

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 14, 2010

Giovanni A. Pupillo, M.D.
309 Village Drive
Broadview Heights, OH 44147

RE: Case No. 09-CRF-159

Dear Dr. Pupillo:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Siobhan R. Clovis, Esq., Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on July 14, 2010, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order.

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

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

THE STATE MEDICAL BOARD OF OHIO

Lance A. Talmage MO
RW

Lance A. Talmage, M.D.
Secretary

LAT:baj
Enclosures

CERTIFIED MAIL NO. 91 7108 2133 3936 3124 2653
RETURN RECEIPT REQUESTED

CERTIFICATE OF MAILING 11-3-10

Mailed 8-5-10

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Siobhan R. Clovis, Esq., State Medical Board Attorney Hearing Examiner; and excerpt of the Minutes of the State Medical Board, meeting in regular session on July 14, 2010, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order; constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Giovanni A. Pupillo, M.D., Case No. 09-CRF-159, as it appears in the Journal of the State Medical Board of Ohio.

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



Lance A. Talmage, M.D. RW
Secretary

(SEAL)

July 14, 2010

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

* CASE NO. 09-CRF-159

GIOVANNI A. PUPILLO, M.D.

*

ENTRY OF ORDER

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

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

It is hereby ORDERED that no further action shall be taken in the matter of Giovanni A. Pupillo, M.D.

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



Lance A. Talmage, M.D. RW
Secretary

(SEAL)

July 14, 2010

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

In the Matter of

*

Case No. 09-CRF-159

Giovanni A. Pupillo, M.D.,

*

Hearing Examiner Clovis

Respondent.

*

STATE MEDICAL BOARD
OF OHIO
2010 JUN 11 AM 11:28

REPORT AND RECOMMENDATION

Basis for Hearing

By letter dated December 9, 2009, the State Medical Board of Ohio [Board] notified Giovanni A. Pupillo, M.D., that it intended to determine whether to take disciplinary action against his certificate to practice medicine and surgery in Ohio, based on the allegations that Dr. Pupillo had failed to complete the required CME during the January 2, 2006, through January 1, 2008, CME cycle, and had falsely certified that he had completed such CME in his April 2008 license renewal application.

The Board further alleged that this conduct constitutes “[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board,” as that clause is used in Section 4731.22(B)(5), Ohio Revised Code, and “violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board,” as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Section 4731.281, Ohio Revised Code; Rule 4731-10-02, Ohio Administrative Code; and Rule 4731-10-08, Ohio Administrative Code.

Appearances

Richard Cordray, Attorney General, by Melinda Snyder, Assistant Attorney General, on behalf of the State of Ohio. Dr. Pupillo represented himself.

Hearing Date: April 27, 2010

SUMMARY OF THE EVIDENCE

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

1. Giovanni A. Pupillo, M.D., testified that he had graduated from medical school in 1965, and that he is now semi-retired. He explained that he no longer provides acute care, but does a “little bit” of counseling for “old patients.” He also answers questions on a web forum, and provides screening services, primarily for cardiovascular and sexually transmitted diseases. (Hearing Transcript [Tr.] at 31, 35-36).

