

State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
med.ohio.gov

August 12, 2009

John A. Halpin, M.D.
7034 Lighthouse Point
Maineville, OH 45039

RE: 09-CRF-039

Dear Dr. Halpin:

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 August 12, 2009.

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 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 of the Ohio Revised Code.

Very truly yours,



Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

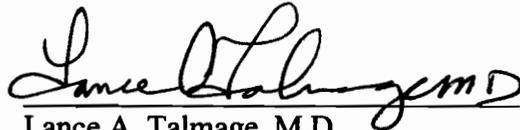
CERTIFIED MAIL RECEIPT NO. 91 7108 2133 3934 3688 7493
RETURN RECEIPT REQUESTED

Mailed 8-13-09

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 August 12, 2009, constitutes a true and complete copy of the Findings, Order and Journal Entry in the Matter of John A. Halpin, M.D., Case No. 09-CRF-039, 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)

August 12, 2009

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

CASE NO. 09-CRF-039

*

JOHN A. HALPIN, M.D.

*

FINDINGS, ORDER AND JOURNAL ENTRY

By letter dated April 8, 2009, notice was given to John A. Halpin, M.D., that the State Medical Board intended to consider disciplinary action regarding his license to practice medicine and surgery in the State of Ohio, and that he was entitled to a hearing if such hearing was requested within thirty (30) days of the mailing of said notice. In accordance with Section 119.07, Ohio Revised Code, said notice was sent via certified mail, return receipt requested, to the address of record of Dr. Halpin, that being 7034 Lighthouse Point, Maineville, Ohio 45039.

On April 9, 2009, the notice was mailed via certified mail, return receipt requested, to Dr. Halpin's address of record. The notice was returned to the Board offices with notation from the United States Postal Service that the item was undeliverable as addressed – unable to forward. In accordance with Section 119.07, Ohio Revised Code, legal notice was placed in the Western Star, a newspaper of general circulation in the area of Dr. Halpin's last known address, on June 4, June 11, and June 18, 2009. A copy of the proof of publication was also mailed to Dr. Halpin's last known address on July 2, 2009.

Service was deemed completed on Dr. Halpin on June 18, 2009; however, no hearing request has been received from Dr. Halpin and more than thirty (30) days have now elapsed since the last date of publication.

WHEREFORE, having reviewed the April 8, 2009, Notice of Opportunity for Hearing, the affidavit of Debra L. Jones, Continuing Medical Education and Renewal Officer, and the affidavit of Barbara A. Jacobs, Public Services Administrator, which are attached hereto and incorporated herein, the Board hereby finds that:

1. On or about August 14, 2008, the Board issued a Final Order and Journal Entry to John A. Halpin, M.D. based upon findings that Dr. Halpin had failed to earn the required Continuing Medical Education during the July 2, 2004, through July 1, 2006, acquisition period and falsely stated on a renewal application that he had in fact earned the number of hours required to renew his license. Such Order became effective on or about September 17, 2008.
2. Pursuant to Paragraph B of the August 14, 2008 Order, Dr. Halpin was required to pay a fine of \$5,000 within thirty days of the effective date of the Order.

3. Pursuant to Paragraph C of the August 14, 2008 Order, Dr. Halpin was required to produce documentation within six months of the effective date of the Order that he had satisfied the requirements for the July 2, 2004, through July 1, 2006, Continuing Medical Education acquisition period.
4. Dr. Halpin has failed to pay the \$5,000 fine within thirty days of the August 14, 2008, Order and has not paid said fine to date.
5. Dr. Halpin has failed to produce any documentation that he has completed the required Continuing Medical Education for the July 2, 2004, through July 1, 2006, acquisition period.

Further, the Board hereby concludes that:

1. Dr. Halpin's failure to pay the \$5,000 fine as described in Paragraph B of the August 14, 2008, Final Order and Journal Entry constitutes a "violation 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. Dr. Halpin's failure to produce documentation of his completion of the required Continuing Medical Education for the July 2, 2004, through July 1, 2006, Continuing Medical Education acquisition period constitutes a "violation 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.

Accordingly, the Board hereby ORDERS that:

The license of John A. Halpin, M.D., to practice medicine and surgery in the State of Ohio be REVOKED.

This Order shall become effective IMMEDIATELY.

This Order is hereby entered upon the Journal of the State Medical Board of Ohio for the 12th day of August 2009 and the original thereof shall be kept with said Journal.

(SEAL)



Lance A. Talmage, M.D.
Secretary

August 12, 2009
Date

AFFIDAVIT

The State of Ohio
Franklin County, SS

I, Debra L. Jones, being duly cautioned and sworn, do hereby depose and say that:

- 1) I am employed by the State Medical Board of Ohio (hereinafter, "The Board")
- 2) I serve the Board in the position of Continuing Medical Education and Renewal Officer.
- 3) In such position I am the responsible custodian of all public licensee records maintained by the Board pertaining to individuals who have received certificates issued pursuant to Chapter 4731., Ohio Revised Code. In addition, I monitor those licensees who are subject to a consent agreement or Board Order based upon violations of the Board's requirements for Continuing Medical Education [hereinafter "CME"].
- 4) On August 14, 2008, the Board issued an Order to John A. Halpin, M.D., based upon his failure to document the required number of CME hours for the July 2, 2004, through July 1, 2006, CME acquisition period.
- 5) Paragraph B of the August 14, 2008, Board Order required Dr. Halpin to pay a fine of \$5,000.
- 6) As of the date of this affidavit, Dr. Halpin has failed to submit the Board ordered fine.
- 7) Paragraph C of the August 14, 2008, Board Order required Dr. Halpin to submit documentation that he had completed 33 hours of Category I CME, in addition to the 7 hours previously submitted, to satisfy the requirements of the July 2, 2004 through July 1, 2006, CME acquisition period.
- 8) As of the date of this affidavit, Dr. Halpin has failed to submit any documentation of his completion of the 33 hours of Category I CME hours.
- 9) Between August 14, 2008, and the date of this affidavit, Dr. Halpin has not contacted me to discuss the requirements of the Board Order, to make arrangements to submit the \$5,000 fine or to submit the required documentation of the 33 hours of Category I CME hours for the July 2, 2004, through July 1, 2006, acquisition period.
- 10) I have this day carefully examined the records of the Board pertaining to Dr. Halpin.

- 11) Based on my examination, I have found the last known address of record of Dr. Halpin to be:

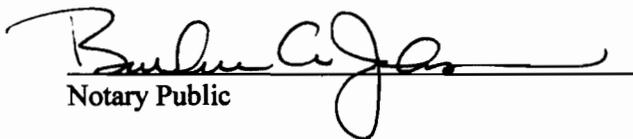
7034 Lighthouse Point
Maineville, Ohio 45039

- 12) Further, Affiant Sayeth Naught.



Debra L. Jones
Continuing Medical Education and Renewal
Officer

Sworn to and signed before me, Barbara A. Jacobs, Notary Public, this
27th day of July, 2009.


Notary Public

BARBARA ANN JACOBS, ATTORNEY AT LAW
NOTARY PUBLIC, STATE OF OHIO
My commission has no expiration date.
Section 3-07.00 R.C.

AFFIDAVIT

The State of Ohio
Franklin County, SS

I, Barbara A. Jacobs, being duly cautioned and sworn, do hereby depose and state that the following is true based upon my first-hand knowledge:

- 1) I am employed by the State Medical Board of Ohio (hereinafter, "The Board").
- 2) I serve the Board in the position of Public Services Administrator.
- 3) In the course of my regular duties, I am responsible for seeing that all procedural requirements of Chapter 119., Ohio Revised Code, regarding service of any notice issued by the Board are met.
- 4) According to the Board's records, the Board issued a Notice of Opportunity for Hearing to John A. Halpin, M.D., on April 8, 2009. Such notice was mailed by certified mail, return receipt requested, to Dr. Halpin's address of record. Attached hereto and incorporated herein as Exhibit A is a certified copy of the April 8, 2009, Notice of Opportunity for Hearing, with attachments.
- 5) On April 13, 2009, the Notice was returned to the Board with a notation by the United States Postal Service that the item was not deliverable as addressed – unable to forward. Attached hereto and incorporated herein as Exhibit B is a true and accurate copy of the envelope returned to the Board offices on April 13, 2009.
- 6) Pursuant to Section 119.07, Ohio Revised Code, the Board caused to be published a legal notice in the Western Star, a newspaper of general circulation in the area of Dr. Halpin's last known address. Such legal notice was published on June 4, June 11, and June 18, 2009.
- 7) The Notice was deemed served on Dr. Halpin on June 18, 2009, the last date that the legal notice was placed in the Western Star.
- 8) On July 2, 2009, a copy of the Affidavit of Publication was mailed to Dr. Halpin's last known address. Such letter was returned to the Board offices with notation from the United States Postal Service that the item was not deliverable as addressed – unable to forward. Attached hereto and incorporated herein as Exhibit C is a true and accurate copy of the July 2, 2009, letter to Dr. Halpin with a copy of the Affidavit of Publication.
- 9) As of the date of this affidavit, the Board has not received a request for hearing from Dr. Halpin.

10) Further, Affiant Sayeth Naught.



Barbara A. Jacobs
Public Services Administrator

Sworn to and signed before me, Daniel S. Zinsmaster, Notary Public, this 24th day of
July, 2008.



DANIEL S. ZINSMaster, Attorney At Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date
Sec. 147.99 R.C.



Notary Public



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

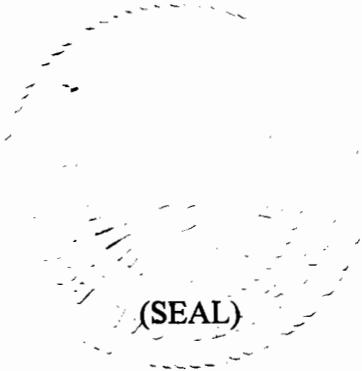
Richard A. Whitehouse, Esq.
Executive Director

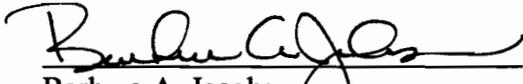
(614) 466-3934
med.ohio.gov

CERTIFICATION

I hereby certify that the attached documents are true and complete copies as they appear in the records of the State Medical Board of Ohio in the Matter of John A. Halpin, M.D., Case Number 09-CRF-039.

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

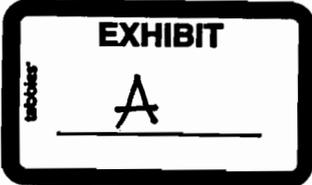




Barbara A. Jacobs
Public Services Administrator

July 27, 2009

Date



State Medical Board of Ohio

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



Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
med.ohio.gov

April 8, 2009

Case number: 09-CRF- 039

John Albert Halpin, M.D.
7034 Lighthouse Point
Maineville, Ohio 45039

Dear Doctor Halpin:

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

- (1) On or about August 14, 2008, by Order of the Board [2008 Board Order], you were found to be in violation of Section 4731.22(B)(5) and Section 4731.22(B)(20), Ohio Revised Code, to wit: Section 4731.281, Ohio Revised Code, and Rules 4731-10-02 and 4731-10-08, Ohio Administrative Code. The 2008 Board Order was based upon your failure to complete the requisite number of hours of Continuing Medical Education [CME] during 2004 – 2006 CME period, including forty hours of Category 1 CME. Further, the 2008 Board Order also found that by certifying that you had successfully completed all required CME in your application for renewal of your certificate to practice medicine and surgery submitted to the Board on or about August 24, 2006, you made a fraudulent statement, as you had only earned seven hours of Category 1 CME. A copy of the 2008 Board Order is attached hereto and fully incorporated herein.
- (2) Paragraph B of the 2008 Board Order required you to pay a fine of \$5000.00 to the Board no later than thirty days after the effective date of the 2008 Board Order, which became effective upon mailing on or about September 17, 2008. Further, Paragraph C of the 2008 Board Order required, *inter alia*, that within six months of the effective date, you were to supply documentation to the Board showing satisfactory completion of the thirty-three hours of CME you failed to earn during the 2004-2006 CME period, as well as documentation showing satisfactory completion of forty hours of Category 1 CME for the period beginning July 2, 2006, and ending July 1, 2008.

