BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF	:	
	:	Case No. 11-CRF-068
CALVIN RICHARD BROWN, M.D.	:	

ENTRY OF ORDER

On December 15, 2011, Calvin Richard Brown, M.D., executed a Surrender of his license to practice medicine and surgery in Ohio with consent to revocation, which document is attached hereto and fully incorporated herein.

Wherefore, upon ratification by the Board of the surrender, it is hereby ORDERED that Certificate No. 35-041051 authorizing Calvin Richard Brown, M.D., to practice medicine and surgery in the state of Ohio be permanently REVOKED.

This Order is hereby entered upon the Journal of the State Medical Board of Ohio for the 11th day of January 2012, and the original thereof shall be kept with said Journal.

J. Craig Strafford MD MPH

J. Craig Strafford, M.D., M.P.H.
Secretary

(SEAL)

January 11, 2012
Date

STATE OF OHIO
THE STATE MEDICAL BOARD
PERMANENT SURRENDER OF CERTIFICATE
TO PRACTICE MEDICINE AND SURGERY

11-CRF-068

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

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

I, Calvin Richard Brown, M.D., do hereby voluntarily, knowingly, and intelligently surrender my certificate to practice medicine and surgery, License #35.041051, to the State Medical Board of Ohio [Board], thereby relinquishing all rights to practice medicine and surgery in Ohio.

I acknowledge that my certificate is subject to certain terms, conditions, and limitations as set forth by Order of the Board on or about July 14, 2010, as modified on or about September 9, 2010, and that I have not been legally authorized to practice medicine and surgery in Ohio since on or about July 1, 2011, the date upon which my certificate expired. I understand that as a result of the surrender herein I am no longer permitted to practice medicine and surgery in any form or manner in the State of Ohio now or in the future.

I agree that I shall be ineligible for, and shall not apply for, reinstatement or restoration of certificate to practice medicine and surgery License #35.041051 or issuance of any other certificate pursuant to the authority of the State Medical Board of Ohio, on or after the date of signing this Permanent Surrender of Certificate to Practice Medicine and Surgery. Any such attempted reapplication shall be considered null and void and shall not be processed by the Board.

I hereby authorize the State Medical Board of Ohio to enter upon its Journal an Order permanently revoking my certificate to practice medicine and surgery, License #35.041051, in conjunction with which I expressly waive the provision of Section 4731.22(B), Ohio Revised Code, requiring that six (6) Board Members vote to revoke said certificate, and further expressly and forever waive all rights as set forth in Chapter 119., Ohio Revised

Code, including but not limited to my right to counsel, right to a hearing, right to present evidence, right to cross-examine witnesses, and right to appeal the Order of the Board revoking my certificate to practice medicine and surgery.

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

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

I stipulate and agree that I am taking the action described herein in lieu of further formal disciplinary proceedings pursuant to the violations alleged in the Notice of Opportunity for Hearing [Notice] issued to me by the Board on or about July 13, 2011, a copy of which is attached hereto and incorporated herein, and I hereby admit to all of the factual and legal allegations as set forth in the Notice.

EFFECTIVE DATE

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

Calvin R. Brown
CALVIN RICHARD BROWN, M.D.

12-15-11
DATE

J. Craig Strafford MD MPH
~~LANCE A. TALMAGE, M.D.~~
Secretary J. Craig Strafford, MD., M.P.H.

11 JAN 2012
DATE

Permanent Surrender of Certificate
Calvin Richard Brown, M.D.

DOUGLAS GRAFF
Attorney for Dr. Brown

12/15/2011
DATE

JACK C. AMATO, M.D.
Supervising Member

1-11-12
DATE

HEIDI DORN
Assistant Attorney General

12/15/2011
DATE

Cheryl A. Lozier, witness

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 13, 2011

Case number: 11-CRF- 068

Calvin Richard Brown, M.D.
2049 Akron Peninsula Rd.
P.O. Box 5274
Akron, OH 44334

Dear Doctor Brown:

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 July 14, 2010, the Board issued an Entry of Order, with an effective date of August 5, 2010 [2010 Board Order]. The 2010 Board Order revoked your certificate to practice medicine and surgery in Ohio, stayed such revocation, and suspended your certificate for an indefinite period of time. The 2010 Board Order was based on your violation of Section 4731.22(B)(24), Ohio Revised Code, which was related to your Voluntary Surrender of Controlled Substances Privileges.

On or about September 9, 2010, your request for reinstatement of your certificate to practice medicine and surgery in Ohio was approved by the Board, subject to the probationary terms, conditions and limitations set forth in the 2010 Board Order. To date, the 2010 Board Order remains in effect.

(2) On or about February 2, 2011, an Information was filed against you in the United States District Court for the Northern District of Ohio, Eastern Division [U.S. District Court]. In the Information, it was alleged that you committed Health Care Fraud, in violation of 18 U.S.C. Section 1347, by submitting claims to Medicaid under a code number that you knew did not qualify under the requirements of that specific code, and for further receiving payments from Medicaid, of which a certain dollar amount was for work not actually

Mailed 7-14-11

performed. On or about February 24, 2011, the presiding judge in the criminal case signed a Plea Agreement that you had previously signed, in which you agreed to plead guilty to the Information wherein you were charged with Health Care Fraud, in violation of 18 U.S.C. Section 1347.