2. In his license-renewal application due on April 1, 2008, for the biennial registration of his certificate to practice medicine and surgery for the April 2, 2008 through April 1, 2010 period, Dr. Pupillo certified that he had completed the requisite hours of Continuing Medical Education [CME] for the January 2, 2006, through January 1, 2008, CME cycle, as required by Section 4731.281, Ohio Revised Code. (State's Exhibit [St. Ex.] 2, 8; Tr. at 16-19)
3. Pursuant to a random CME audit, the Board informed Dr. Pupillo by certified mail dated November 10, 2008, that he was required to complete and submit a log demonstrating that he had completed at least one hundred hours of CME during the January 2, 2006 - January 1, 2008, CME cycle, and to provide documentation of completion of at least forty hours of Category 1 CME credits. Despite having certified on his renewal application that he had completed all CME requirements, he submitted documentation of only 31.25 hours of Category 1 CME credits for the relevant time period.¹ (St. Ex. 3, 6; Tr. at 10-12, 20-21)
4. By certified mail letter dated December 17, 2008, the Board requested that Dr. Pupillo submit documentation of 8.50 additional Category 1 CME credits for the January 2, 2006, through January 1, 2008, CME cycle, although this was in error because he actually needed an additional 8.75 credits, per the certificates he had already produced. In Dr. Pupillo's January 12, 2009, response to the Board, he stated that he had mistakenly believed April 4, 2008, to be the CME deadline. (St. Ex. 4, 5, 6).
5. Dr. Pupillo submitted to the Board evidence that he had obtained an additional 10.25 CME Category 1 credits by April 4, 2008, his license expiration date. (St. Ex. 2, 7).
6. Kay Rieve, the Administrative Officer who supervises the CME and Renewal Department and the Licensure Department for the Board, testified about CME reporting and license renewal requirements. She advised that the Board has eight renewal groups, based upon the first letter of a physician's last name. Dr. Pupillo is assigned to the N through R group, so his CME period is January to January of even years, and his license-renewal period is April to April of even years. (Tr. at 10, 12-13).
7. Ms. Rieve advised that the CME deadline does not match the license renewal deadline intentionally. This allows physicians who need additional time to complete CME to do so, without facing immediate expiration of their licenses. (Tr. at 27).
8. Dr. Pupillo testified that, in 2007, he had missed the seminar that he usually attends because he had been overseas. He explained that, when he realized that he had a CME deficiency, he had called and spoken to someone at the Board. He said that he had been advised to go ahead and complete the CME before renewing his license. Ms. Rieve acknowledged that her department typically advises physicians who have not completed the requisite CME by their CME deadlines

¹ State's Exhibit 4, a December 17, 2008, letter to Dr. Pupillo from the Board notifying him of the CME deficiency, states that Dr. Pupillo had submitted evidence of 31.50 Category 1 credits. This appears to be an error, because the credits as shown in the CME certificates in State's Exhibit 6 add up to only 31.25. (St. Ex. 4, 6).

to wait to file their license renewal applications until they have their CME completed, during the three-month window of time between the CME deadline and the renewal deadline. Ms. Rieve further testified that Dr. Pupillo had completed all of the requisite CME by the time of his license renewal application, though he had obtained 8.75 of the necessary forty Category 1 credits after the CME deadline. (Tr. at 14-15, 25-26, 31-33, 36).

9. Dr. Pupillo had completed the required 40 hours of Category 1 CME for January 2, 2006, through January 1, 2008, as of the date that he filed his license-renewal application. He testified that he thought he had been answering the question about his CME completion on the license-renewal application correctly, based on his understanding of what he had been told by the Board employee he had spoken with on the phone. (Tr. at 25, 32-33.)

FINDINGS OF FACT

1. In the renewal application of Giovanni A. Pupillo, M.D., due on April 1, 2008, for the biennial registration of his certificate to practice medicine and surgery for the period from April 2, 2008, through April 1, 2010, Dr. Pupillo certified that he had completed or would complete the requisite hours of CME as required by Section 4731.281, Ohio Revised Code, during the CME cycle for January 2, 2006, through January 1, 2008.
2. By certified mail letter dated November 10, 2008, the Board informed Dr. Pupillo that he was required to complete and submit a log demonstrating that he had completed at least one hundred hours of CME during the January 2, 2006, through January 1, 2008, CME cycle, and to provide documentation that, in fact, he had completed at least forty hours of Category 1 CME credits. Despite certifying on his aforementioned renewal application that he had completed all CME requirements, he submitted documentation of only 31.25 hours of Category 1 CME credits. By certified mail letter dated December 17, 2008, the Board requested that Dr. Pupillo submit documentation of the required additional Category 1 CME credits for the January 2, 2006, through January 1, 2008, CME cycle. In Dr. Pupillo's January 12, 2009, response to the Board, he stated that he had mistakenly believed April 4, 2008, to be the CME expiration date.
3. As of the end of the CME cycle on January 1, 2008, Dr. Pupillo had not completed all of the required Category 1 credits. However, he had completed the required Category 1 credits of CME by the date of his renewal application.

CONCLUSIONS OF LAW

1. The evidence does not establish that the acts, conduct and/or omissions of Giovanni A. Pupillo, M.D., 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.

Although the evidence plainly established a failure to comply in a timely manner with the requirements for continuing medical education under Ohio law, credible evidence at the hearing demonstrated that Dr. Pupillo made an erroneous statement on his renewal application without any intent to deceive or mislead the Board.