To date, you have failed to comply with the aforementioned requirements of Paragraphs B and C of the 2008 Board Order.

Your acts, conduct, and/or omissions as alleged in paragraphs (1) and (2) above, individually and/or collectively, constitute a "[v]iolation of the conditions of limitation placed by the board

Mailed 4-9-09

John Albert Halpin, M.D.

Page 2

upon a certificate to practice,” as that clause is used in Section 4731.22(B)(15), Ohio Revised Code.

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

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

In the event that there is no request for such hearing received within thirty days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice 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/DSZ/flb
Enclosures

CERTIFIED MAIL #91 7108 2133 3936 3068 6397
RETURN RECEIPT REQUESTED

Duplicate Mailing:

John Albert Halpin, M.D.
103 Abondance Drive
Palm Beach Gardens, FL 33410

CERTIFIED MAIL #91 7108 2133 3936 3068 6380
RETURN RECEIPT REQUESTED – RESTRICTED DELIVERY

State Medical Board of Ohio

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



Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
med.ohio.gov

August 14, 2008

John A. Halpin, M.D.
7034 Lighthouse Point
Maineville, OH 45039

RE: 08-CRF-064

Dear Doctor Halpin:

Please find enclosed a certified copy of the Findings, Order and Journal Entry amended by the State Medical Board meeting in regular session on August 14, 2008.

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 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 of the Ohio Revised Code.

Very truly yours,

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

LAT:jam
Enclosures

CERTIFIED MAIL RECEIPT NO. 91 7108 2133 3934 3487 3214
RETURN RECEIPT REQUESTED

Duplicate mailing: 103 Abundance Drive
Palm Beach Gardens, FL 33410
CERTIFIED MAIL RECEIPT NO. 91 7108 2133 3934 3487 3221
RESTRICTED DELIVERY
RETURN RECEIPT REQUESTED

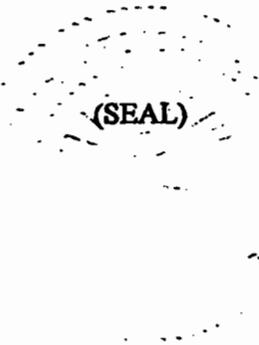
Mailed 9.17.08



CERTIFICATION

I hereby certify that the attached copy of the amended Findings, Order and Journal Entry approved by the State Medical Board, meeting in regular session on August 14, 2008, constitutes a true and complete copy of the amended Findings, Order and Journal Entry in the Matter of John A. Halpin, M.D., Case Number 08-CRF-064, 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 MD
Lance A. Talmage, M.D. RU
Secretary

August 14, 2008
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

:

: Case No. 08-CRF-064

JOHN A. HALPIN, M.D.

:

FINDINGS, ORDER AND JOURNAL ENTRY

This matter came on for consideration before the State Medical Board of Ohio on August 14, 2008, pursuant to a Notice of Opportunity for Hearing issued to John A. Halpin, M.D., on May 14, 2008. No request for hearing having been received within the statutorily mandated time period, Hearing Examiner Gretchen L. Petrucci, Esq., on behalf of the Board, reviewed and summarized evidence supporting the Notice, and prepared Proposed Findings and a Proposed Order.

WHEREFORE, having reviewed Ms. Petrucci's Proposed Findings and Proposed Order, which is attached hereto and incorporated herein, the Board hereby adopts the Proposed Findings and amends the Proposed Order.

Accordingly, it is hereby ORDERED that:

- A. **REPRIMAND:** John A. Halpin, M.D., is hereby REPRIMANDED.
- B. **FINE:** Dr. Halpin shall pay a FINE of \$5,000 to the State Medical Board of Ohio. This fine shall be paid no later than 30 days after the effective date of this Order or as otherwise determined by the Board.
- C. **DOCUMENTATION OF CME:** No later than six months following the effective date of this Order, Dr. Halpin shall supply documentation acceptable to the Board of satisfactory completion of the 33 hours of CME that he failed to earn during the 2004-2006 CME period, which ended on July 1, 2006.

No later than six months following the effective date of this Order, Dr. Halpin shall supply documentation acceptable to the Board of satisfactory completion of 40 hours of Category I CME for the period beginning July 2, 2006, and ending July 1, 2008.

Dr. Halpin shall supply documentation acceptable to the Board of satisfactory completion of the requisite number of CME hours of the July 2, 2008 – July 1, 2010 CME period, *if* he renews his certificate to practice for the two-year registration/renewal period beginning in 2008. This documentation shall be due in

the Board's offices within 30 days of the conclusion of the 2008-2010 CME period, unless otherwise determined by the Board.

D. REQUIRED REPORTING AND DOCUMENTATION OF REPORTING:

1. **Required Reporting to Employers and Others:** Within 30 days of the effective date of this Order, or as otherwise determined by the Board, Dr. Halpin shall provide a copy of this Order to all employers or entities with which he is under contract to provide health-care services (including but limited to third-party payors) or is receiving training, and the Chief of Staff at each hospital or health-care center where he has privileges or appointments.

Further, Dr. Halpin shall provide a copy of this Order to all employers or entities with which he contracts in the future to provide health-care services, or applies for or receives training, and the Chief of Staff at each hospital or health-care center where he applies for or obtains privileges or appointments. This requirement shall continue for three years following the effective date of this Order.

2. **Required Reporting To Emergency Medical Services Organization or Provider:** In the event that Dr. Halpin provides any health-care services or health-care direction or medical oversight to any emergency medical services organization or emergency medical services provider in Ohio, Dr. Halpin shall provide, within 30 days or as otherwise determined by the Board, a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services.

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

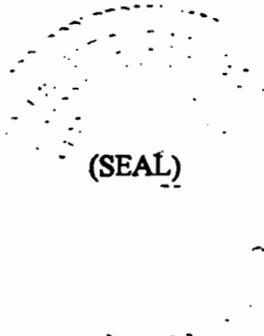
When Dr. Halpin applies for any professional license or reinstatement/restoration of any professional license in any State or jurisdiction, he shall provide a copy of this Order to the proper licensing authority of that State or jurisdiction at the time of application. This requirement shall continue for three years following the effective date of this Order.

4. **Documentation that the Required Reporting Has Been Performed:** Further, Dr. Halpin shall provide the Board with one of the following documents as proof of each required notification within 30 days of the date of each notification as required above: (1) the return receipt of certified mail within 30 days of receiving that return receipt, (2) an acknowledgement of

delivery bearing the original ink signature of the person to whom a copy of the Order was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Order to the person or entity to whom a copy of the Order was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the e-mail transmission of a copy of the Order to the person or entity to whom a copy of the Order was e-mailed.

- E. **VIOLATION OF THE TERMS OF THIS ORDER:** If Dr. Halpin violates the terms of this Order in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.

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



(SEAL)

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

August 14, 2008
Date

**PROPOSED FINDINGS AND PROPOSED ORDER
IN THE MATTER OF JOHN A. HALPIN, M.D.
Case No. 08-CRF-064**

2008 JUL 22 P 3 49

The Matter of John A. Halpin, M.D., was reviewed by Gretchen L. Petrucci, Hearing Examiner for the State Medical Board of Ohio.

INTRODUCTION

Basis for the Review

- A. By letter dated May 14, 2008, the State Medical Board of Ohio [Board] notified John A. Halpin, M.D., that it intended to determine whether to take disciplinary action against his certificate to practice medicine and surgery in Ohio. The Board's proposed action was based on allegations that Dr. Halpin, when randomly selected for an audit of his continuing medical education [CME], failed to respond to the Board's initial audit notice, and that, when Dr. Halpin eventually responded, he was not able to document that he had earned the required number of Category 1 CME hours from July 2, 2004, through July 1, 2006 [the 2004-2006 CME period]. The Board further alleged that Dr. Halpin had certified in his 2006 licensure-renewal application that he had completed the required CME for the 2004-2006 period, including at least 40 hours of Category 1 CME. (Exhibit [Ex.] A)

The Board alleged that Dr. Halpin's conduct in certifying to the Board that he had completed the required CME when, in fact, he had not, constitutes "[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine or surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certification of registration issued by the board," as set forth in Section 4731.22(B)(5), Ohio Revised Code. (Ex. A)

The Board also alleged that Dr. Halpin's failure to obtain the requisite CME and/or to submit documentation of the requisite CME constitutes "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate, any provisions of this chapter or any rule promulgated by this board" as set forth in Section 4731.22(B)(20), Ohio Revised Code, with respect to Dr. Halpin's violation of Section 4731.281, Ohio Revised Code, and Rules 4731-10-02 and 4731-10-08, Ohio Administrative Code. (Ex. A)

Accordingly, the Board notified Dr. Halpin that he was entitled to a hearing if he submitted a written request that was "received in the offices of the Board within thirty days of the time of mailing of this notice." (Ex. A)

- B. The notice of opportunity for hearing [Notice] was mailed to Dr. Halpin on May 15, 2008, by certified mail, return receipt requested, to his most recent address of record in Maineville, Ohio. The U.S. Postal Service forwarded the Notice to Dr. Halpin's then-current residence in

Palm Beach Gardens, Florida, where it was delivered and signed for on May 28, 2008.
(Exs. A at 4, C)

- C. In a memorandum dated June 26, 2008, the Board's Public Services Administrator requested that the Hearing Unit review evidence provided regarding John A. Halpin, M.D., and prepare proposed findings and a proposed order. The Board had not received a request for a hearing within 30 days of the date of mailing of the Notice. (Ex. D)

EVIDENCE EXAMINED

Exhibit A: June 26, 2008, certification and May 14, 2008, Notice of Opportunity for Hearing and certified mail receipt.

Exhibit B: Initial and supplemental affidavits from Debra L. Jones, Continuing Medical Education and Renewal Officer, with the following exhibits:

Exhibit B1: Dr. Halpin's on-line renewal application in August 2006.

Exhibit B2: The Board's audit notice to Dr. Halpin in March 2007.

Exhibit B3: The Board's second notice of audit in May 2007.

Exhibit B4: Dr. Halpin's May 2007 letter requesting an extension of time.

Exhibit B5: May 2007 letter to Dr. Halpin approving extension of time.

Exhibit B6: Dr. Halpin's June 2007 letter to the Board regarding CME, with enclosed documentation of part of the required CME.

Exhibit B7: Online renewal application form.

Exhibit B8: Sample renewal notice notifying physicians of the requirements for renewing their certificates.

Exhibit C: Affidavit of Barbara A. Jacobs, Public Services Administrator, regarding the mailing of the notice of opportunity for hearing and the lack of a hearing request from Dr. Halpin.

Exhibit D: Memorandum from the Public Services Administrator to the Chief Hearing Examiner dated June 26, 2008.

SUMMARY OF THE EVIDENCE

1. John A. Halpin, M.D., was born in 1936 in Cincinnati, Ohio. He was initially licensed to practice medicine and surgery in Ohio in 1974. He currently holds an active certificate to practice in Ohio, number 35.037982, and he has stated that his practice specialty is ophthalmology. (Exs. B, B1; Ohio eLicense Center at <<https://license.ohio.gov/lookup/default.asp>>, query on June 27, 2008).
2. The Board sends notices to physicians, informing them of the requirements for renewing their certificates to practice. The notice advises that, to be eligible for renewal, a physician must have completed, during the identified CME period, a total of 100 hours of CME, including a minimum of 40 hours of Category 1 CME. (Exs. B, B8)

In addition, the CME requirements for physicians are set forth in Section 4731.281, Ohio Revised Code, and in Chapter 4731-10, Ohio Administrative Code.