On or about May 9, 2011, the U.S. District Court imposed a judgment wherein you were adjudicated guilty of Health Care Fraud, in violation of 18 U.S.C. Section 1347. The U.S. District Court sentenced you to probation for a term of two years, with the first six months to be on location monitoring at the discretion of the probation officer.

Your plea of guilty or the judicial finding of guilt as alleged in paragraph (2) above, individually and/or collectively, constitute "[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony," as that clause is used in Section 4731.22(B)(9), 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.

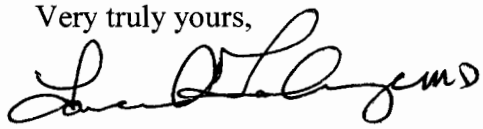
You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at 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/MRB/flb
Enclosures

CERTIFIED MAIL #91 7108 2133 3938 3017 6711
RETURN RECEIPT REQUESTED

cc: Douglas E. Graff, Esq.
Graff & Associates, L.P.A.
604 East Rich Street
Columbus, OH 43215

CERTIFIED MAIL #91 7108 2133 3938 3017 6704
RETURN RECEIPT REQUESTED

State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
med.ohio.gov

July 14, 2010

Calvin Richard Brown, M.D.
4771 Autumn Leaves Drive
Akron, OH 44333

RE: Case No. 09-CRF-127

Dear Dr. Brown:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Gretchen L. Petrucci, 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, M.D. RW
Secretary

LAT:baj
Enclosures

CERTIFIED MAIL NO. 91 7108 2133 3936 3124 2592
RETURN RECEIPT REQUESTED

cc: Douglas R. Graff, Esq.
CERTIFIED MAIL NO. 91 7108 2133 3936 3124 2608
RETURN RECEIPT REQUESTED

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 Gretchen L. Petrucci, 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 Calvin R. Brown, M.D., Case No. 09-CRF-127, 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 MD

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-127
CALVIN RICHARD BROWN, 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 Gretchen L. Petrucci, 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:

A. **REVOCATION, STAYED; SUSPENSION:** The certificate of Calvin Richard Brown, M.D., to practice allopathic medicine and surgery in the State of Ohio shall be REVOKED. Such revocation is STAYED, and Dr. Brown's certificate shall be SUSPENDED for an indefinite period of time.

B. **CONDITIONS FOR REINSTATEMENT OR RESTORATION**: The Board shall not consider reinstatement or restoration of Dr. Brown's certificate to practice allopathic medicine and surgery until all of the following conditions have been met:

1. **Application for Reinstatement or Restoration**: Dr. Brown shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.

2. **Practice Plan**: At the time he applies for reinstatement or restoration, or as otherwise determined by the Board, Dr. Brown shall also submit to the Board and receive its approval for a plan of practice in Ohio.

The practice plan, unless otherwise determined by the Board, shall be limited to a supervised structured environment in which Dr. Brown's activities will be directly supervised and overseen by a monitoring physician approved by the Board. The practice plan shall include provisions for the monitoring physician's review of Dr. Brown's charts. The chart review may be done on a random basis, with the frequency and number of charts reviewed to be determined by the Board.

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

The Board, in its sole discretion, may disapprove any physician proposed to serve as Dr. Brown's monitoring physician.

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

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

1. **Obey the Law**: Dr. Brown shall obey all federal, state, and local laws, and all rules governing the practice of allopathic medicine and surgery in Ohio.

2. **Declarations of Compliance**: Dr. Brown shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which Dr. Brown's certificate is restored or reinstated. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

3. **Personal Appearances**: Dr. Brown shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which Dr. Brown's certificate is restored or reinstated, or as otherwise directed by the Board. Subsequent personal appearances shall occur every six months thereafter, and/or as otherwise directed by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

4. **Absences from Ohio**: Dr. Brown shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed. Further, the Secretary and Supervising Member of the Board shall have discretion to waive part or all of the monitoring terms set forth in this Order for occasional periods of absence of 14 days or less.

5. **Practice Plan**: The approved monitoring physician shall monitor Dr. Brown and his medical practice, and shall review Dr. Brown's patient charts.

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

   In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Brown shall immediately so notify the Board in writing. In addition, Dr. Brown shall make arrangements acceptable to the Board for another monitoring physician within 30 days after the previously designated monitoring physician becomes unable or unwilling to serve, unless otherwise determined by the Board. Dr. Brown shall further ensure that the previously designated monitoring physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefor.

   The Board, in its sole discretion, may withdraw its approval of any physician previously approved to serve as Dr. Brown's monitoring physician, in the event that the Secretary and Supervising Member of the Board determine that any such monitoring physician has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

Dr. Brown shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

6. **Required Reporting of Change in DEA Status**: In the event Dr. Brown is granted DEA registration to prescribe controlled substances prior to his release from probation, Dr Brown shall notify the Board in writing, within 30 days of the DEA's action .

7. **Controlled Substances Log**: In the event that Dr. Brown is granted DEA registration to prescribe controlled substances, Dr. Brown shall keep a log of all controlled substances he prescribes, orders, administers, or personally furnishes. Such log shall be submitted in a format of Dr. Brown's choosing and approved in advance by the Board. All such logs required under this paragraph must be received in the Board's offices no later than the due date for Dr. Brown's declarations of compliance, or as otherwise directed by the Board. Further, Dr. Brown shall make his patient records with regard to such controlled substances available for review by an agent of the Board upon request.