2. Dr. Pupillo’s acts, conduct and/or omissions as set forth in Findings of Fact 1 and 2, 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.
3. Further, Dr. Pupillo’s acts, conduct and/or omissions as set forth in Findings of Fact 1 and 2, individually and/or collectively, constitute “violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board,” as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-10-02, Ohio Administrative Code.
4. Further, Dr. Pupillo’s acts, conduct and/or omissions as set forth in Findings of Fact 1 and 2, individually and/or collectively, constitute “violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board,” as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-10-08, Ohio Administrative Code.

Rationale for Proposed Order

Although Dr. Pupillo submitted an incorrect answer about his CME on the renewal application because he had not completed the required number of hours by January 1, 2008, his answer was not fraudulent or intended to deceive. He had indeed completed the required number of hours as of the date of his renewal application, upon which the incorrect answer appeared. His testimony was credible that the answer on the license renewal application had been a mistake, based on his understanding that he had corrected the CME deficiency, rather than a lie to cover up a failure to complete the CME. Accordingly, no suspension or probation of Dr. Pupillo’s license is warranted. The proposed fine is 22% of the maximum fine, because Dr. Pupillo had failed to complete approximately 22% of his total Category 1 CME requirement by the CME deadline.

PROPOSED ORDER

It is hereby ORDERED that:

- A. **FINE:** Dr. Pupillo shall pay a FINE of \$1,100.00 to the State Medical Board of Ohio. This fine shall be paid no later than thirty days after the Board's mailing of notification of approval of this Order.
- B. **DOCUMENTATION OF CME:** Dr. Pupillo shall supply documentation acceptable to the Board of satisfactory completion of the requisite number of CME credits for the January 2, 2008, through January 1, 2010, CME period. These CME credits shall be in addition to the 8.75 credits which Dr. Pupillo completed during 2008 and which have been accredited to the January 2, 2006, through January 1, 2008, CME period. Moreover, Dr. Pupillo shall supply documentation acceptable to the Board of satisfactory completion of the requisite number of CME credits for two additional CME periods thereafter. Documentation for the CME period that ended on January 1, 2010, shall be due in the Board's offices within thirty days of the effective date of this Order, unless otherwise determined by the Board. This documentation for the two additional CME periods shall be due in the Board's offices within thirty days of the conclusion of each CME period, unless otherwise determined by the Board.
- C. **REQUIRED REPORTING WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS ORDER**
 1. **Required Reporting to Employers and Others:** Within 30 days of the effective date of this Order, Dr. Pupillo shall provide a copy of this Order to all employers or entities with which he is under contract to provide healthcare services (including but not limited to third-party payors), or is receiving training, and the chief of staff at each hospital or health-care center where he has privileges or appointments. Further, Dr. Pupillo shall promptly provide a copy of this Order to all employers or entities with which he contracts in the future to provide healthcare services (including but not limited to third-party payors), or applies for or receives training, and the Chief of Staff at each hospital or healthcare center where he applies for or obtains privileges or appointments.

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

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

to the Drug Enforcement Agency, through which he currently holds any license or certificate. Also, Dr. Pupillo shall provide a copy of this Order at the time of application to the proper licensing authority of any state or jurisdiction in which he applies for any professional license or reinstatement/restoration of any professional license.

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

- D. **VIOLATION OF ORDER:** If Dr. Pupillo violates 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 shall become effective immediately upon the mailing of the notification of approval by the Board.


Siobhan R. Clovis
Hearing Examiner 

State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
med.ohio.gov

EXCERPT FROM THE DRAFT MINUTES OF JULY 14, 2010

REPORTS AND RECOMMENDATIONS AND PROPOSED FINDINGS AND PROPOSED ORDERS

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

Dr. Amato asked whether each member of the Board had received, read and considered the hearing records; the Findings of Fact, Conclusions of Law, Proposed Orders, and any objections filed in the matters of: Alfred Larry Boulware, M.D.; Kevin Wayne Bowers, D.O.; Calvin Richard Brown, M.D.; Hatem Marwan Dajani, M.D.; Adam Lee Fowler; Eleese Michelle Fulgham; Joseph James Koenigsmark, D.O.; Rhonda Kay Masci; Kwabena Mawulawde, M.D.; Giovanni A. Pupillo, M.D.; and Stephen Alan Straubing, M.D. A roll call was taken:

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

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

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

Mr. Morris - aye
Dr. Ramprasad - aye

Dr. Amato noted that, in accordance with the provision in Section 4731.22(F)(2), Ohio Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of these matters. They may, however, participate in the matter of Ms. Masci, as that case is not disciplinary in nature and concerns only Ms. Masci's qualifications for licensure. In the matters before the Board today, Dr. Talmage served as Secretary and Mr. Albert served as Supervising Member.