3. In 2006, Dr. Halpin was due to renew his certificate between July 1 and October 1, 2006. In order for Dr. Halpin to be eligible for renewal in 2006, he was required to have completed 100 hours of CME during the 2004-2006 CME period, including 40 hours of Category 1 hours. (Ex. A at 2)¹
4. On August 24, 2006, Dr. Halpin completed and posted an online application to renew his Ohio certificate. In completing his renewal application, Dr. Halpin answered "yes" when asked: "Have you met the above CME requirements for your license?" By answering "yes" to that question, Dr. Halpin represented that he had earned at least 100 hours of CME during the 2004-2006 CME period, including 40 hours of Category 1 CME. (Exs. B, B1, B7)
5. In addition, in submitting the application, Dr. Halpin averred as follows:

I understand that submitting a false, fraudulent, or forged statement or document or omitting a material fact in obtaining licensure may be grounds for disciplinary action against my license.

Under penalty of law, I hereby swear or affirm that the information I have provided in the application is complete and correct, and that I have complied with all criteria for applying on line.

(Ex. B1)

6. In 2007, Dr. Halpin was randomly selected by the Board for a CME audit. On March 22, 2007, the Board sent him a letter via certified mail, return receipt requested, requiring him to

¹The evidence provided to the Hearing Unit does not independently set forth the precise dates of the two-year registration/renewal period, although the dates are alleged in the notice of opportunity for hearing. The evidence establishes, however, that Dr. Halpin posted his online application on August 24, 2006, and it is reasonable to conclude that the new period of licensure began thereafter. This lack of evidence is not material.

provide documentation of the CME hours he had completed. (Ex. B, B2) The letter stated in part:

Upon renewal of your Ohio license, you certified that during the period of July 2, 2004 – July 1, 2006, you had completed the requisite hours of Continuing Medical Education (CME).

At this time, as a result of your being randomly selected for audit, it will be necessary for you to complete the enclosed log of CME, demonstrating that you have, in fact, completed at least one hundred hours of CME during the period of July 2, 2004 – July 1, 2006. It will also be necessary for you to provide the Board with documentation that you have actually completed at least 40 hours of Category I CME as certified on your license renewal application. Certificates of attendance, hospital printouts and accredited organization printouts are acceptable documentation, copies of which must be enclosed with your log. * * *

Up to 60 hours of Category II credits may be listed on the reverse side of the log, but no documentation need be provided. You must demonstrate at least 100 hours of Category I and Category II CME.

It is important you understand that under Ohio law it is your responsibility to document your CME participation, and, further that a failure to timely comply with the audit requirements can result in imposition of a fine, revocation or suspension of your license to practice in Ohio. * * *

Please return the above-requested material to the State Medical Board of Ohio, to the attention of Ms. Liz Gerris of the CME & Renewal Department, within three weeks of receipt of this letter. If you need to speak with Ms. Gerris, she can be reached at [contact information provided]. The result of your audit will be made available to you in the near future.

Thank you for your cooperation.

(Ex. B2, emphasis in original)

7. Dr. Halpin did not respond or submit any documentation to the Board in response to the Board's March 2007 letter. (Ex. B)
8. On May 4, 2007, the Board sent another letter to Dr. Halpin, mailing it to his business address, again instructing him to document the CME that he had earned during the 2004-2006 CME period. The Board advised Dr. Halpin that this was a second notice and advised him to contact the Board within 10 days. (Exs. B, B3)

9. On May 8, 2007, Dr. Halpin telephoned the Board offices and requested an extension of time to file his response to the audit. Dr. Halpin also sent a written request for an extension of time to submit his CME documentation, which was received on May 16, 2007. In a letter dated May 18, 2007, the Board informed Dr. Halpin that his request for an extension was approved, and that he must submit his proof of compliance with the CME requirements no later than June 11, 2007. (Exs. B, B4, B5)
10. On June 12, 2007, the Board received Dr. Halpin's completed log of CME hours and his documentation. On his CME log and the accompanying documents, Dr. Halpin reflected that he had earned the following CME credits in Category 1:
 - 32 hours earned at a symposium entitled, "Cataract, IOL and Refractive Surgery," sponsored by the American Society of Cataract and Refractive Surgery from April 30 through May 5, 2004.
 - 7 hours earned at an activity entitled "Retinal and Glaucoma Imaging 2006: Ocular Coherence Tomography Applications & Future Technology," sponsored by the University of Miami School of Medicine from December 2 through 3, 2005.
 - 31 credits earned at the American Academy of Ophthalmology's joint meeting and subspecialty day from November 10 through November 14, 2006.

(Ex. B6)

11. In a cover letter that accompanied his CME log and documentation, Dr. Halpin stated:

I was able to locate documentation of my most recent Category I CME credits. As you will note, I have had seventy credits since May of 2004. Due to faulty record keeping on my part, most of the credits fall outside the reporting period by a few months. I regret this has happened.

I have always considered it a privilege to practice medicine in Ohio these past 32 years. I trust my situation can be resolved. I will do whatever is necessary to remaining [in] good standing with the State Board.

(Ex. B6)

12. In a sworn statement, Debra Jones, the Board's Continuing Medical Education and Renewal Officer explained that the seven hours earned by Dr. Halpin in December 2005 were within the 2004-2006 CME period. However, she stated that the CME completed in April/May 2004 and November 2006 were *not* earned within the required CME period, but were earned either before or after the CME period at issue. Ms. Jones stated that, as of June 26, 2008, Dr. Halpin

had failed to provide documentation of the remaining 33 hours of the requisite 40 hours of Category 1 CME. (Ex. B)

PROPOSED FINDINGS

1. Section 4731.281, Ohio Revised Code, governs continuing medical education [CME] for physicians in Ohio and provides in pertinent part:

- (A) On or before the deadline established under division (B) of this section for applying for renewal of a certificate of registration, each person holding a certificate under this chapter to practice medicine and surgery * * * shall certify to the state medical board that in the preceding two years the person has completed one hundred hours of continuing medical education. The certification shall be made upon the application for biennial registration submitted pursuant to division (B) of this section.

* * *

The board may require a random sample of persons holding a certificate to practice under this chapter to submit materials documenting completion of the continuing medical education requirement during the preceding registration period, but this provision shall not limit the board's authority to investigate pursuant to section 4731.22 of the Revised Code.

* * *

- (E) If an individual certifies completion of the number of hours and type of continuing medical education required to receive a certificate of registration or reinstatement of a certificate to practice, and the board finds through the random samples it conducts under this section or through any other means that the individual did not complete the requisite continuing medical education, the board may impose a civil penalty of not more than five thousand dollars. * * *

2. Rule 4731-10-02(A)(2), Ohio Administrative Code, sets forth the requirement that, in a two-year CME period, the "licensee shall be required to earn a total of one hundred hours of CME, of which a minimum of forty hours shall be category 1 * * * ." In addition, Rule 4731-10-05, Ohio Administrative Code, provides that licensees residing or practicing outside Ohio who wish to renew their medical licenses must complete the required CME within the CME period even though not currently residing or practicing in Ohio.

3. Rule 4731-10-08, Ohio Administrative Code, provides as follows (emphasis added):
 - (A) Each applicant for license renewal or license reinstatement shall certify that the applicant has completed the requisite hours of CME since the start of the CME period.
 - (B) The board may select applications for verification that all CME requirements have been met. Licensees whose applications are selected shall submit additional documentation of compliance with CME requirements as the board may require. *Failure to submit the additional documents shall constitute a violation of section 4731.281 of the Revised Code and section 4731.22 of the Revised Code.*
 - (C) Applicants and licensees have a continuing obligation to maintain detailed records of CME hours earned. *Each applicant or licensee shall be responsible for and shall retain written verification obtained from the sponsoring entity of attendance at category 1 CME programs.* Written verification shall include a description of the CME activity, the location of the CME activity, the dates of attendance, the hours of each CME activity and the category of CME. Each applicant or licensee shall retain written documentation of category 2 CME completed during the CME period. Records of all CME undertaken shall be retained by the licensee for two years after the end of the CME period and shall be made available to the board upon request.
4. On August 24, 2006, John A. Halpin, M.D., submitted to the Board an application for the renewal of his certificate to practice medicine and surgery in Ohio. In the renewal application, Dr. Halpin certified that he had earned the requisite 100 hours of CME for the two-year CME period that began on July 2, 2004, and ended on July 1, 2006 [the 2004-2006 CME period], including at least 40 hours of Category 1 CME.
5. The Board randomly selected Dr. Halpin for an audit of his CME. In a letter dated March 22, 2007, sent by certified mail, the Board informed Dr. Halpin of the audit and instructed him to complete and submit a log demonstrating that he had completed at least 100 hours of CME during the 2004-2006 CME period, and to provide documentation that he had actually completed at least 40 hours of Category 1 CME credits.

When Dr. Halpin failed to respond, the Board sent him a second notice dated May 4, 2007, via certified mail, stating that he had 10 days to respond to the Board's request to complete and submit a log demonstrating that he had completed 40 hours of Category 1 CME during the 2004-2006 CME period.
6. Thereafter, Dr. Halpin requested an extension of time, which the Board granted by letter dated May 18, 2007. The Board extended the response deadline to June 11, 2007.

7. On June 12, 2007, the Board received Dr. Halpin's CME log, documentation of CME activities, and a cover letter. Dr. Halpin acknowledged that most of his CME credits since May 2004 were outside of the 2004-2006 CME period.
8. Although Dr. Halpin had certified to the Board in his August 2006 renewal application that he had fulfilled his CME requirement during the 2004-2006 CME period, including 40 hours of Category 1 CME, he had actually completed only seven hours of Category 1 CME.
9. Dr. Halpin failed to obtain the requisite Category 1 CME for the 2004-2006 CME period and failed to submit documentation that he had earned the requisite Category 1 CME for that period, which constitute "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board" as set forth in Section 4731.22(B)(20), Ohio Revised Code. Specifically, Dr. Halpin violated Section 4731.281, Ohio Revised Code, and Rules 4731-10-02 and 4731-10-08, Ohio Administrative Code.

Dr. Halpin's certification on his 2006 renewal application that he had met the CME requirements constitutes the making of "a false, fraudulent, deceptive, or misleading statement * * * in securing or attempting to secure any certificate to practice or certificate of registration issued by this board," as set forth in Section 4731.22(B)(5), Ohio Revised Code.

10. Because Dr. Halpin certified completion of the CME that was required to renew his certificate when he had not in fact completed the requisite CME, the Board may impose a civil penalty of not more than five thousand dollars.

* * * * *

Dr. Halpin was required to earn 40 hours of Category 1 CME during the 2004-2006 CME period. He earned only 7 hours, less than 20 percent of the required total. Dr. Halpin must have known when he submitted his 2006 renewal application that he was not close to the required hours since the hours he had earned were so far below the required number. His subsequent statement to the Board that he had made an error in record-keeping is not believable. Therefore, in addition to a fine, a suspension is recommended because Dr. Halpin's total hours of CME were so far from the required hours that his statement on the renewal application constituted a fraudulent statement. In addition, a suspension period will provide Dr. Halpin a clear opportunity to complete his CME requirements.

PROPOSED ORDER

It is hereby ORDERED that:

- A. **SUSPENSION OF CERTIFICATE:** The certificate of John A. Halpin, M.D., to practice medicine and surgery in the State of Ohio shall be SUSPENDED for a period of 30 days.

- B. **FINE:** Dr. Halpin shall pay a FINE of \$5,000 to the State Medical Board of Ohio. This fine shall be paid no later than 30 days after the effective date of this Order or as otherwise determined by the Board.
- C. **DOCUMENTATION OF CME:** No later than six months following the effective date of this Order, Dr. Halpin shall supply documentation acceptable to the Board of satisfactory completion of the 33 hours of CME that he failed to earn during the 2004-2006 CME period, which ended on July 1, 2006.

No later than six months following the effective date of this Order, Dr. Halpin shall supply documentation acceptable to the Board of satisfactory completion of 40 hours of Category 1 CME for the period beginning July 2, 2006, and ending July 1, 2008.

Dr. Halpin shall supply documentation acceptable to the Board of satisfactory completion of the requisite number of CME hours for the July 2, 2008 - July 1, 2010 CME period, *if* he renews his certificate to practice for the two-year registration/renewal period beginning in 2008. This documentation shall be due in the Board's offices within 30 days of the conclusion of the 2008-2010 CME period, unless otherwise determined by the Board.

D. **REQUIRED REPORTING AND DOCUMENTATION OF REPORTING:**

1. **Required Reporting To Employers and Others:** Within 30 days of the effective date of this Order, or as otherwise determined by the Board, Dr. Halpin shall provide a copy of this Order to all employers or entities with which he is under contract to provide health-care services (including but limited to third-party payors) or is receiving training, and the Chief of Staff at each hospital or health-care center where he has privileges or appointments.

Further, Dr. Halpin shall provide a copy of this Order to all employers or entities with which he contracts in the future to provide health-care services, or applies for or receives training, and the Chief of Staff at each hospital or health-care center where he applies for or obtains privileges or appointments. This requirement shall continue for three years following the effective date of this Order.

2. **Required Reporting To Emergency Medical Services Organization or Provider:** In the event that Dr. Halpin provides any health-care services or health-care direction or medical oversight to any emergency medical services organization or emergency medical services provider in Ohio, Dr. Halpin shall provide, within 30 days or as otherwise determined by the Board, a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services.
3. **Required Reporting To Other Licensing Authorities:** Within 30 days of the effective date of this Order, or as otherwise determined by the Board, Dr. Halpin shall provide a copy of this Order to the proper licensing authority of any State or jurisdiction in which he currently holds any professional license, as well as any

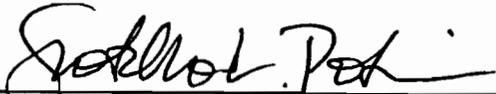
federal agency or entity, including but not limited to the Drug Enforcement Agency, through which he currently holds any license or certificate.

When Dr. Halpin applies for any professional license or reinstatement/restoration of any professional license in any State or jurisdiction, he shall provide a copy of this Order to the proper licensing authority of that State or jurisdiction at the time of application. This requirement shall continue for three years following the effective date of this Order.

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

- E. **VIOLATION OF THE TERMS OF THIS ORDER:** If Dr. Halpin violates the terms of this Order in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.

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



Gretchen L. Petrucci
Hearing Examiner

August 14, 2008

PROPOSED FINDINGS AND PROPOSED ORDERS**JOHN A. HALPIN, M.D.**

Dr. Varyani directed the Board's attention to the matter of John A. Halpin, M.D. He advised that by letter of May 14, 2008, the Board notified Dr. Halpin that it intended to determine whether to take disciplinary action against his certificate to practice medicine and surgery in Ohio, based on allegations contained in the letter. The notice was mailed to Dr. Halpin's address of record and proper service was documented. No hearing request has been received from Dr. Halpin and more than thirty days have elapsed since the mailing of the notice. The matter was reviewed by Hearing Examiner Petrucci, who prepared a Proposed Findings and Proposed Order, and it is now before the Board for final disposition. Mr. Albert was supervising member. Dr. Talmage was secretary.

DR. STEINBERGH MOVED TO FIND THAT THE ALLEGATIONS AS SET FORTH IN THE MAY 14, 2008 NOTICE OF OPPORTUNITY FOR HEARING IN THE MATTER OF DR. HALPIN HAVE BEEN PROVEN TO BE TRUE BY A PREPONDERANCE OF THE EVIDENCE AND TO ADOPT THE PROPOSED FINDINGS AND PROPOSED ORDER. DR. EGNER SECONDED THE MOTION.

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

Dr. Egner stated that she would like to give a little historical perspective on continuing medical education CME violations. She stated that the old rule was to impose a 30-day suspension, which would give physicians time to make up those CME hours. The suspension period would also punish them for violating the CME requirement by not completing the hours and for signing the renewal application indicating that they did the required CME. The Board found that the consequences of the 30-day suspension to a physician's life were tremendous. It's just a snowball effect. Insurance companies don't want you on their panels. Dr. Egner commented that the Board hears from probationers all the time that a one-day suspension will interrupt a physician's life tremendously.

Dr. Egner stated that the Board weighs violations. Some things a licensee does are worse than others. She added that it's not that the Board doesn't see the importance of CME, and not that it doesn't see the importance of completing an application correctly; but in the scale of violations, CME violations aren't weighted as high. That's how it came to be that the Board has fining authority for this. She stated that fining has been on a graded system. If a physician had done 35 out of 40 hours, he'd probably get a \$1,000 fine. There's no set schedule for this, but that's kind of how the Board has done it since it got fining authority. Dr. Egner commented that she thinks that that's a fair way to do this.

Dr. Egner stated that in this case, Dr. Halpin did 7 out of 40 CME credits, and that's not very much.

Dr. Steinbergh commented that that's blatant disregard.

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Dr. Egner stated that she feels that Dr. Halpin deserves the maximum fine of \$5,000. However, she doesn't think that it's right when the Hearing Examiner says that, because he did so few, his license should be suspended for 30 days also. Dr. Egner stated that he should get the maximum fine because he did so few, but she's not in favor of the 30-day suspension. She stated that Dr. Halpin will have to make up the credits that he hasn't done, he will be watched for the next two bienniums, and he'll have to submit documentation of all of his CME credits. Dr. Egner stated that that's punishment enough and it ensures the Board that he will keep up with his CME over the next four years and, she would bet, the rest of his career.

Dr. Varyani stated that he doesn't disagree with Dr. Egner about the suspension, adding that he doesn't want to suspend Dr. Halpin's license. He added that the Board should look at the fact that CME is the only way that physicians keep up with their specialties. That's why CME is required. He stated that the public demands that physicians keep up-to-date. Dr. Varyani stated that the Board should have a better system of ensuring that all physicians are up-to-date. If you don't do your CME, how can you ensure the Board and the public that you are maintaining your skills. Dr. Varyani stated that he realizes that suspension isn't the way to go, but there should be some other thing attached.

Dr. Stephens stated that she totally disagrees with the amendment. She stated that she has a lot of friends and her husband is a lawyer, and she sees how lawyers are diligent about continuing legal education. They have to get their credits or their licenses are taken away. This physician only did 7 out of 40 CME. Dr. Stephens stated that if she could just write a check to the Board and not have to bother with getting 40 CME credits, she thinks she would do that too. Dr. Stephens stated that this is a patient care issue. If a physician isn't bothering to do his or her CME, it reflects a character flaw. There's something wrong with this doctor.

Dr. Amato agreed with Dr. Stephens that a \$5,000 fine alone is not appropriate.

Mr. Browning stated that the problem is what's already been stated. With a suspension, the Board will go from a \$5,000 fine to a \$50,000 fine. The Board starts this ball rolling and suddenly there are all kinds of problems. The physician will have problems with insurance panels. Mr. Browning stated that it's hard to size the punishment. Is this the case where the Board should impose a bigger punishment. It's a financial punishment when you take someone out of practice for 30 days. It won't end at 30 days. It might, but it might not. It's not just about a 30-day suspension. It's about a pile of money and a pile of trouble for the physician. Do you protect the public in a substantially better way by doing that? Mr. Browning stated that he thinks that that's questionable.

Dr. Stephens suggested that he deserves a pile of trouble.

Mr. Browning stated that that's a different issue, but the problem is the sizing of the punishment. It's hard to control. Mr. Browning stated that a lot of Board members probably agree with Dr. Stephens' point, but is it sized proportionally when you go down this road. You open up a whole other arena when you do this.

Dr. Stephens stated that the suggestion is that, hypothetically, the Board can be bought. Someone could come in and say, "I didn't do my CME, here's a check for \$10,000."

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Dr. Egner stated that he can't just pay the Medical Board \$5,000 on a biennial basis and not do his CME. He will be monitored over the next two biennial periods. If he doesn't do his CME then, it's not like he can just write a check the next time. He'll be cited and the punishment will be much greater because now it's not just a CME issue, it's also not following through on a Board order.

Dr. Egner stated that it's not that Dr. Halpin never did CME. He had 32 hours earned from a course he attended in 2004. He had 31 hours earned from a course he attended in 2006. They didn't fall within the right time, but it's not that he never does CME. For this period, he had very few CME credits. For that, he should pay the fine.

Dr. Suppan stated that the only thing about that is that sometimes a person may get less CME during a biennium because there's some kind of an upset in their life, a financial issue, a partner leaves a practice and it's difficult to find time to get out. She stated that CME is expensive. Dr. Suppan acknowledged that there is computer CME you can do, but it is expensive. To go to a course, you'll pay for the course, your lodging, and you may have \$2,000 to \$3,000 in the course, easily.

Dr. Suppan stated that the whole goal is to get the doctor to get educated. If the Board imposes a financial sanction, it just kind of layers on that additional financial obligation and might further constrain the ability to get the course work. Dr. Suppan suggested that, when a person is identified, they receive a warning from the Board with a timeframe that says that they must complete the CME within a certain amount of time, and if they don't, their licenses will be suspended. She stated that that will push or force the physician into a decision. They're either going to get it done and get the education, or they're not going to and then at the point, she would say to suspend.

Dr. Talmage asked the Board to keep in mind that in these cases there are two issues: 1. They didn't do the CME they were supposed to have done; and 2. They signed a card saying that they did the CME that they were supposed to have done. So there's a fraud issue and a lack of education issue. The education is that which keeps them current in their specialty.

Dr. Suppan agreed, but stated that she thinks that there's a little bit of a gap there in that you not only have to do the CME, but you have to be able to produce the certificate and show that you signed in.

Dr. Varyani stated that these days, certificates are issued the same day you complete the course.

Dr. Steinbergh stated that, for her, it's the false statement that says the physician did it. There have been cases where physicians have the right number of credits, and maybe they didn't get enough Category 1 credits. This case is really quite blatant, and it concerns her that physicians sign these applications as if they mean nothing, certifying that they, in fact, did the CME they are expected to do.

Dr. Varyani asked whether a stayed suspension carries the same weight.

Dr. Steinbergh indicated that she doesn't know the actual answer to that.

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Dr. Mahajan suggested that the Board could lengthen the probationary period if it decides to stay the suspension.

Dr. Varyani stated that if you're going to be light in these cases, then don't have the rules. Every physician knows when he or she gets a license what the CME requirements are. He stated that he always keeps track of his CME credits because he knows that his license is dependent upon them. The reasons the rules were made was to ensure that physicians keep up with their knowledge. Dr. Varyani stated that the Board needs to look at this case carefully before it lets Dr. Halpin off.

Dr. Steinbergh suggested that the Board could reprimand Dr. Halpin, fine him, and require him to document his CME for the next two biennial periods.

DR. STEINBERGH MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF DR. HALPIN BY SUBSTITUTING THE PROPOSED SUSPENSION WITH AN ORDER OF REPRIMAND. DR. STEPHENS SECONDED THE MOTION.

Dr. Steinbergh stated that the fine and documentation requirement would remain the same.