8. **Tolling of Probationary Period While Out of Compliance**: In the event Dr. Brown is found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Order.

9. **Required Reporting of Change of Address**: Dr. Brown shall notify the Board in writing of any change of residence address and/or principal practice address within 30 days of the change.

10. **Modification of Terms**: Dr. Brown shall not request modification of the terms, conditions, or limitations of probation for at least twelve months after imposition of these probationary terms, conditions, and limitations.

D. **TERMINATION OF PROBATION**: Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Brown's certificate will be fully restored.

E. **VIOLATION OF THE TERMS OF THIS ORDER**: If Dr. Brown 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.

F. **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. Brown 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 healthcare center where he has privileges or appointments. Further, Dr. Brown 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. This requirement shall continue until Dr. Brown receives from the Board written notification of the successful completion of his probation.

   In the event that Dr. Brown provides any healthcare services or healthcare direction or medical oversight to any emergency medical services organization or emergency medical services provider in Ohio, within 30 days of the effective date of this Order, he shall provide a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services. This requirement shall continue until Dr. Brown receives from the Board written notification of the successful completion of his probation.

2. **Required Reporting to Other State Licensing Authorities**: Within 30 days of the effective date of this Order, Dr. Brown 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 through which he currently holds any license or certificate. Also, Dr. Brown shall provide a copy of this Order at the time of application to the proper licensing authority of any state, federal entity or agency, or jurisdiction in which he applies for any professional license or reinstatement/restoration of any professional license or DEA registration. This requirement shall continue until Dr. Brown receives from the Board written notification of the successful completion of his probation.

3. **Required Documentation of the Reporting Required by Paragraph F**: Dr. Brown shall provide this Board with one of the following documents as proof of each required notification within 30 days of the date of each such notification: (a) the return receipt of certified mail within 30 days of receiving that return receipt, (b) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Order was hand delivered, (c) 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 (d) 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.

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

Lance A. Talmage MD

Lance A. Talmage, M.D. RW
Secretary

(SEAL)

July 14, 2010
Date

STATE MEDICAL BOARD
OF OHIO
2010 JUN 10 AM 10: 10

BEFORE THE STATE MEDICAL BOARD OF OHIO

In the Matter of	*	**Case No. 09-CRF-127**
Calvin Richard Brown, M.D.,	*	**Hearing Examiner Petrucci**
Respondent.	*	

REPORT AND RECOMMENDATION

Basis for Hearing

By letter dated October 14, 2009, the State Medical Board of Ohio [Board] notified Calvin Richard Brown, M.D., that it intended to determine whether to take disciplinary action against his certificate to practice medicine and surgery in Ohio. The Board based is proposed action on an allegation that Dr. Brown had voluntarily surrendered his Controlled Substances Privileges to the Drug Enforcement Administration [DEA] because of his alleged failure to comply with federal requirements pertaining to controlled substances, and to indicate his good-faith desire to remedy any incorrect or unlawful practices. Further, the Board stated that the voluntary surrender constitutes "* * * the termination or suspension of a certificate of registration to prescribe drugs by the drug enforcement administration of the United States department of justice," as set forth in Section 4731.22(B)(24), Ohio Revised Code. Accordingly, the Board advised Dr. Brown of his right to request a hearing in this matter. (State's Exhibit [St. Ex.] 1A)

On October 27, 2010, Dr. Brown requested a hearing. (St. Ex. 1B)

By letter dated January 14, 2010, the Board corrected the year of the voluntary surrender listed in the October 14, 2009 letter, stating that the surrender had taken place in 2007. (St. Ex. 1D)

Appearances at the Hearing

Richard Cordray, Attorney General, by Melinda Ryan Snyder, Assistant Attorney General, on behalf of the State of Ohio. Douglas E. Graff, Esq., on behalf of Dr. Brown.

Hearing Date: May 10, 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.

Background

1. Calvin Richard Brown, M.D., was born in 1938. Dr. Brown earned his medical degree in 1976 from the University of Nebraska College of Medicine. In 1977, Dr. Brown obtained his Ohio

certificate to practice medicine and surgery. He specializes in internal medicine. (Ohio e-License Database, <*https://license.ohio.gov/lookup*>, June 8, 2010; Hearing Transcript [Tr.] at 22)

2. Dr. Brown is a solo practitioner in Akron, Ohio. Currently, he has no staff, and he sees seven to 12 patients each day. (Tr. at 23-24)

Voluntary Surrender

3. On December 18, 2007, Dr. Brown signed a Voluntary Surrender of Controlled Substances Privileges [Voluntary Surrender]. (Tr. at 24-25; St. Ex. 2) The executed form states in relevant part:

> After bring fully advised of my rights, and understanding that I am not required to surrender my controlled substances privileges, I freely execute this document and choose to take the actions described herein.
>
> [X] In view of my alleged failure to comply with the Federal requirements pertaining to controlled substances, and as an indication of my good faith in desiring to remedy any incorrect or unlawful practices on my part;
>
> [ ] In view of my desire to terminate handling of controlled substances listed in schedule(s) _____;
>
> I hereby voluntarily surrender my Drug Enforcement Administration Certificate of Registration, unused order forms, and all my controlled substances listed in schedule(s) __II-V__ as evidence of my agreement to relinquish my privilege to handle controlled substances listed in schedule(s) __II-V_. Further, I agree and consent that this document shall be authority for the Administrator of the Drug Enforcement Administration to terminate and revoke my registration without an order to show cause, a hearing, or any other proceedings (and if not all controlled substance privileges are surrendered, be issued a new registration certificate limited to schedule(s) ___N/A___).
>
> * * *

