

State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.
Executive Director

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June 9, 2010

Tamyra Lee Mouginis, M.D.
7225 S. Fulton Lucas Road
Swanton, OH 43558

RE: Case No. 09-CRF-133

Dear Dr. Mouginis:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of R. Gregory Porter, Esq., Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on June 9, 2010, including motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

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

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

THE STATE MEDICAL BOARD OF OHIO



Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

CERTIFIED MAIL NO. 91 7108 2133 3936 3114 1093
RETURN RECEIPT REQUESTED

Cc: Stephen B. Yurik, Esq.
CERTIFIED MAIL NO. 91 7108 2133 3936 3114 1109
RETURN RECEIPT REQUESTED

Mailed 6-10-10

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of R. Gregory Porter, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on June 9, 2010, including motions approving and confirming the Findings of Fact, Conclusions and Proposed Order of the Hearing Examiner as the Findings and Order of the State Medical Board of Ohio; constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Tamyra Lee Mouginis, M.D., Case No. 09-CRF-133, as it appears in the Journal of the State Medical Board of Ohio.

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



Lance A. Talmage, M.D.
Secretary

(SEAL)

June 9, 2010

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

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CASE NO. 09-CRF-133

TAMYRA LEE MOUGINIS, M.D.

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ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on June 9, 2010.

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

It is hereby ORDERED that:

- A. **SUSPENSION OF CERTIFICATE:** The certificate of Dr. Mouginis, to practice medicine and surgery in the State of Ohio shall be **SUSPENDED** for an indefinite period of time.
- B. **INTERIM MONITORING:** During the period that Dr. Mouginis' certificate to practice medicine and surgery in Ohio is suspended, Dr. Mouginis shall comply with the following terms, conditions, and limitations:
 - 1. **Obey the Law:** Dr. Mouginis shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.
 - 2. **Declarations of Compliance:** Dr. Mouginis 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 this Order becomes effective. 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. Mouginis shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which this Order becomes effective, or as otherwise directed by the Board. Subsequent personal appearances shall occur every three 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. **Sobriety**
 - a. **Abstention from Drugs:** Dr. Mouginis shall abstain completely from the personal use or personal possession of drugs, except those prescribed, dispensed, or administered to her by another so authorized by law who has full knowledge of Dr. Mouginis' history of chemical dependency and/or abuse and who may lawfully prescribe for her (for example, a physician who is not a family member). Further, in the event that Dr. Mouginis is so prescribed, dispensed, or administered any controlled substance, carisoprodol, or tramadol, Dr. Mouginis shall notify the Board in writing within seven days, providing the Board with the identity of the prescriber, the name of the drug Dr. Mouginis received, the medical purpose for which she received the drug, the date the drug was initially received, and the dosage, amount, number of refills, and directions for use. Further, within 30 days of the date said drug is so prescribed, dispensed, or administered to her, Dr. Mouginis shall provide the Board with either a copy of the written prescription or other written verification from the prescriber, including the dosage, amount, number of refills, and directions for use.

 - b. **Abstention from Alcohol:** Dr. Mouginis shall abstain completely from the use of alcohol.

5. **Drug and Alcohol Screens; Drug Testing Facility and Collection Site**
 - a. Dr. Mouginis shall submit to random urine screenings for drugs and alcohol at least four times per month, or as otherwise directed by the Board. Dr. Mouginis shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis. The drug-testing panel utilized must be acceptable to the Secretary of the Board, and shall include Dr. Mouginis' drug(s) of choice.

 - b. Dr. Mouginis shall submit, at her expense and on the day selected, urine specimens for drug and/or alcohol analysis. (The term "toxicology screen" is also be used herein for "urine screen" and/or "drug screen.")

All specimens submitted by Dr. Mouginis shall be negative, except for those substances prescribed, administered, or dispensed to her in conformance with the terms, conditions and limitations set forth in this Order.

Refusal to submit such specimen, or failure to submit such specimen on the day she is selected or in such manner as the Board may request, shall constitute a violation of this Order.

- c. Dr. Mouginis shall abstain from the use of any substance that may produce a positive result on a toxicology screen, including the consumption of poppy seeds or other food or liquid that may produce a positive result on a toxicology screen.