Mr. Hairston asked what the next step after that is.

Dr. Steinbergh stated that it would be a suspension.

Mr. Browning noted that Dr. Halpin is 72 years old. He added that, to his knowledge, Dr. Halpin has never come to the Board's attention before. He's been licensed in Ohio for 32 years. To the Board's knowledge, he's never done anything wrong.

Dr. Stephens asked whether the Board is supposed to ignore a red flag.

Mr. Browning stated that he has a problem saying that a \$5,000 fine is irrelevant. It's being described as though it's a nickel. That's not what it is; it's the highest fine the Board can impose. He stated that it's an economic sanction. He added that, if you're 72, it's "goodbye."

Dr. Steinbergh stated that sometimes that's the best thing. There's no question that, as one ages, one pays less attention to education and updating, and that's a red flag.

Dr. Varyani spoke against the non-suspension. He stated that he doesn't think that the Board should amend the original Proposed Order.

Dr. Steinbergh stated that she agrees with Dr. Stephens that the Board can't ignore a red flag. She stated that there's no question that Dr. Halpin didn't do the required CME and falsely stated that he did. A reprimand tells Dr. Halpin and others that he shouldn't do this. The fine and reprimand is appropriate.

August 14, 2008

Dr. Mahajan agreed with Dr. Steinbergh.

Dr. Varyani stated that he feels that a 72-year old physician needs more training, not less. He's looking at the public safety angle, adding that that's his job as a Board member. Dr. Varyani expressed doubt that the fine would make much of an impact on a physician who has been practicing 40 years. Dr. Varyani stated that you can get about 25 CME credits for \$1,000 without doing anything more than showing up and signing in. If you're a physician, you should be learning, keeping up with technology. If the physician gets in trouble because the Board suspends his license, he should have known that.

Dr. Mahajan stated that he personally gets more than 100 hours every two years, and one year his manager came to him and informed him that he hadn't calculated correctly. He had to scramble to get the hours.

Dr. Varyani stated that Dr. Mahajan did scramble and get them.

Dr. Mahajan stated that what Mr. Browning is getting at is that this physician is 72 years old, never came before the Board in the past, and the Board is still fining him and giving him a reprimand.

Dr. Varyani stated that he's not interested in the fine. He's interested in the principle. He suggested that Dr. Halpin's getting into trouble after so many years of practice without problem may be indicative of other problems.

Dr. Steinbergh stated that, at his age, if the Board suspends Dr. Halpin's license for 30 days, it will be devastating to his career. The Board doesn't know anything more about this doctor. He's not charged with anything but a CME violation. A reprimand is fair.

Dr. Suppan stated that one thing that keeps red flagging in her mind is every time the Board talks about age. Her concern about that is that it seems that in every other walk of life, every other kind of business, age is a protected class and you can't make a decision based strictly on age. In this proceeding, can age even be a factor?

Dr. Varyani stated that age is only a factor because the physician has been practicing for over 30 years and knows what the rules are. Why would the Board let him go? Dr. Halpin knows the importance of the rules.

Dr. Steinbergh stated that she doesn't think that the Board is age discriminating. She's not making this decision based on his age. The Board has no evidence of practice below minimal standards.

Mr. Hairston asked whether there has been any investigation, or whether anyone has talked to Dr. Halpin.

Dr. Varyani stated that the Board can't go beyond the record before it.

Dr. Egner called the question.

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

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

The motion carried.

DR. STEINBERGH MOVED TO FIND THAT THE ALLEGATIONS AS SET FORTH IN THE MAY 14, 2008 NOTICE OF OPPORTUNITY FOR HEARING IN THE MATTER OF DR. HALPIN HAVE BEEN PROVEN TO BE TRUE BY A PREPONDERANCE OF THE EVIDENCE AND TO ADOPT THE PROPOSED FINDINGS AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF JOHN A. HALPIN, M.D. MR. BROWNING SECONDED THE MOTION. A vote was taken:

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

The motion carried.

Mr. Albert commented that he's the oldest person in the room, and he wouldn't want anyone to cut him any slack.

State Medical Board of Ohio

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



Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
med.ohio.gov

August 14, 2008

John A. Halpin, M.D.
7034 Lighthouse Point
Maineville, OH 45039

RE: 08-CRF-064

Dear Doctor Halpin:

Please find enclosed a certified copy of the Findings, Order and Journal Entry amended by the State Medical Board meeting in regular session on August 14, 2008.

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 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 of the Ohio Revised Code.

Very truly yours,

A handwritten signature in black ink that reads "Lance A. Talmage MD".

Lance A. Talmage, M.D. RW
Secretary

LAT:jam
Enclosures

CERTIFIED MAIL RECEIPT NO. 91 7108 2133 3934 3487 3214
RETURN RECEIPT REQUESTED

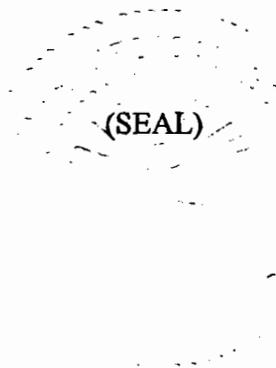
Duplicate mailing: 103 Abundance Drive
Palm Beach Gardens, FL 33410
CERTIFIED MAIL RECEIPT NO. 91 7108 2133 3934 3487 3221
RESTRICTED DELIVERY
RETURN RECEIPT REQUESTED

Mailed 9.17.08

CERTIFICATION

I hereby certify that the attached copy of the amended Findings, Order and Journal Entry approved by the State Medical Board, meeting in regular session on August 14, 2008, constitutes a true and complete copy of the amended Findings, Order and Journal Entry in the Matter of John A. Halpin, M.D., Case Number 08-CRF-064, 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 MD
Lance A. Talmage, M.D. *RU*
Secretary

August 14, 2008
Date

the Board's offices within 30 days of the conclusion of the 2008-2010 CME period, unless otherwise determined by the Board.

D. REQUIRED REPORTING AND DOCUMENTATION OF REPORTING:

1. **Required Reporting to Employers and Others:** Within 30 days of the effective date of this Order, or as otherwise determined by the Board, Dr. Halpin shall provide a copy of this Order to all employers or entities with which he is under contract to provide health-care services (including but limited to third-party payors) or is receiving training, and the Chief of Staff at each hospital or health-care center where he has privileges or appointments.

Further, Dr. Halpin shall provide a copy of this Order to all employers or entities with which he contracts in the future to provide health-care services, or applies for or receives training, and the Chief of Staff at each hospital or health-care center where he applies for or obtains privileges or appointments. This requirement shall continue for three years following the effective date of this Order.

2. **Required Reporting To Emergency Medical Services Organization or Provider:** In the event that Dr. Halpin provides any health-care services or health-care direction or medical oversight to any emergency medical services organization or emergency medical services provider in Ohio, Dr. Halpin shall provide, within 30 days or as otherwise determined by the Board, a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services.

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

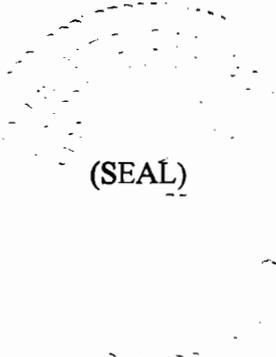
When Dr. Halpin applies for any professional license or reinstatement/restoration of any professional license in any State or jurisdiction, he shall provide a copy of this Order to the proper licensing authority of that State or jurisdiction at the time of application. This requirement shall continue for three years following the effective date of this Order.

4. **Documentation that the Required Reporting Has Been Performed:** Further, Dr. Halpin shall provide the Board with one of the following documents as proof of each required notification within 30 days of the date of each notification as required above: (1) the return receipt of certified mail within 30 days of receiving that return receipt, (2) an acknowledgement of

delivery bearing the original ink signature of the person to whom a copy of the Order was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Order to the person or entity to whom a copy of the Order was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the e-mail transmission of a copy of the Order to the person or entity to whom a copy of the Order was e-mailed.

- E. **VIOLATION OF THE TERMS OF THIS ORDER:** If Dr. Halpin violates the terms of this Order in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.

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



(SEAL)

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

August 14, 2008
Date

**PROPOSED FINDINGS AND PROPOSED ORDER
IN THE MATTER OF JOHN A. HALPIN, M.D.**

2008 JUL 22 P 3:49

Case No. 08-CRF-064

The Matter of John A. Halpin, M.D., was reviewed by Gretchen L. Petrucci, Hearing Examiner for the State Medical Board of Ohio.

INTRODUCTION

Basis for the Review

- A. By letter dated May 14, 2008, the State Medical Board of Ohio [Board] notified John A. Halpin, M.D., that it intended to determine whether to take disciplinary action against his certificate to practice medicine and surgery in Ohio. The Board's proposed action was based on allegations that Dr. Halpin, when randomly selected for an audit of his continuing medical education [CME], failed to respond to the Board's initial audit notice, and that, when Dr. Halpin eventually responded, he was not able to document that he had earned the required number of Category 1 CME hours from July 2, 2004, through July 1, 2006 [the 2004-2006 CME period]. The Board further alleged that Dr. Halpin had certified in his 2006 licensure-renewal application that he had completed the required CME for the 2004-2006 period, including at least 40 hours of Category 1 CME. (Exhibit [Ex.] A)

The Board alleged that Dr. Halpin's conduct in certifying to the Board that he had completed the required CME when, in fact, he had not, constitutes "[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine or surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certification of registration issued by the board," as set forth in Section 4731.22(B)(5), Ohio Revised Code. (Ex. A)

The Board also alleged that Dr. Halpin's failure to obtain the requisite CME and/or to submit documentation of the requisite CME constitutes "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate, any provisions of this chapter or any rule promulgated by this board" as set forth in Section 4731.22(B)(20), Ohio Revised Code, with respect to Dr. Halpin's violation of Section 4731.281, Ohio Revised Code, and Rules 4731-10-02 and 4731-10-08, Ohio Administrative Code. (Ex. A)

Accordingly, the Board notified Dr. Halpin that he was entitled to a hearing if he submitted a written request that was "received in the offices of the Board within thirty days of the time of mailing of this notice." (Ex. A)

- B. The notice of opportunity for hearing [Notice] was mailed to Dr. Halpin on May 15, 2008, by certified mail, return receipt requested, to his most recent address of record in Maineville, Ohio. The U.S. Postal Service forwarded the Notice to Dr. Halpin's then-current residence in

Palm Beach Gardens, Florida, where it was delivered and signed for on May 28, 2008.
(Exs. A at 4, C)

- C. In a memorandum dated June 26, 2008, the Board's Public Services Administrator requested that the Hearing Unit review evidence provided regarding John A. Halpin, M.D., and prepare proposed findings and a proposed order. The Board had not received a request for a hearing within 30 days of the date of mailing of the Notice. (Ex. D)

EVIDENCE EXAMINED

Exhibit A: June 26, 2008, certification and May 14, 2008, Notice of Opportunity for Hearing and certified mail receipt.

Exhibit B: Initial and supplemental affidavits from Debra L. Jones, Continuing Medical Education and Renewal Officer, with the following exhibits:

Exhibit B1: Dr. Halpin's on-line renewal application in August 2006.

Exhibit B2: The Board's audit notice to Dr. Halpin in March 2007.

Exhibit B3: The Board's second notice of audit in May 2007.

Exhibit B4: Dr. Halpin's May 2007 letter requesting an extension of time.

Exhibit B5: May 2007 letter to Dr. Halpin approving extension of time.

Exhibit B6: Dr. Halpin's June 2007 letter to the Board regarding CME, with enclosed documentation of part of the required CME.

Exhibit B7: Online renewal application form.

Exhibit B8: Sample renewal notice notifying physicians of the requirements for renewing their certificates.