(St. Ex. 2)

4. Two DEA employees witnessed Dr. Brown's signature, including Scott A. Brinks. Mr. Brinks is a Diversion Investigator with the DEA. Mr. Brinks prepared the Voluntary Surrender form for Dr. Brown. Mr. Brinks and another DEA employee met Dr. Brown at Dr. Brown's attorney's office. Mr. Brinks presented the Voluntary Surrender to Dr. Brown's attorney, who gave it to Dr. Brown. Mr. Brinks saw Dr. Brown sign the Voluntary Surrender. Mr. Brinks recalled that Dr. Brown stated that he understood the form. Mr. Brinks then processed Dr. Brown's Voluntary Surrender by entering it into the DEA computer system. At that

point, the DEA considered Dr. Brown's privileges to be *surrendered* and that the physician could no longer prescribe, dispense, or administer controlled substances. Mr. Brinks stated that Dr. Brown can reapply for privileges to prescribe controlled substances at any time. (St. Ex. 2; Tr. at 38, 40, 43, 44, 46-48, 52, 55)

Dr. Brown's Testimony

5. Dr. Brown testified that he had reviewed the Voluntary Surrender form when it was presented to him and he had read it. Moreover, Dr. Brown's attorney was present when he signed the DEA form. Dr. Brown stated that he thought he had the right to voluntarily give up his DEA certificate and that, by checking the first box on the form, he had done so. (Tr. at 25, 28-29)

6. Dr. Brown stated that he has not been charged with anything and he is not aware of any federal requirements with which he allegedly failed to comply. (Tr. at 26)

7. Dr. Brown stated that is nearly 72 years old, and he wishes to wind down his practice of medicine. (Tr. at 26)

8. Dr. Brown acknowledged that he cannot currently prescribe any controlled substances. (Tr. at 27)

MOTION TO DISMISS

Dr. Brown moved to dismiss the allegations in this matter. Dr. Brown contends that there is a lack of jurisdiction and that the State did not sustain its burden of proof. More specifically, Dr. Brown argues that the Voluntary Surrender does not fit within the meaning of Section 4731.22(B)(24), Ohio Revised Code, because it was a voluntary surrender by Dr. Brown himself, rather than a "termination or suspension of a certificate of registration to prescribe drugs by the drug enforcement administration of the United States department of justice." (Tr. at 59; See, also, Tr. at 19-21)

The State contends that the evidence in this matter shows that Dr. Brown surrendered his DEA certificate and that his privileges were terminated as of the day Dr. Brown signed the form. Also, the State argued that, in *Banks v. State Med. Bd.*, Case No. 08 CVF 18046, (October 22, 2009), the Franklin County Court of Common Pleas upheld Board action under Section 4731.22(B)(24), Ohio Revised Code, when another physician executed the same Voluntary Surrender form. (Tr. at 61-62)

Dr. Brown's Voluntary Surrender states: "I agree and consent that this document shall be authority for the Administrator of the Drug Enforcement Administration to terminate and revoke my registration without an order to show cause, a hearing, or any other proceedings * * *." After Mr. Brinks entered the surrender into the DEA computer system, Dr. Brown's certificate of registration terminated. Accordingly, the Voluntary Surrender effected a termination of Dr. Brown's DEA certificate of registration, and the Voluntary Surrender fits squarely within the meaning of Section 4731.22(B)(24), Ohio Revised Code.

FINDING OF FACT

On December 18, 2007, Calvin Richard Brown, M.D., executed a Voluntary Surrender of Controlled Substances Privileges to the U.S. Department of Justice – Drug Enforcement Administration, based on his alleged failure to comply with federal requirements pertaining to controlled substances, and to indicate his good-faith desire to remedy any incorrect or unlawful practices on his part.

CONCLUSION OF LAW

As set forth in the Finding of Fact, the voluntary surrender constitutes "* * * the termination or suspension of a certificate of registration to prescribe drugs by the drug enforcement administration of the United States department of justice," as set forth in Section 4731.22(B)(24), Ohio Revised Code.

Rationale for the Proposed Order

Dr. Brown executed the Voluntary Surrender after it was presented to him at his attorney's office by a DEA Diversion Investigator. His attorney reviewed the document. Moreover, Dr. Brown read and said that he understood the document, and then signed it. The Voluntary Surrender plainly states that Dr. Brown voluntarily surrendered his DEA privileges because it had been alleged that he had failed to comply with federal requirements pertaining to controlled substances and because he had wished to remedy any of his incorrect or unlawful practices. Counsel for Dr. Brown argued that Dr. Brown voluntarily surrendered his DEA privileges solely because he was winding down his medical practice and preparing to retire. That argument is unconvincing.

With no explanation of the allegations and circumstances that led Dr. Brown to sign the Voluntary Surrender and with no mitigating circumstances presented, it is recommended that Dr. Brown's certificate be revoked. This recommendation will ensure public safety.

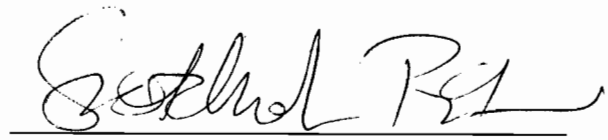
PROPOSED ORDER

It is hereby ORDERED, that:

The motion to dismiss by Calvin Richard Brown, M.D., is DENIED.

Dr. Brown's certificate of to practice medicine and surgery in Ohio is hereby REVOKED.

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



Gretchen L. Petrucci
Hearing Examiner

State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.
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; Elease 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.

.....

CALVIN RICHARD BROWN, M.D.

Dr. Amato directed the Board's attention to the matter of Calvin Richard Brown, M.D. He advised that objections were filed to Hearing Examiner Petrucci's 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. Brown. Five minutes would be allowed for that address.

Dr. Brown appeared with his attorney, Douglas Graff.

Mr. Graff stated that Dr. Brown, now age 72, had decided to wind down his practice. As part of that, in December 2007, Dr. Brown voluntarily surrendered his Drug Enforcement Agency (DEA) certificate by signing the standard form that all physician use to voluntarily surrender the license. Mr. Graff stated that no allegations of criminal or civil wrong-doing have ever been made against Dr. Brown, besides this current action by the State Medical Board of Ohio.

Mr. Graff continued that the evidence in the record shows the Dr. Brown signed the voluntary surrender and did not check one box or another. Mr. Graff stated that the DEA did not consider Dr. Brown's voluntary surrender to be a termination or a suspension of his DEA certificate. Mr. Graff ponted out the Dr. Brown has the right to reapply for his DEA certificate if he so chooses. Mr. Graff stated that the Medical Board's jurisdiction in a matter such as Dr. Brown's is premised on whether or not there has been a termination or suspension of a DEA certificate. Mr. Graff stated that the form signed by Dr. Brown is the same form which the physician members of the Medical Board themselves would use for a voluntary surrender of a DEA certificate.

Mr. Graff stated that Dr. Brown is winding down his practice and is planning to end his practice by the end of 2010. Mr. Graff stated that Dr. Brown's voluntary surrender of his DEA certificate was, in fact, voluntary. Mr. Graff asked that the Board give Dr. Brown the opportunity to continue the orderly winding down of his practice and to dismiss this action.

Dr. Brown stated that he has violated no DEA rules and that he did what he thought was right. Dr. Brown stated that there are no allegations against him. Dr. Brown stated that he has tried to do the best he can in an upright manner and to be a good doctor. Dr. Brown opined that he has acted properly.

Dr. Amato asked if the Assistant Attorney General wished to respond. Ms. Snyder replied that she did wish to respond.

Ms. Snyder stated that the case before the Board was primarily a legal issue. Ms. Snyder stated that that voluntary surrender form signed by Dr. Brown is the legal equivalent of a termination under 4731.22(B)(24), Ohio Revised Code. Ms. Snyder stated 4731.22(B)(24) allows the Board to take action on a license if the licensee's certificate of registration to prescribe drugs has been terminated or suspended by the DEA.

Ms. Snyder stated that Mr. Graff's contention that the DEA does not consider Dr. Brown's voluntary surrender to be a termination is not legally accurate. Ms. Snyder stated that the Board's statute does not define what a termination is. Furthermore, only the Board's definition of a termination is relevant, not the DEA's definition. Ms. Snyder noted that in the case of Brenda Banks, M.D., the Board determined that a voluntary surrender was a termination, and that decision was upheld by the Franklin County Court of Common Pleas.

Ms. Snyder continued that under the Controlled Substances Act, the DEA is allowed to deny, revoke, or suspend the registration of a certificate holder. The Controlled Substances Act does not use the word "termination" in its adminstrative procedures for terminating a certificate. Ms. Snyder stated that only the certificate holder can voluntarily surrender or terminate the certificate, and therefore, Dr. Brown's signing of the voluntary surrender form is the legal equivalent of a termination.

Ms. Snyder read a portion of the voluntary surrender form: "I agree and consent that this document shall be authority for the administrator of the Drug Enforcement Administration to terminate and revoke my registration without an order to show cause, a hearing, or other legal proceeding." Ms. Snyder stated that this, in fact happened; the same day that Dr. Brown signed the form, his DEA certificate was terminated by the DEA in their computer system.

Ms. Snyder stated that the voluntary surrender was signed in the presence of a DEA investigator and in the presense of Dr. Brown's attorney. Dr. Brown testified that he had reviewed the form before he signed it and that his attorney had reviewed it as well. The form states:

> "After being fully advised of my rights and understanding that I am not required to surrender my controlled substances privileges, I freely execute this document and choose to take the actions described herein."

The form provided Dr. Brown with the choice to check Box 1 or Box 2. Dr. Brown checked Box 1, which stated:

> "In view of my alleged failure to comply with the Federal requirements pertaining to controlled substances privileges, and as an indication of my good faith in desiring to remedy any incorrect or unlawful practices on my part;"

Ms. Snyder stated that Box 2, which Dr. Brown did not check, stated the following:

> "In view of my desire to terminate handling of controlled substances listed in schedule(s) _____;"

Ms. Snyder stated that the DEA agent testified that all of the retiring physicians who choose to voluntarily surrender their license choose Box 2. When questioned in hearing why Dr. Brown chose Box 1, he replied that he did not recall.