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

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

.....
GIOVANNI A. PUPILLO, M.D.

Dr. Amato directed the Board's attention to the matter of Giovanni A. Pupillo, M.D. He advised that objections were filed to Hearing Examiner Clovis' Report and Recommendation and were previously distributed to Board members.

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

Dr. Pupillo stated that he is appearing before the Board in order to defend himself against allegations of having made false statements regarding Continuing Medical Education (CME) requirements on his application for renewal of his medical license. Dr. Pupillo stated that, in good faith, he checked the box which indicated that he had completed his CME requirements for that renewal period. Dr. Pupillo stated that, in fact, he had not completed his CME requirements. Dr. Pupillo stated that he had looked at the date on his medical license and had forgotten that the CME period does not coincide with the licensure period. Dr. Pupillo stated that he had contacted a Board employee explaining his situation and was told to go ahead with the completed CME hours and submit the application.

Dr. Pupillo stated that at the moment he checked the "yes" box on the renewal application, he felt that he was in compliance with his CME requirements. Dr. Pupillo apologized for his error. Dr. Pupillo stated that he is now 70-years-old and asked the Board to dismiss this case and allow him to complete his medical career with a good record.

Dr. Amato asked if the Assistant Attorney General wished to respond. Ms. Snyder replied that she only wished to state that the State does not believe this case should be dismissed and supported the Proposed

Order.

Dr. Madia moved to approve and confirm Ms. Clovis' Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Giovanni A. Pupillo, M.D. Mr. Hairston seconded the motion.

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

Dr. Steinbergh stated that Dr. Pupillo confused the dates of his licensure renewal with the dates of his CME record. Dr. Steinbergh acknowledged Dr. Pupillo's contention that he made this mistake without intent to deceive the Board.

Dr. Steinbergh stated that she supports the Proposed Order, which would fine Dr. Pupillo \$1,100.00 and require him to document his CME credits over the next two CME periods. The Hearing Examiner had felt that Dr. Pupillo's testimony was credible and that Dr. Pupillo did not purposely mislead the Board. Dr. Steinbergh noted that the rationale behind the proposed fine is that Dr. Pupillo had failed to complete approximately 22% of his total Category I CME requirements by the CME deadline, and a fine of \$1,100.00 is 22% of the maximum fine.

Dr. Steinbergh supported the Proposed Order and stated that it is a minimal disciplinary action.

Dr. Ramprasad found this case disturbing. Dr. Ramprasad noted that Rule 4731-10-09, Ohio Administrative Code, states that the CME period is two years, during which time a physician is required to obtain 100 CME credits. Dr. Ramprasad also noted that the registration period starts after licensure is granted. Dr. Ramprasad stated that if a physician applied for renewal early, this can result in a CME period of less than two years.

Dr. Ramprasad opined that Dr. Pupillo did nothing wrong and felt that the rule concerning CME credits is vague. Dr. Ramprasad stated that the case against Dr. Pupillo should be dismissed. Dr. Stephens agreed.

Ms. Debolt stated that the rule sets forth a two-year time period for licensure. The staggered periods between renewal and CME credits is designed to give physicians time to obtain their required hours so that their license will not automatically expire immediately if the CME requirements are not met.

Dr. Ramprasad stated that the staggered period can result in CME periods of less than two years and it is not clear to physicians exactly when their CME period begins or ends. Sara Vollmer, Assistant Executive Director of the State Medical Board who oversees the Licensure and Renewal Department, stated that rules concerning CMEs are applied as written. Ms. Vollmer also stated that reminder notices are sent to physicians regarding their specific CME period.

Dr. Ramprasad stated that the case against Dr. Pupillo makes it look as if Dr. Pupillo was dishonest. Dr. Ramprasad stated that Dr. Pupillo completed his CME requirements when he thought he was supposed to have completed them.

Dr. Ramprasad moved to amend the Proposed Order to reflect Dismissal of the case. Dr. Stephens seconded the motion.

Dr. Amato stated the he would now entertain discussion of the Proposed Amendment.