Exhibit C: Affidavit of Barbara A. Jacobs, Public Services Administrator, regarding the mailing of the notice of opportunity for hearing and the lack of a hearing request from Dr. Halpin.

Exhibit D: Memorandum from the Public Services Administrator to the Chief Hearing Examiner dated June 26, 2008.

SUMMARY OF THE EVIDENCE

1. John A. Halpin, M.D., was born in 1936 in Cincinnati, Ohio. He was initially licensed to practice medicine and surgery in Ohio in 1974. He currently holds an active certificate to practice in Ohio, number 35.037982, and he has stated that his practice specialty is ophthalmology. (Exs. B, B1; Ohio eLicense Center at <<https://license.ohio.gov/lookup/default.asp>>, query on June 27, 2008).
2. The Board sends notices to physicians, informing them of the requirements for renewing their certificates to practice. The notice advises that, to be eligible for renewal, a physician must have completed, during the identified CME period, a total of 100 hours of CME, including a minimum of 40 hours of Category 1 CME. (Exs. B, B8)

In addition, the CME requirements for physicians are set forth in Section 4731.281, Ohio Revised Code, and in Chapter 4731-10, Ohio Administrative Code.

3. In 2006, Dr. Halpin was due to renew his certificate between July 1 and October 1, 2006. In order for Dr. Halpin to be eligible for renewal in 2006, he was required to have completed 100 hours of CME during the 2004-2006 CME period, including 40 hours of Category 1 hours. (Ex. A at 2)¹
4. On August 24, 2006, Dr. Halpin completed and posted an online application to renew his Ohio certificate. In completing his renewal application, Dr. Halpin answered “yes” when asked: “Have you met the above CME requirements for your license?” By answering “yes” to that question, Dr. Halpin represented that he had earned at least 100 hours of CME during the 2004-2006 CME period, including 40 hours of Category 1 CME. (Exs. B, B1, B7)
5. In addition, in submitting the application, Dr. Halpin averred as follows:

I understand that submitting a false, fraudulent, or forged statement or document or omitting a material fact in obtaining licensure may be grounds for disciplinary action against my license.

Under penalty of law, I hereby swear or affirm that the information I have provided in the application is complete and correct, and that I have complied with all criteria for applying on line.

(Ex. B1)

6. In 2007, Dr. Halpin was randomly selected by the Board for a CME audit. On March 22, 2007, the Board sent him a letter via certified mail, return receipt requested, requiring him to

¹The evidence provided to the Hearing Unit does not independently set forth the precise dates of the two-year registration/renewal period, although the dates are alleged in the notice of opportunity for hearing. The evidence establishes, however, that Dr. Halpin posted his online application on August 24, 2006, and it is reasonable to conclude that the new period of licensure began thereafter. This lack of evidence is not material.

provide documentation of the CME hours he had completed. (Ex. B, B2) The letter stated in part:

Upon renewal of your Ohio license, you certified that during the period of July 2, 2004 – July 1, 2006, you had completed the requisite hours of Continuing Medical Education (CME).

At this time, as a result of your being randomly selected for audit, it will be necessary for you to complete the enclosed log of CME, demonstrating that you have, in fact, completed at least one hundred hours of CME during the period of July 2, 2004 – July 1, 2006. It will also be necessary for you to provide the Board with documentation that you have actually completed at least 40 hours of Category I CME as certified on your license renewal application. Certificates of attendance, hospital printouts and accredited organization printouts are acceptable documentation, copies of which must be enclosed with your log. * * *

Up to 60 hours of Category II credits may be listed on the reverse side of the log, but no documentation need be provided. You must demonstrate at least 100 hours of Category I and Category II CME.

It is important you understand that under Ohio law it is your responsibility to document your CME participation, and, further that a failure to timely comply with the audit requirements can result in imposition of a fine, revocation or suspension of your license to practice in Ohio. * * *

Please return the above-requested material to the State Medical Board of Ohio, to the attention of Ms. Liz Gerris of the CME & Renewal Department, within three weeks of receipt of this letter. If you need to speak with Ms. Gerris, she can be reached at [contact information provided]. The result of your audit will be made available to you in the near future.

Thank you for your cooperation.

(Ex. B2, emphasis in original)

7. Dr. Halpin did not respond or submit any documentation to the Board in response to the Board's March 2007 letter. (Ex. B)
8. On May 4, 2007, the Board sent another letter to Dr. Halpin, mailing it to his business address, again instructing him to document the CME that he had earned during the 2004-2006 CME period. The Board advised Dr. Halpin that this was a second notice and advised him to contact the Board within 10 days. (Exs. B, B3)

9. On May 8, 2007, Dr. Halpin telephoned the Board offices and requested an extension of time to file his response to the audit. Dr. Halpin also sent a written request for an extension of time to submit his CME documentation, which was received on May 16, 2007. In a letter dated May 18, 2007, the Board informed Dr. Halpin that his request for an extension was approved, and that he must submit his proof of compliance with the CME requirements no later than June 11, 2007. (Exs. B, B4, B5)
10. On June 12, 2007, the Board received Dr. Halpin's completed log of CME hours and his documentation. On his CME log and the accompanying documents, Dr. Halpin reflected that he had earned the following CME credits in Category 1:
- 32 hours earned at a symposium entitled, "Cataract, IOL and Refractive Surgery," sponsored by the American Society of Cataract and Refractive Surgery from April 30 through May 5, 2004.
 - 7 hours earned at an activity entitled "Retinal and Glaucoma Imaging 2006: Ocular Coherence Tomography Applications & Future Technology," sponsored by the University of Miami School of Medicine from December 2 through 3, 2005.
 - 31 credits earned at the American Academy of Ophthalmology's joint meeting and subspecialty day from November 10 through November 14, 2006.

(Ex. B6)

11. In a cover letter that accompanied his CME log and documentation, Dr. Halpin stated:

I was able to locate documentation of my most recent Category I CME credits. As you will note, I have had seventy credits since May of 2004. Due to faulty record keeping on my part, most of the credits fall outside the reporting period by a few months. I regret this has happened.

I have always considered it a privilege to practice medicine in Ohio these past 32 years. I trust my situation can be resolved. I will do whatever is necessary to remaining [in] good standing with the State Board.

(Ex. B6)

12. In a sworn statement, Debra Jones, the Board's Continuing Medical Education and Renewal Officer explained that the seven hours earned by Dr. Halpin in December 2005 were within the 2004-2006 CME period. However, she stated that the CME completed in April/May 2004 and November 2006 were *not* earned within the required CME period, but were earned either before or after the CME period at issue. Ms. Jones stated that, as of June 26, 2008, Dr. Halpin

had failed to provide documentation of the remaining 33 hours of the requisite 40 hours of Category 1 CME. (Ex. B)

PROPOSED FINDINGS

1. Section 4731.281, Ohio Revised Code, governs continuing medical education [CME] for physicians in Ohio and provides in pertinent part:

(A) On or before the deadline established under division (B) of this section for applying for renewal of a certificate of registration, each person holding a certificate under this chapter to practice medicine and surgery * * * shall certify to the state medical board that in the preceding two years the person has completed one hundred hours of continuing medical education. The certification shall be made upon the application for biennial registration submitted pursuant to division (B) of this section.

* * *

The board may require a random sample of persons holding a certificate to practice under this chapter to submit materials documenting completion of the continuing medical education requirement during the preceding registration period, but this provision shall not limit the board's authority to investigate pursuant to section 4731.22 of the Revised Code.

* * *

(E) If an individual certifies completion of the number of hours and type of continuing medical education required to receive a certificate of registration or reinstatement of a certificate to practice, and the board finds through the random samples it conducts under this section or through any other means that the individual did not complete the requisite continuing medical education, the board may impose a civil penalty of not more than five thousand dollars. * * *

2. Rule 4731-10-02(A)(2), Ohio Administrative Code, sets forth the requirement that, in a two-year CME period, the "licensee shall be required to earn a total of one hundred hours of CME, of which a minimum of forty hours shall be category 1 * * * ." In addition, Rule 4731-10-05, Ohio Administrative Code, provides that licensees residing or practicing outside Ohio who wish to renew their medical licenses must complete the required CME within the CME period even though not currently residing or practicing in Ohio.

3. Rule 4731-10-08, Ohio Administrative Code, provides as follows (emphasis added):
 - (A) Each applicant for license renewal or license reinstatement shall certify that the applicant has completed the requisite hours of CME since the start of the CME period.
 - (B) The board may select applications for verification that all CME requirements have been met. Licensees whose applications are selected shall submit additional documentation of compliance with CME requirements as the board may require. *Failure to submit the additional documents shall constitute a violation of section 4731.281 of the Revised Code and section 4731.22 of the Revised Code.*
 - (C) Applicants and licensees have a continuing obligation to maintain detailed records of CME hours earned. *Each applicant or licensee shall be responsible for and shall retain written verification obtained from the sponsoring entity of attendance at category 1 CME programs.* Written verification shall include a description of the CME activity, the location of the CME activity, the dates of attendance, the hours of each CME activity and the category of CME. Each applicant or licensee shall retain written documentation of category 2 CME completed during the CME period. Records of all CME undertaken shall be retained by the licensee for two years after the end of the CME period and shall be made available to the board upon request.
4. On August 24, 2006, John A. Halpin, M.D., submitted to the Board an application for the renewal of his certificate to practice medicine and surgery in Ohio. In the renewal application, Dr. Halpin certified that he had earned the requisite 100 hours of CME for the two-year CME period that began on July 2, 2004, and ended on July 1, 2006 [the 2004-2006 CME period], including at least 40 hours of Category 1 CME.
5. The Board randomly selected Dr. Halpin for an audit of his CME. In a letter dated March 22, 2007, sent by certified mail, the Board informed Dr. Halpin of the audit and instructed him to complete and submit a log demonstrating that he had completed at least 100 hours of CME during the 2004-2006 CME period, and to provide documentation that he had actually completed at least 40 hours of Category 1 CME credits.

When Dr. Halpin failed to respond, the Board sent him a second notice dated May 4, 2007, via certified mail, stating that he had 10 days to respond to the Board's request to complete and submit a log demonstrating that he had completed 40 hours of Category 1 CME during the 2004-2006 CME period.
6. Thereafter, Dr. Halpin requested an extension of time, which the Board granted by letter dated May 18, 2007. The Board extended the response deadline to June 11, 2007.

7. On June 12, 2007, the Board received Dr. Halpin's CME log, documentation of CME activities, and a cover letter. Dr. Halpin acknowledged that most of his CME credits since May 2004 were outside of the 2004-2006 CME period.
8. Although Dr. Halpin had certified to the Board in his August 2006 renewal application that he had fulfilled his CME requirement during the 2004-2006 CME period, including 40 hours of Category 1 CME, he had actually completed only seven hours of Category 1 CME.
9. Dr. Halpin failed to obtain the requisite Category 1 CME for the 2004-2006 CME period and failed to submit documentation that he had earned the requisite Category 1 CME for that period, which constitute "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board" as set forth in Section 4731.22(B)(20), Ohio Revised Code. Specifically, Dr. Halpin violated Section 4731.281, Ohio Revised Code, and Rules 4731-10-02 and 4731-10-08, Ohio Administrative Code.

Dr. Halpin's certification on his 2006 renewal application that he had met the CME requirements constitutes the making of "a false, fraudulent, deceptive, or misleading statement * * * in securing or attempting to secure any certificate to practice or certificate of registration issued by this board," as set forth in Section 4731.22(B)(5), Ohio Revised Code.

10. Because Dr. Halpin certified completion of the CME that was required to renew his certificate when he had not in fact completed the requisite CME, the Board may impose a civil penalty of not more than five thousand dollars.