Dr. Mouginis shall be held to an understanding and knowledge that the consumption or use of various substances, including but not limited to mouthwashes, hand-cleaning gels, and cough syrups, may cause a positive toxicology screen, and that unintentional ingestion of a substance is not distinguishable from intentional ingestion on a toxicology screen, and that, therefore, consumption or use of substances that may produce a positive result on a toxicology screen is prohibited under this Order.

- d. All urine screenings for drugs and alcohol shall be conducted through a Board-approved drug-testing facility and Board-approved collection site pursuant to the global contract between the approved facility and the Board, which provides for the Board to maintain ultimate control over the urine-screening process and to preserve the confidentiality of positive screening results in accordance with Section 4731.22(F)(5), Ohio Revised Code. The screening process for random testing shall require a daily call-in procedure. Further, in the event that the Board exercises its discretion, as provided in Paragraph B.6, below, to approve urine screenings to be conducted at an alternative drug-testing facility, collection site, and/or supervising physician, such approval shall be expressly contingent upon the Board's retaining ultimate control over the urine-screening process in a manner that preserves the confidentiality of positive screening results.
- e. Within 30 days of the effective date of this Order, Dr. Mouginis shall enter into the necessary financial and/or contractual arrangements with the Board-approved drug-testing facility and/or collection site ("DFCS") in order to facilitate the screening process in the manner required by this Order.

Further, within 30 days of making such arrangements, Dr. Mouginis shall provide to the Board written documentation of completion of such arrangements, including a copy of any contract entered into between Dr. Mouginis and the Board-approved DFCS. Dr. Mouginis' failure to timely complete such arrangements, or failure to timely provide written documentation to the Board of completion of such arrangements, shall constitute a violation of this Order.

- f. Dr. Mouginis shall ensure that the urine-screening process performed through the Board-approved DFCS requires a daily call-in procedure, that the urine specimens are obtained on a random basis, and that the giving of the specimen is witnessed by a reliable person.

In addition, Dr. Mouginis and the Board-approved DFCS shall ensure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening result.

- g. Dr. Mouginis shall ensure that the Board-approved DFCS provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Order, and whether all urine screens have been negative.
- h. In the event that the Board-approved DFCS becomes unable or unwilling to serve as required by this Order, Dr. Mouginis shall immediately notify the Board in writing, and make arrangements acceptable to the Board, pursuant to Paragraph B.6, below, as soon as practicable. Dr. Mouginis shall further ensure that the Board-approved DFCS also notifies the Board directly of its inability to continue to serve and the reasons therefor.
- i. The Board, in its sole discretion, may withdraw its approval of any DFCS in the event that the Secretary and Supervising Member of the Board determine that the DFCS has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

- 6. **Alternative Drug-testing Facility and/or Collection Site:** It is the intent of this Order that Dr. Mouginis shall submit urine specimens to the Board-approved DFCS chosen by the Board. However, in the event that using the Board-approved DFCS creates an extraordinary hardship on

Dr. Mouginis, as determined in the sole discretion of the Board, then, subject to the following requirements, the Board may approve an alternative DFCS or a supervising physician to facilitate the urine-screening process for Dr. Mouginis.

- a. Within 30 days of the date on which Dr. Mouginis is notified of the Board's determination that utilizing the Board-approved DFCS constitutes an extraordinary hardship on Dr. Mouginis, she shall submit to the Board in writing for its prior approval the identity of either an alternative DFCS or the name of a proposed supervising physician to whom Dr. Mouginis shall submit the required urine specimens.

In approving a facility, entity, or an individual to serve in this capacity, the Board will give preference to a facility located near Dr. Mouginis' residence or employment location, or to a physician who practices in the same locale as Dr. Mouginis. Dr. Mouginis shall ensure that the urine-screening process performed through the alternative DFCS or through the supervising physician requires a daily call-in procedure, that the urine specimens are obtained on a random basis, and that the giving of the specimen is witnessed by a reliable person. In addition, Dr. Mouginis shall ensure that the alternative DFCS or the supervising physician maintains appropriate control over the specimen and immediately informs the Board of any positive screening result.