Ms. Snyder requested that the Board adopt the Hearing Examiner's Proposed Order.

Dr. Madia moved to approve and confirm Ms. Petrucci's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Calvin Richard Brown, M.D. Dr. Steinbergh seconded the motion.

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

Dr. Steinbergh stated that she appreciated Dr. Brown's objections, but opined that Dr. Brown signed the form knowingly. Dr. Steinbergh speculated that the DEA approached Dr. Brown, perhaps with an allegation, and Dr. Brown chose to voluntarily surrender his DEA license to avoid proceedings. Dr. Steinbergh doubted that Dr. Brown signed the voluntary surrender form due to a desire to wind down his practice, although he may in fact have been winding down his practice at that time. Dr. Steinbergh felt that if that had been the case, Dr. Brown would have checked Box 2 and would have given an explanation of the reason for the surrender. Dr. Steinbergh noted the Dr. Brown had legal counsel present at the time.

Dr. Steinbergh noted that Dr. Brown's objections state that Dr. Brown "was in his late sixties when he signed the form in 2007. It is undisputed that the form contains numerous paragraphs of complex and technical legal writing." Dr. Steinbergh stated that she is not concerned that Dr. Brown was 69 years of age when he signed the form. Further, Dr. Steinbergh opined that the wording on the form was clear and not complex.

Dr. Steinbergh stated that she is respectful of Dr. Brown's years of service to the public. Therefore, Dr.

Steinbergh suggested an Alternative Order to the Proposed Order of revocation. The Alternative Order would stay the revocation and place Dr. Brown on an indefinite suspension. As a term for reinstatement, a monitoring physician would have to be in place, as well as a practice plan. Dr. Steinbergh stated that this would allow Dr. Brown to practice in any way he wished, including as a private-practice physician or as an employee of a facility.

Dr. Steinbergh stated that she wished to hear the opinions of other Board members before presenting the Alternative Order in the form of a Motion.

Dr. Stephens disagreed with Dr. Steinbergh's Alternative Order. Dr. Stephens observed that there is no evidence of any allegation against Dr. Brown. Dr. Stephens stated that oftentimes one's thinking can be muddled in the presence of Federal agents. Dr. Stephens stated that she understood why someone would be confused in such a situation and not know which box to check on the form. Dr. Stephens noted that Dr. Brown had never appeared before the Board for a disciplinary matter. Dr. Stephens also stated that the case of Brenda Banks, M.D., referenced by Ms. Snyder, was very different from Dr. Brown's case.

Dr. Stephens opined that Dr. Brown did not know what he was indicating on the form. Dr. Stephens also felt that it was reasonable for Dr. Brown to want to give up his DEA certificate at the end of his career, in order to prevent problems with others using his number.

Dr. Steinbergh reiterated the language of Box 1, checked by Dr. Brown: "In view of my alleged failure to comply…" Dr. Stephens replied that, when in the presence of an attorney, people do not necessarily read everything put before them, assuming that the attorney has reviewed it and is protecting them. Dr. Stephens speculated that perhaps Dr. Brown's attorney at that time was a poor attorney or had not read the document. Dr. Stephens stated that there are no facts or evidence in this case, only speculation that Dr. Brown had a problem with the DEA.

Dr. Steinbergh opined that Dr. Brown's signature on the voluntary surrender form is evidence that there was an allegation, most likely concerning Dr. Brown's prescribing habits. Dr. Steinbergh noted that, by signing the form, Dr. Brown stated that he desires "to remedy any incorrect or unlawful practices on my part."

Dr. Strafford noted that neither Dr. Brown's written objections nor his statement to the Board claim that Dr. Brown signed the wrong form or did not understand what he was signing. Dr. Stephens pointed out that, in paragraph five of the Report and Recommendation, Dr. Brown testified that he "thought he had the right to voluntarily give up his DEA certificate and that, by checking the first box on the form, he had done so."

Dr. Amato observed that the Board's primary responsibility is to protect the public. Dr. Amato stated that he partially agreed with both Dr. Steinbergh and Dr. Stephens. Dr. Amato supported Dr. Steinbergh's Alternative Order, which would allow Dr. Brown to continue to practice and to wind down his practice as quickly or as slowly as he wished, while a monitoring physician would act as a safeguard for the citizens in

case Dr. Brown did have a problem with the DEA in the past.

Dr. Steinbergh moved to amend the Proposed Order as follow:

It is hereby ORDERED, that:

A. **REVOCATION, STAYED; SUSPENSION:** The certificate of Calvin Richard Brown, M.D., to practice allopathic medicine and surgery in the State of Ohio shall be REVOKED. Such revocation is STAYED, and Dr. Brown's certificate shall be SUSPENDED for an indefinite period of time.

B. **CONDITIONS FOR REINSTATEMENT OR RESTORATION**: The Board shall not consider reinstatement or restoration of Dr. Brown's certificate to practice allopathic medicine and surgery until all of the following conditions have been met:

1. **Application for Reinstatement or Restoration**: Dr. Brown shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.

2. **Practice Plan**: At the time he applies for reinstatement or restoration, or as otherwise determined by the Board, Dr. Brown shall also submit to the Board and receive its approval for a plan of practice in Ohio.

   The practice plan, unless otherwise determined by the Board, shall be limited to a supervised structured environment in which Dr. Brown's activities will be directly supervised and overseen by a monitoring physician approved by the Board. The practice plan shall include provisions for the monitoring physician's review of Dr. Brown's charts. The chart review may be done on a random basis, with the frequency and number of charts reviewed to be determined by the Board.

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

   The Board, in its sole discretion, may disapprove any physician proposed to serve as Dr. Brown's monitoring physician.

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

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

1. **Obey the Law**: Dr. Brown shall obey all federal, state, and local laws, and all rules governing the practice of allopathic medicine and surgery in Ohio.

2. **Declarations of Compliance**: Dr. Brown shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which Dr. Brown's certificate is restored or reinstated. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

3. **Personal Appearances**: Dr. Brown shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which Dr. Brown's certificate is restored or reinstated, or as otherwise directed by the Board. Subsequent personal appearances shall occur every six months thereafter, and/or as otherwise directed by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

4. **Absences from Ohio**: Dr. Brown shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed. Further, the Secretary and Supervising Member of the Board shall have discretion to waive part or all of the monitoring terms set forth in this Order for occasional periods of absence of 14 days or

less.

5. **Practice Plan**: The approved monitoring physician shall monitor Dr. Brown and his medical practice, and shall review Dr. Brown's patient charts.

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

   In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Brown shall immediately so notify the Board in writing. In addition, Dr. Brown shall make arrangements acceptable to the Board for another monitoring physician within 30 days after the previously designated monitoring physician becomes unable or unwilling to serve, unless otherwise determined by the Board. Dr. Brown shall further ensure that the previously designated monitoring physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefor.

   The Board, in its sole discretion, may withdraw its approval of any physician previously approved to serve as Dr. Brown's monitoring physician, in the event that the Secretary and Supervising Member of the Board determine that any such monitoring physician has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

   Dr. Brown shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

6. **Required Reporting of Change in DEA Status**: In the event Dr. Brown is granted DEA registration to prescribe controlled substances prior to his release from probation, Dr Brown shall notify the Board in writing, within 30 days of the DEA's action .

7. **Controlled Substances Log**: In the event that Dr. Brown is granted DEA registration to prescribe controlled substances, Dr. Brown shall keep a log of all controlled substances he prescribes, orders, administers, or personally furnishes. Such log shall be submitted in a format of Dr. Brown's choosing and approved in advance by the Board. All such logs required under this

paragraph must be received in the Board's offices no later than the due date for Dr. Brown's declarations of compliance, or as otherwise directed by the Board. Further, Dr. Brown shall make his patient records with regard to such controlled substances available for review by an agent of the Board upon request.

8. **Tolling of Probationary Period While Out of Compliance**: In the event Dr. Brown is found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Order.

9. **Required Reporting of Change of Address**: Dr. Brown shall notify the Board in writing of any change of residence address and/or principal practice address within 30 days of the change.

10. **Modification of Terms**: Dr. Brown shall not request modification of the terms, conditions, or limitations of probation for at least twelve months after imposition of these probationary terms, conditions, and limitations.

D. **TERMINATION OF PROBATION**: Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Brown's certificate will be fully restored.

E. **VIOLATION OF THE TERMS OF THIS ORDER**: If Dr. Brown 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.

F. **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. Brown 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 healthcare center where he has privileges or appointments. Further, Dr. Brown 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. This requirement

shall continue until Dr. Brown receives from the Board written notification of the successful completion of his probation.

In the event that Dr. Brown provides any healthcare services or healthcare direction or medical oversight to any emergency medical services organization or emergency medical services provider in Ohio, within 30 days of the effective date of this Order, he shall provide a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services. This requirement shall continue until Dr. Brown receives from the Board written notification of the successful completion of his probation.

2. **Required Reporting to Other State Licensing Authorities**: Within 30 days of the effective date of this Order, Dr. Brown 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 through which he currently holds any license or certificate. Also, Dr. Brown shall provide a copy of this Order at the time of application to the proper licensing authority of any state, federal entity or agency, or jurisdiction in which he applies for any professional license or reinstatement/restoration of any professional license or DEA registration. This requirement shall continue until Dr. Brown receives from the Board written notification of the successful completion of his probation.

3. **Required Documentation of the Reporting Required by Paragraph F**: Dr. Brown shall provide this Board with one of the following documents as proof of each required notification within 30 days of the date of each such notification: (a) the return receipt of certified mail within 30 days of receiving that return receipt, (b) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Order was hand delivered, (c) 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 (d) 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.

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

Dr. Strafford seconded the motion.

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

Dr. Steinbergh stated that the Proposed Amendment would stay the revocation of Dr. Brown's medical

license and suspend it for an indefinite period of time. The conditions for reinstatement include having a practice plan in place and a monitoring physician.

Dr. Steinbergh stated that her goal with this Proposed Amendment is for the Board to agree to any practice plan Dr. Brown wished, so long as there is a monitoring physician in place to monitor his charts, the number and frequency of which will be determined by the Board once that is requested by Dr. Brown.

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

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

Dr. Steinbergh moved to approve and confirm, as amended, Ms. Petrucci's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Calvin Richard Brown, M.D. Dr. Strafford seconded the motion. A vote was taken:

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

CORRECTION TO NOTICE OF OPPORTUNITY FOR HEARING

January 14, 2010

Case Number: 09-CRF-127

Calvin Richard Brown, M.D.
4771 Autumn Leaves Dr.
Akron, OH 44333

Dear Doctor Brown:

It has come to my attention that the October 14, 2009 notice of opportunity for hearing issued to you by the State Medical Board of Ohio contained a non-substantive typographical error. Please note the following correction to the aforementioned notice, a copy of which is attached for your reference:

- In paragraph (1) substitute the date December 18, 2007, replacing December 18, 2008.