* * * * *

Dr. Halpin was required to earn 40 hours of Category 1 CME during the 2004-2006 CME period. He earned only 7 hours, less than 20 percent of the required total. Dr. Halpin must have known when he submitted his 2006 renewal application that he was not close to the required hours since the hours he had earned were so far below the required number. His subsequent statement to the Board that he had made an error in record-keeping is not believable. Therefore, in addition to a fine, a suspension is recommended because Dr. Halpin's total hours of CME were so far from the required hours that his statement on the renewal application constituted a fraudulent statement. In addition, a suspension period will provide Dr. Halpin a clear opportunity to complete his CME requirements.

PROPOSED ORDER

It is hereby ORDERED that:

- A. **SUSPENSION OF CERTIFICATE:** The certificate of John A. Halpin, M.D., to practice medicine and surgery in the State of Ohio shall be **SUSPENDED** for a period of 30 days.

- B. **FINE:** Dr. Halpin shall pay a FINE of \$5,000 to the State Medical Board of Ohio. This fine shall be paid no later than 30 days after the effective date of this Order or as otherwise determined by the Board.
- C. **DOCUMENTATION OF CME:** No later than six months following the effective date of this Order, Dr. Halpin shall supply documentation acceptable to the Board of satisfactory completion of the 33 hours of CME that he failed to earn during the 2004-2006 CME period, which ended on July 1, 2006.

No later than six months following the effective date of this Order, Dr. Halpin shall supply documentation acceptable to the Board of satisfactory completion of 40 hours of Category 1 CME for the period beginning July 2, 2006, and ending July 1, 2008.

Dr. Halpin shall supply documentation acceptable to the Board of satisfactory completion of the requisite number of CME hours for the July 2, 2008 - July 1, 2010 CME period, *if he renews his certificate to practice for the two-year registration/renewal period beginning in 2008.* This documentation shall be due in the Board's offices within 30 days of the conclusion of the 2008-2010 CME period, unless otherwise determined by the Board.

D. **REQUIRED REPORTING AND DOCUMENTATION OF REPORTING:**

1. **Required Reporting To Employers and Others:** Within 30 days of the effective date of this Order, or as otherwise determined by the Board, Dr. Halpin shall provide a copy of this Order to all employers or entities with which he is under contract to provide health-care services (including but limited to third-party payors) or is receiving training, and the Chief of Staff at each hospital or health-care center where he has privileges or appointments.

Further, Dr. Halpin shall provide a copy of this Order to all employers or entities with which he contracts in the future to provide health-care services, or applies for or receives training, and the Chief of Staff at each hospital or health-care center where he applies for or obtains privileges or appointments. This requirement shall continue for three years following the effective date of this Order.

2. **Required Reporting To Emergency Medical Services Organization or Provider:** In the event that Dr. Halpin provides any health-care services or health-care direction or medical oversight to any emergency medical services organization or emergency medical services provider in Ohio, Dr. Halpin shall provide, within 30 days or as otherwise determined by the Board, a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services.
3. **Required Reporting To Other Licensing Authorities:** Within 30 days of the effective date of this Order, or as otherwise determined by the Board, Dr. Halpin shall provide a copy of this Order to the proper licensing authority of any State or jurisdiction in which he currently holds any professional license, as well as any

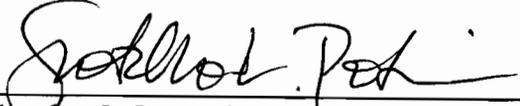
federal agency or entity, including but not limited to the Drug Enforcement Agency, through which he currently holds any license or certificate.

When Dr. Halpin applies for any professional license or reinstatement/restoration of any professional license in any State or jurisdiction, he shall provide a copy of this Order to the proper licensing authority of that State or jurisdiction at the time of application. This requirement shall continue for three years following the effective date of this Order.

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

- E. **VIOLATION OF THE TERMS OF THIS ORDER:** If Dr. Halpin violates the terms of this Order in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.

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



Gretchen L. Petrucci
Hearing Examiner

PROPOSED FINDINGS AND PROPOSED ORDERSJOHN A. HALPIN, M.D.

Dr. Varyani directed the Board's attention to the matter of John A. Halpin, M.D. He advised that by letter of May 14, 2008, the Board notified Dr. Halpin that it intended to determine whether to take disciplinary action against his certificate to practice medicine and surgery in Ohio, based on allegations contained in the letter. The notice was mailed to Dr. Halpin's address of record and proper service was documented. No hearing request has been received from Dr. Halpin and more than thirty days have elapsed since the mailing of the notice. The matter was reviewed by Hearing Examiner Petrucci, who prepared a Proposed Findings and Proposed Order, and it is now before the Board for final disposition. Mr. Albert was supervising member. Dr. Talmage was secretary.

DR. STEINBERGH MOVED TO FIND THAT THE ALLEGATIONS AS SET FORTH IN THE MAY 14, 2008 NOTICE OF OPPORTUNITY FOR HEARING IN THE MATTER OF DR. HALPIN HAVE BEEN PROVEN TO BE TRUE BY A PREPONDERANCE OF THE EVIDENCE AND TO ADOPT THE PROPOSED FINDINGS AND PROPOSED ORDER. DR. EGNER SECONDED THE MOTION.

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

Dr. Egner stated that she would like to give a little historical perspective on continuing medical education CME violations. She stated that the old rule was to impose a 30-day suspension, which would give physicians time to make up those CME hours. The suspension period would also punish them for violating the CME requirement by not completing the hours and for signing the renewal application indicating that they did the required CME. The Board found that the consequences of the 30-day suspension to a physician's life were tremendous. It's just a snowball effect. Insurance companies don't want you on their panels. Dr. Egner commented that the Board hears from probationers all the time that a one-day suspension will interrupt a physician's life tremendously.

Dr. Egner stated that the Board weighs violations. Some things a licensee does are worse than others. She added that it's not that the Board doesn't see the importance of CME, and not that it doesn't see the importance of completing an application correctly; but in the scale of violations, CME violations aren't weighted as high. That's how it came to be that the Board has fining authority for this. She stated that fining has been on a graded system. If a physician had done 35 out of 40 hours, he'd probably get a \$1,000 fine. There's no set schedule for this, but that's kind of how the Board has done it since it got fining authority. Dr. Egner commented that she thinks that that's a fair way to do this.

Dr. Egner stated that in this case, Dr. Halpin did 7 out of 40 CME credits, and that's not very much.

Dr. Steinbergh commented that that's blatant disregard.

August 14, 2008

Dr. Egner stated that she feels that Dr. Halpin deserves the maximum fine of \$5,000. However, she doesn't think that it's right when the Hearing Examiner says that, because he did so few, his license should be suspended for 30 days also. Dr. Egner stated that he should get the maximum fine because he did so few, but she's not in favor of the 30-day suspension. She stated that Dr. Halpin will have to make up the credits that he hasn't done, he will be watched for the next two bienniums, and he'll have to submit documentation of all of his CME credits. Dr. Egner stated that that's punishment enough and it ensures the Board that he will keep up with his CME over the next four years and, she would bet, the rest of his career.

Dr. Varyani stated that he doesn't disagree with Dr. Egner about the suspension, adding that he doesn't want to suspend Dr. Halpin's license. He added that the Board should look at the fact that CME is the only way that physicians keep up with their specialties. That's why CME is required. He stated that the public demands that physicians keep up-to-date. Dr. Varyani stated that the Board should have a better system of ensuring that all physicians are up-to-date. If you don't do your CME, how can you ensure the Board and the public that you are maintaining your skills. Dr. Varyani stated that he realizes that suspension isn't the way to go, but there should be some other thing attached.

Dr. Stephens stated that she totally disagrees with the amendment. She stated that she has a lot of friends and her husband is a lawyer, and she sees how lawyers are diligent about continuing legal education. They have to get their credits or their licenses are taken away. This physician only did 7 out of 40 CME. Dr. Stephens stated that if she could just write a check to the Board and not have to bother with getting 40 CME credits, she thinks she would do that too. Dr. Stephens stated that this is a patient care issue. If a physician isn't bothering to do his or her CME, it reflects a character flaw. There's something wrong with this doctor.

Dr. Amato agreed with Dr. Stephens that a \$5,000 fine alone is not appropriate.

Mr. Browning stated that the problem is what's already been stated. With a suspension, the Board will go from a \$5,000 fine to a \$50,000 fine. The Board starts this ball rolling and suddenly there are all kinds of problems. The physician will have problems with insurance panels. Mr. Browning stated that it's hard to size the punishment. Is this the case where the Board should impose a bigger punishment. It's a financial punishment when you take someone out of practice for 30 days. It won't end at 30 days. It might, but it might not. It's not just about a 30-day suspension. It's about a pile of money and a pile of trouble for the physician. Do you protect the public in a substantially better way by doing that? Mr. Browning stated that he thinks that that's questionable.

Dr. Stephens suggested that he deserves a pile of trouble.

Mr. Browning stated that that's a different issue, but the problem is the sizing of the punishment. It's hard to control. Mr. Browning stated that a lot of Board members probably agree with Dr. Stephens' point, but is it sized proportionally when you go down this road. You open up a whole other arena when you do this.

Dr. Stephens stated that the suggestion is that, hypothetically, the Board can be bought. Someone could come in and say, "I didn't do my CME, here's a check for \$10,000."

Dr. Egner stated that he can't just pay the Medical Board \$5,000 on a biennial basis and not do his CME. He will be monitored over the next two biennial periods. If he doesn't do his CME then, it's not like he can just write a check the next time. He'll be cited and the punishment will be much greater because now it's not just a CME issue, it's also not following through on a Board order.

Dr. Egner stated that it's not that Dr. Halpin never did CME. He had 32 hours earned from a course he attended in 2004. He had 31 hours earned from a course he attended in 2006. They didn't fall within the right time, but it's not that he never does CME. For this period, he had very few CME credits. For that, he should pay the fine.

Dr. Suppan stated that the only thing about that is that sometimes a person may get less CME during a biennium because there's some kind of an upset in their life, a financial issue, a partner leaves a practice and it's difficult to find time to get out. She stated that CME is expensive. Dr. Suppan acknowledged that there is computer CME you can do, but it is expensive. To go to a course, you'll pay for the course, your lodging, and you may have \$2,000 to \$3,000 in the course, easily.

Dr. Suppan stated that the whole goal is to get the doctor to get educated. If the Board imposes a financial sanction, it just kind of layers on that additional financial obligation and might further constrain the ability to get the course work. Dr. Suppan suggested that, when a person is identified, they receive a warning from the Board with a timeframe that says that they must complete the CME within a certain amount of time, and if they don't, their licenses will be suspended. She stated that that will push or force the physician into a decision. They're either going to get it done and get the education, or they're not going to and then at the point, she would say to suspend.

Dr. Talmage asked the Board to keep in mind that in these cases there are two issues: 1. They didn't do the CME they were supposed to have done; and 2. They signed a card saying that they did the CME that they were supposed to have done. So there's a fraud issue and a lack of education issue. The education is that which keeps them current in their specialty.

Dr. Suppan agreed, but stated that she thinks that there's a little bit of a gap there in that you not only have to do the CME, but you have to be able to produce the certificate and show that you signed in.

Dr. Varyani stated that these days, certificates are issued the same day you complete the course.

Dr. Steinbergh stated that, for her, it's the false statement that says the physician did it. There have been cases where physicians have the right number of credits, and maybe they didn't get enough Category 1 credits. This case is really quite blatant, and it concerns her that physicians sign these applications as if they mean nothing, certifying that they, in fact, did the CME they are expected to do.

Dr. Varyani asked whether a stayed suspension carries the same weight.

Dr. Steinbergh indicated that she doesn't know the actual answer to that.