- b. Dr. Mouginis shall ensure that the alternative DFCS or the supervising physician provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Order, and whether all urine screens have been negative.
- c. In the event that the designated alternative DFCS or the supervising physician becomes unable or unwilling to so serve, Dr. Mouginis shall immediately notify the Board in writing. Dr. Mouginis shall further ensure that the previously designated alternative DFCS or the supervising physician also notifies the Board directly of the inability to continue to serve and the reasons therefor. Further, in the event that the approved alternative DFCS or supervising physician becomes unable to serve, Dr. Mouginis shall, in order to ensure that there will be no interruption in her urine-screening process, immediately commence urine screening at the Board-approved DFCS chosen by the Board, until such time, if any, that the Board approves a different DFCS or supervising physician, if requested by Dr. Mouginis.

- d. The Board, in its sole discretion, may disapprove any entity or facility proposed to serve as Dr. Mouginis' designated alternative DFCS or any person proposed to serve as her supervising physician, or may withdraw its approval of any entity, facility or person previously approved to so serve in the event that the Secretary and Supervising Member of the Board determine that any such entity, facility or person has demonstrated a lack of cooperation in providing information to the Board or for any other reason.
7. **Reports Regarding Drug and Alcohol Screens:** All screening reports required under this Order from the Board-approved DFCS, the alternative DFCS and/or supervising physician must be received in the Board's offices no later than the due date for Dr. Mouginis' declarations of compliance. It is Dr. Mouginis' responsibility to ensure that reports are timely submitted.
8. **Additional Screening Without Prior Notice:** Upon the Board's request and without prior notice, Dr. Mouginis shall provide a specimen of her blood, breath, saliva, urine, and/or hair for screening for drugs and alcohol, for analysis of therapeutic levels of medications that may be prescribed for Dr. Mouginis, or for any other purpose, at Dr. Mouginis' expense. Dr. Mouginis' refusal to submit a specimen upon the request of the Board shall result in a minimum of one year of actual license suspension. Further, the collection of such specimens shall be witnessed by a representative of the Board, or another person acceptable to the Secretary and Supervising Member of the Board.
9. **Rehabilitation Program:** Dr. Mouginis shall undertake and maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., or C.A., no less than three times per week, or as otherwise ordered by the Board. Substitution of any other specific program must receive prior Board approval.

Dr. Mouginis shall submit acceptable documentary evidence of continuing compliance with this program, including submission to the Board of meeting attendance logs, which must be received in the Board's offices no later than the due date for Dr. Mouginis' declarations of compliance.

10. **Comply with the Terms of Aftercare Contract:** Dr. Mouginis shall maintain continued compliance with the terms of the aftercare contract(s) entered into with her treatment provider(s), provided that, where terms of an aftercare contract conflict with terms of this Order, the terms of this Order shall control.

11. **Releases:** Dr. Mouginis shall provide authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Dr. Mouginis' chemical dependency and/or related conditions, or for purposes of complying with this Order, whether such treatment or evaluation occurred before or after the effective date of this Order. To the extent permitted by law, the above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43, Ohio Revised Code, and are confidential pursuant to statute.

Dr. Mouginis shall also provide the Board written consent permitting any treatment provider from whom she obtains treatment to notify the Board in the event Dr. Mouginis fails to agree to or comply with any treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Order.

12. **Absences from Ohio:** Dr. Mouginis shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the suspension/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.

In the event that Dr. Mouginis resides and/or is employed at a location that is within 50 miles of the geographic border of Ohio and a contiguous state, Dr. Mouginis may travel between Ohio and that contiguous state without seeking prior approval of the Secretary or Supervising Member provided that Dr. Mouginis is otherwise able to maintain full compliance with all other terms, conditions and limitations set forth in this Order.

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

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

1. **Application for Reinstatement or Restoration:** Dr. Mouginis shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
2. **Compliance with Interim Conditions:** Dr. Mouginis shall have maintained compliance with all the terms and conditions set forth in Paragraph B of this Order.
3. **Demonstration of Ability to Resume Practice:** Dr. Mouginis shall demonstrate to the satisfaction of the Board that she can practice in compliance with acceptable and prevailing standards of care. Such demonstration shall include but shall not be limited to the following:
 - a. Certification from a treatment provider approved under Section 4731.25, