that Dr. Check should leave Ohio for three continuous months, or reside or practice outside the State, Dr. Check 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 this Consent Agreement, unless otherwise determined by motion of the Board in instances where the Board can be assured that probationary monitoring is otherwise being performed.
5. In the event Dr. Check is found by the Secretary of the Board to have failed to comply with any provision of this Consent Agreement, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Consent Agreement.

#### **Sobriety and Self-Treatment**

6. Dr. Check shall refrain from self-treating and shall abstain completely from the personal use or possession of drugs, except those prescribed, dispensed or administered to her by another so authorized by law who has full knowledge of Dr. Check's traffic conviction related to self-administration of narcotic cough syrup, her history of mixing alcohol with anti-depressants, and her psychiatric diagnoses.
7. Dr. Check shall abstain completely from the use of alcohol.

#### **Psychiatric and Psychological Treatment**

8. Within thirty days of the effective date of this Consent Agreement, Dr. Check shall submit to the Board for its prior approval the names and qualifications of a psychiatrist and a psychological therapist or counselor of her choice. Upon approval by the Board, Dr. Check shall undergo and continue psychiatric treatment with her psychiatrist at least once every twelve weeks and psychological treatment with her therapist or counselor at least once every two weeks, or as otherwise directed by the Board.

Dr. Check shall comply with her psychiatric treatment plan, including taking medications as prescribed and/or ordered for her psychiatric disorder. Dr. Check shall ensure that psychiatric reports are forwarded by her treating psychiatrist to the Board on a quarterly basis, or as otherwise directed by the Board. The psychiatric reports shall contain information describing Dr. Check's current treatment plan and any

changes that have been made to the treatment plan since the prior report; Dr. Check's compliance with her treatment plan; Dr. Check's mental status; Dr. Check's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Check shall ensure that her treating psychiatrist immediately notifies the Board of her failure to comply with her psychiatric treatment plan and/or any determination that Dr. Check is unable to practice due to her psychiatric disorder. It is Dr. Check's responsibility to ensure that quarterly reports are received in the Board's offices no later than the due date for Dr. Check's quarterly declaration.

Dr. Check shall comply with her psychological treatment plan, and shall ensure that her psychological therapist or counselor coordinates her therapy with Dr. Check's treating psychiatrist at least quarterly, or as otherwise directed by the Board. Dr. Check shall ensure that psychological reports are forwarded by her treating psychological therapist or counselor to the Board on a quarterly basis, or as otherwise directed by the Board. The psychological reports shall contain information describing Dr. Check's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Check's compliance with her treatment plan; Dr. Check's mental status; Dr. Check's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Check shall ensure that her treating psychological therapist or counselor immediately notifies the Board of her failure to comply with her psychological treatment plan and/or any determination that Dr. Check is unable to practice due to her psychological disorder. It is Dr. Check's responsibility to ensure that quarterly reports are received in the Board's offices no later than the due date for Dr. Check's quarterly declaration.

#### **Drug and Alcohol Screens/Supervising Physician**

9. Dr. Check shall submit to random urine screenings for drugs and alcohol on a once every four week basis during the first six months from the effective date of this Consent Agreement, or as otherwise directed by the Board, and on a once every eight week basis thereafter, or as otherwise directed by the Board. Dr. Check 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 Consent Agreement, Dr. Check shall submit to the Board for its prior approval the name and curriculum vitae of a supervising physician to whom Dr. Check 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. Check. Dr. Check and the supervising physician shall ensure that the urine specimens are obtained on a random basis and that the giving of the specimen is witnessed by a reliable person. In addition, the supervising physician shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

The Board agrees that the treating psychiatrist approved pursuant to Paragraph 8 above may also serve as Dr. Check's supervising physician in satisfaction of the requirements of this paragraph provided that Dr. Check notifies the Board by submitting a writing, signed by both herself and the aforementioned approved treating psychiatrist, to the Board within thirty days of the effective date of this Consent Agreement, stating that such psychiatrist is willing and able to fulfill the responsibilities of the supervising physician as set forth herein. Further, should Dr. Check cease treatment with her approved treating psychiatrist, or should her approved treating psychiatrist become unable or unwilling to serve as Dr. Check's supervising physician, Dr. Check must immediately so notify the Board in writing and make arrangements for a supervising physician as discussed above.

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

In the event that the designated supervising physician becomes unable or unwilling to so serve, Dr. Check must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Dr. Check 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. Check's quarterly declaration. It is Dr. Check's responsibility to ensure that reports are timely submitted.

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

### **Monitoring Physician**

11. Within thirty days of the effective date of this Consent Agreement, Dr. Check shall submit the name and curriculum vitae of a monitoring physician for prior written approval by the Secretary or Supervising Member of the Board. In approving an individual to serve in this capacity, the Secretary and Supervising Member will give

preference to a physician who practices in the same locale as Dr. Check and who is engaged in the same or similar practice specialty.

The monitoring physician shall monitor Dr. Check and her medical practice, and shall review Dr. Check'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. Check and her medical practice, and on the review of Dr. Check's patient charts. Dr. Check shall ensure that the reports are forwarded to the Board on a quarterly basis and are received in the Board's offices no later than the due date for Dr. Check's quarterly declaration.

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

### **Releases**

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

### **Required Reporting by Licensee**

13. Within thirty days of the effective date of this Consent Agreement, Dr. Check shall provide a copy of this Consent Agreement to all employers or entities with which she is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where she has privileges or appointments. Further, Dr. Check shall provide a copy of this Consent Agreement to all employers or entities with which she contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where she applies for or obtains privileges or appointments.
14. Within thirty days of the effective date of this Consent Agreement, Dr. Check shall provide a copy of this Consent Agreement by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which she currently holds any professional license. Dr. Check further agrees to provide a copy of this

Consent Agreement by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which she applies for any professional license or for reinstatement of any professional license. Further, Dr. Check shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

### **FAILURE TO COMPLY**

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

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

### **DURATION/MODIFICATION OF TERMS**

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

### **ACKNOWLEDGMENTS/LIABILITY RELEASE**

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

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

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

This Consent Agreement shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code, and may be reported to appropriate organizations, data banks, and

governmental bodies. Dr. Check agrees to provide her social security number to the Board and hereby authorizes the Board to utilize that number in conjunction with that reporting.

**EFFECTIVE DATE**

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

Lynne E. ZegioB Check  
LYNNE ELLEN ZEGIOB CHECK, M.D.

Lance A. Talmage M.D.  
LANCE A. TALMAGE, M.D.  
Secretary

2-26-04  
DATE

3-10-04  
DATE

[Signature]  
DOUGLAS GRAFF, ESQ.  
Attorney for Dr. Check

[Signature]  
RAYMOND J. ALBERT  
Supervising Member

3/1/04  
DATE

3/10/04  
DATE

Rebecca J. Marshall  
REBECCA J. MARSHALL, ESQ.  
Enforcement Attorney

March 1, 2004  
DATE