Pursuant to Rule 4731-13-17(H), Ohio Administrative Code, this correction to the notice of opportunity for hearing does not necessitate the issuance of an amended cite, and this letter does not supersede the original notice of opportunity for hearing. Accordingly, a new request for hearing is not necessary and this matter will proceed as currently scheduled.

Very truly yours,

Lance A. Talmage M.D.

Lance A. Talmage, M.D.
Secretary

LAT/MRB/rjm

CERTIFIED MAIL # 91 7108 2133 3936 3068 4959
RETURN RECEIPT REQUESTED

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

CERTIFIED MAIL # 91 7108 2133 3936 3068 4942
RETURN RECEIPT REQUESTED

State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
med.ohio.gov

October 14, 2009

Case number: 09-CRF- 127

Calvin Richard Brown, M.D.
4771 Autumn Leaves Dr.
Akron, OH 44333

Dear Doctor Brown:

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 December 18, 2008, you executed a Voluntary Surrender of Controlled Substances Privileges [Voluntary Surrender] to the U.S. Department of Justice – Drug Enforcement Administration, based on your alleged failure to comply with the Federal requirements pertaining to controlled substances, and as an indication to remedy any incorrect or unlawful practices on your part. A copy of the Voluntary Surrender is attached hereto and incorporated herein.

The Voluntary Surrender as alleged in paragraph (1) above, constitutes "[t]he revocation, suspension, restriction, reduction, or termination of clinical privileges by the United States department of defense or department of veterans affairs or the termination or suspension of a certificate of registration to prescribe drugs by the drug enforcement administration of the United States department of justice," as that clause is used in Section 4731.22(B)(24), 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,

Mailed 10-15-09

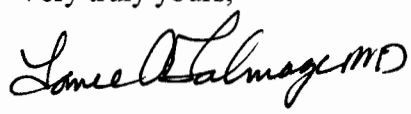
or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

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/MRB/flb
Enclosures

CERTIFIED MAIL #91 7108 2133 3936 3070 4275
RETURN RECEIPT REQUESTED

cc: James L. Burdon, Esq.
Burdon & Merlitti
137 South Main Street, Suite 201
The Delaware Building
Akron, OH 44308

CERTIFIED MAIL #91 7108 2133 3936 3070 4268
RETURN RECEIPT REQUESTED

U. S. Department of Justice - Drug Enforcement Administration

VOLUNTARY SURRENDER OF CONTROLLED SUBSTANCES PRIVILEGES

DEA USE ONLY
File No.

After being fully advised of my rights, and understanding that I am not required to surrender my controlled substances privileges, I freely execute this document and choose to take the actions described herein.

[X] In view of my alleged failure to comply with the Federal requirements pertaining to controlled substances, and as an indication of my good faith in desiring to remedy any incorrect or unlawful practices on my part;

[ ] In view of my desire to terminate handling of controlled substances listed in schedule(s) _____;

I hereby voluntarily surrender my Drug Enforcement Administration Certificate of Registration, unused order forms, and all my controlled substances listed in schedule(s) II-V as evidence of my agreement to relinquish my privilege to handle controlled substances listed in schedule(s) II-V. Further, I agree and consent that this document shall be authority for the Administrator of the Drug Enforcement Administration to terminate and revoke my registration without an order to show cause, a hearing, or any other proceedings, (and if not all controlled substances privileges are surrendered, be issued a new registration certificate limited to schedule(s) N/A).

I waive refund of any payments made by me in connection with my registration.

I understand that I will not be permitted to order, manufacture, distribute, possess, dispense, administer, prescribe, or engage in any other controlled substance activities whatever, until such time as I am again properly registered.

NAME OF REGISTRANT *(Print)*	ADDRESS OF REGISTRANT
Dr. Calvin Richard Brown MD	1655 West Market Street Suite L Akron, Ohio 44313
DEA REGISTRATION NO. AB7884794	

SIGNATURE OF REGISTRANT OR AUTHORIZED INDIVIDUAL	DATE
Calvin R. Brown	12-18-2007

WITNESSES:

NAME AND DATE	TITLE
Scott A. Brinks	Diversion Investigato
NAME AND DATE	TITLE
Jennifer Boyer Jennifer Boyer 12/18/2007	Special Agent

PRIVACY ACT

AUTHORITY: Section 301 of the Controlled Substances Act of 1970 (PL 91-513).
PURPOSE: Permit voluntary surrender of controlled substances.
ROUTINE USES: The Controlled Substances Act Registration Records produces special reports as required for statistical analytical purposes. Disclosures of information from this system are made to the following categories of users for the purposes stated:
A. Other Federal law enforcement and regulatory agencies for law enforcement and regulatory purposes.
B. State and local law enforcement and regulatory agencies for law enforcement and regulatory purposes.
C. Persons registered under the Controlled Substances Act (Public Law 91-513) for the purpose of verifying the registration of customers and practitioners.
EFFECT: Failure to provide the information will have no effect on the individual.