Dr. Steinbergh stated that the Board does a random audit of 2% of licensed physicians every two years. Dr. Steinbergh stated that the rules are very clear and every physician must abide by them.

Dr. Madia asked if there is a statute that requires the completion of CME hours, and therefore the Board has no discretion but to take action. Ms. Debolt replied that the Board does have discretion and stated that the Board's action will send a message to the public about the importance of the CME requirements. Ms. Debolt reminded the Board that it has the option of No Further Action, which would acknowledge that there is a violation but would no impose any disciplinary action.

Mr. Morris asked if the issue of failure to meet CME requirements occurs with regularity. Ms. Vollmer answered that in every CME audit, some physicians fall short, but not in great numbers.

Dr. Mahajan agreed with Dr. Ramprasad and stated that he himself has encountered some confusion with his CME period and his license renewal period.

Dr. Ramprasad suggested that the Board should require 100% of the physicians to send in their CME records by email when they send in their renewal application. In this way, the staff could review 2% of those in a random audit. Dr. Ramprasad stated that this would be a good topic for the Board's retreat this year.

A vote was taken on Dr. Ramprasad's proposed amendment.

ROLL CALL:	Dr. Strafford	- nay
	Mr. Hairston	- nay
	Dr. Stephens	- aye
	Dr. Mahajan	- nay
	Dr. Steinbergh	- nay
	Dr. Amato	- nay
	Mr. Albert	- abstain
	Dr. Madia	- nay
	Dr. Talmage	- abstain
	Dr. Suppan	- nay
	Mr. Morris	- nay
	Dr. Ramprasad	- aye

The motion to amend failed

Dr. Mahajan moved to amend the Proposed Order to reflect No Further Action. Dr. Stephens seconded the motion. A vote was taken:

ROLL CALL:	Dr. Strafford	- aye
	Mr. Hairston	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- nay
	Dr. Amato	- aye
	Mr. Albert	- abstain
	Dr. Madia	- nay
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Mr. Morris	- aye
	Dr. Ramprasad	- aye

The motion to amend carried.

Dr. Strafford moved to approve and confirm Ms. Clovis' Findings of Fact, Conclusions of Law, and Proposed Order, as amended, in the matter of Giovanni A. Pupillo, M.D. Dr. Stephens seconded the motion. A vote was taken:

ROLL CALL:	Dr. Strafford	- aye
	Mr. Hairston	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- nay
	Dr. Amato	- aye
	Mr. Albert	- abstain
	Dr. Madia	- nay
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Mr. Morris	- aye
	Dr. Ramprasad	- aye

The motion carried.



State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
med.ohio.gov

December 9, 2009

Case number: 09-CRF- / **59**

Giovanni A. Pupillo, M.D.
309 Village Drive
Broadview Heights, Ohio 44147

Dear Doctor Pupillo:

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 due on or about April 1, 2008 for the biennial registration of your certificate to practice medicine and surgery for the April 2, 2008 - April 1, 2010 period, you certified that during the January 2, 2006 – January 1, 2008 Continuing Medical Education [CME] cycle, you had completed or would complete the requisite hours of CME as required by Section 4731.281, Ohio Revised Code.
- (2) By certified mail letter dated November 10, 2008, 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 January 2, 2006 – January 1, 2008 CME cycle, and to provide documentation that, in fact, you had completed at least forty hours of Category 1 CME credits. Despite certifying on the aforementioned renewal application that you had completed all CME requirements, you submitted documentation of only 31.25 hours of Category 1 CME credits. By certified mail letter dated December 17, 2008, the Board requested that you submit documentation of 8.75 additional Category 1 credits for the January 2, 2006 – January 1, 2008 CME cycle. In your January 12, 2009 response to the Board, you stated you mistakenly thought April 4, 2008, was the CME expiration date.

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

Mailed 12-10-09

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

Further, your acts, conduct, and/or omissions as alleged in paragraphs (1) and (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: Rule 4731-10-02, Ohio Administrative Code.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (1) and (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: Rule 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 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 black ink that reads "Lance A. Talmage, M.D." The signature is written in a cursive style with a large initial 'L' and 'A'.

Lance A. Talmage, M.D.
Secretary

LAT/LLS/flb
Enclosures

CERTIFIED MAIL #91 7108 2133 3936 3070 8952
RETURN RECEIPT REQUESTED