August 14, 3008

Dr. Mahajan suggested that the Board could lengthen the probationary period if it decides to stay the suspension.

Dr. Varyani stated that if you're going to be light in these cases, then don't have the rules. Every physician knows when he or she gets a license what the CME requirements are. He stated that he always keeps track of his CME credits because he knows that his license is dependent upon them. The reasons the rules were made was to ensure that physicians keep up with their knowledge. Dr. Varyani stated that the Board needs to look at this case carefully before it lets Dr. Halpin off.

Dr. Steinbergh suggested that the Board could reprimand Dr. Halpin, fine him, and require him to document his CME for the next two biennial periods.

DR. STEINBERGH MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF DR. HALPIN BY SUBSTITUTING THE PROPOSED SUSPENSION WITH AN ORDER OF REPRIMAND. DR. STEPHENS SECONDED THE MOTION.

Dr. Steinbergh stated that the fine and documentation requirement would remain the same.

Mr. Hairston asked what the next step after that is.

Dr. Steinbergh stated that it would be a suspension.

Mr. Browning noted that Dr. Halpin is 72 years old. He added that, to his knowledge, Dr. Halpin has never come to the Board's attention before. He's been licensed in Ohio for 32 years. To the Board's knowledge, he's never done anything wrong.

Dr. Stephens asked whether the Board is supposed to ignore a red flag.

Mr. Browning stated that he has a problem saying that a \$5,000 fine is irrelevant. It's being described as though it's a nickel. That's not what it is; it's the highest fine the Board can impose. He stated that it's an economic sanction. He added that, if you're 72, it's "goodbye."

Dr. Steinbergh stated that sometimes that's the best thing. There's no question that, as one ages, one pays less attention to education and updating, and that's a red flag.

Dr. Varyani spoke against the non-suspension. He stated that he doesn't think that the Board should amend the original Proposed Order.

Dr. Steinbergh stated that she agrees with Dr. Stephens that the Board can't ignore a red flag. She stated that there's no question that Dr. Halpin didn't do the required CME and falsely stated that he did. A reprimand tells Dr. Halpin and others that he shouldn't do this. The fine and reprimand is appropriate.

August 14, 3008

Dr. Mahajan agreed with Dr. Steinbergh.

Dr. Varyani stated that he feels that a 72-year old physician needs more training, not less. He's looking at the public safety angle, adding that that's his job as a Board member. Dr. Varyani expressed doubt that the fine would make much of an impact on a physician who has been practicing 40 years. Dr. Varyani stated that you can get about 25 CME credits for \$1,000 without doing anything more than showing up and signing in. If you're a physician, you should be learning, keeping up with technology. If the physician gets in trouble because the Board suspends his license, he should have known that.

Dr. Mahajan stated that he personally gets more than 100 hours every two years, and one year his manager came to him and informed him that he hadn't calculated correctly. He had to scramble to get the hours.

Dr. Varyani stated that Dr. Mahajan did scramble and get them.

Dr. Mahajan stated that what Mr. Browning is getting at is that this physician is 72 years old, never came before the Board in the past, and the Board is still fining him and giving him a reprimand.

Dr. Varyani stated that he's not interested in the fine. He's interested in the principle. He suggested that Dr. Halpin's getting into trouble after so many years of practice without problem may be indicative of other problems.

Dr. Steinbergh stated that, at his age, if the Board suspends Dr. Halpin's license for 30 days, it will be devastating to his career. The Board doesn't know anything more about this doctor. He's not charged with anything but a CME violation. A reprimand is fair.

Dr. Suppan stated that one thing that keeps red flagging in her mind is every time the Board talks about age. Her concern about that is that it seems that in every other walk of life, every other kind of business, age is a protected class and you can't make a decision based strictly on age. In this proceeding, can age even be a factor?

Dr. Varyani stated that age is only a factor because the physician has been practicing for over 30 years and knows what the rules are. Why would the Board let him go? Dr. Halpin knows the importance of the rules.

Dr. Steinbergh stated that she doesn't think that the Board is age discriminating. She's not making this decision based on his age. The Board has no evidence of practice below minimal standards.

Mr. Hairston asked whether there has been any investigation, or whether anyone has talked to Dr. Halpin.

Dr. Varyani stated that the Board can't go beyond the record before it.

Dr. Egner called the question.

August 14, 3008

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

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

The motion carried.

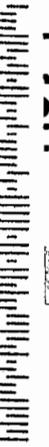
DR. STEINBERGH MOVED TO FIND THAT THE ALLEGATIONS AS SET FORTH IN THE MAY 14, 2008 NOTICE OF OPPORTUNITY FOR HEARING IN THE MATTER OF DR. HALPIN HAVE BEEN PROVEN TO BE TRUE BY A PREPONDERANCE OF THE EVIDENCE AND TO ADOPT THE PROPOSED FINDINGS AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF JOHN A. HALPIN, M.D. MR. BROWNING SECONDED THE MOTION. A vote was taken:

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

The motion carried.

Mr. Albert commented that he's the oldest person in the room, and he wouldn't want anyone to cut him any slack.

State Medi
30 E. Broa
Columbus, OH 43215



91 7208 233 3936 3068 6397



John Albert Halpin, M.D.
7034 Lighthouse Point
Maineville, Ohio 45039

RECEIVED

- A INSUFFICIENT ADDRESS
- C ATTEMPTED NOT KNOWN
- S NO SUCH NUMBER/ STREET
- OTHER
- NOT DELIVERABLE AS ADDRESSED
- UNABLE TO FORWARD

RTS
RETURN TO SENDER

45039 HALPIN CITE
Signature Required



EXHIBIT
B

State Medical Board of Ohio

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



Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
med.ohio.gov

July 2, 2009

John A. Halpin, M.D.
7034 Lighthouse Point
Maineville, OH 45039

Dear Dr. Halpin:

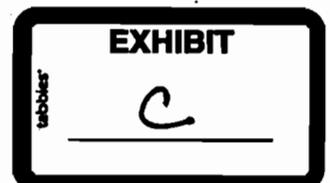
Enclosed please find an Affidavit of Publication from the Western Star. A legal notice was placed in the Western Star on June 4, June 11, and June 18, 2009. The Notice is deemed served upon you on June 18, 2009, the last date of publication, according to Section 119.07, Ohio Revised Code.

Sincerely,

A handwritten signature in black ink, appearing to read "Barbara A. Jacobs".

Barbara A. Jacobs
Public Services Administrator

Enclosure (Affidavit of Publication)



The Western Star

AFFIDAVIT OF PUBLICATION

P.O. Box 643080
Cincinnati, OH 45264-3080
937-225-7367

STATE MEDICAL BOARD OF OHIO
C/O JACKIE MOORE
COLUMBUS, OH 43215-6127

STATE OF OHIO

TO: John Albert Halpin, M.D.
7034 Lighthouse Point
Maineville, OH 45039

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

In the Matter of:
John Albert Halpin, M.D.
Case No. 09-CRF-039

On April 8, 2009, the Ohio State Medical Board mailed a Notice of Opportunity for Hearing to John Albert Halpin, M.D. via certified mail, return receipt requested, at his last known address, 7034 Lighthouse Point, Maineville, OH 45039. The Notice was returned from the postal service marked not deliverable as addressed.

The notice states that the Ohio Medical Board intends to consider disciplinary action against Dr. Halpin's certificate to practice medicine and surgery in Ohio based on his failure to comply with a Board Order. The foregoing would constitute a violation of Section 4731.22(B)(15), Ohio Revised Code.

Dr. Halpin is entitled to a hearing in this matter if such hearing is requested within thirty (30) days of the last date of publication of this notice. Dr. Halpin may appear at such hearing in person, by his attorney, or by such other representative permitted to practice before this agency, or he may present his position, arguments or contentions in writing. At the hearing, Dr. Halpin may present evidence and examine witnesses appearing for or against him.

Any questions or correspondence should be addressed to:

Jackie Moore
Case Control Office
30 E. Broad Street, 3rd Floor
Columbus, OH 43215-6127
June 4, 11, 18, 2009

Before me, the undersigned, a Notary public in and for said County, personally came Heather Hart who being first duly sworn says he/she is the Legal Advertising Agent of the The Western Star, which he/she says is a newspaper of general circulation in Montgomery, Clark, Warren, Butler, Clinton, Greene, Preble, Miami, Darke, Mercer, Shelby, Fayette, Logan, Hamilton, Clermont, Auglaize, and Champaign Counties, and State of Ohio, and he/she further says that the Legal Advertisement, a copy of which is hereunto attached, has been published in the said The Western Star 53 Lines, 3 Time(s), last day of publication being 6/18/2009, and he/she further says that the bona fide daily paid circulation of the said The Western Star was over () at the time the said advertisement was published, and that the price charged for same does not exceed the rates charged on annual contract for the like amount of space to other advertisers in the general display advertising columns. display advertising columns.

Signed



Sworn or affirmed to, and subscribed before me, this 6/22/2009. In Testimony Whereof, I have hereunto set my hand and affixed my official seal, the day and year aforesaid.

Invoice No.	11675006
Ad Cost	\$299.45
Paid	\$0.00
Due	\$299.45

Notary Public

LORNA M. POEK, Notary Public

In and for the State of Ohio

My Commission Expires July 4, 2010

2009 JUN - 1 PM 1:50

STATE MEDICAL BOARD OF OHIO



State Medical Board of Ohio

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



Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
med.ohio.gov

May 14, 2008

Case number: 08-CRF-064

John A. Halpin, M.D.
7034 Lighthouse Point
Maineville, OH 45039

Dear Doctor Halpin:

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

- (1) In your renewal application for the biennial registration of your certificate to practice medicine and surgery for the October 2, 2006 – October 1, 2008, period, you certified that you had completed the requisite number of hours of Continuing Medical Education [CME] during 2004 – 2006 CME period (July 2, 2004 – July 1, 2006) as required by Section 4731.281, Ohio Revised Code.
- (2) By letter dated March 22, 2007, sent certified mail, the Board informed you that you were required to complete and submit a log demonstrating that you had completed at least one hundred hours of CME during the 2004 to 2006 CME period and to provide documentation that you had actually completed at least forty hours of Category 1 CME credits.

When you failed to respond, the Board sent a second notice letter dated May 4, 2007, by certified mail, indicating that you had ten days to respond to the Board's request to complete and submit a log demonstrating that you had completed forty hours of Category 1 CME credits during the time period indicated.

By letter dated May 18, 2007, sent certified mail, the Board granted your request for an extension of time to file the requested documentation of your CME until June 11, 2007.

Mailed 5.15.08

In your response to the Board that was received on or about June 12, 2007, you acknowledged that most of your CME credits were outside of the reporting period. Despite your certification that you had completed your CME requirements, you have failed to establish that you completed forty hours of Category 1 CME credits.

Your acts, conduct, and/or omissions as alleged in paragraphs (1) and (2) above, individually and/or collectively, constitute “[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board,” as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

Further, your failure to obtain the requisite CME, and/or to submit documentation of same, as alleged in the paragraph (2) above, individually and/or collectively, constitute “violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the Board,” as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Section 4731.281, Ohio Revised Code, and Rules 4731-10-02 and 4731-10-08, Ohio Administrative Code.

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

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

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

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, provides that “[w]hen the board refuses to grant a certificate to an applicant, revokes an individual’s certificate to practice, refuses to register an applicant, or refuses to reinstate an individual’s certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board

John A. Halpin, M.D.
Page 3

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,

A handwritten signature in cursive script that reads "Lance A. Talmage MD".

Lance A. Talmage, M.D.
Secretary

LAT/LLS/fib
Enclosures

CERTIFIED MAIL #91 7108 2133 3934 3690 6095
RETURN RECEIPT REQUESTED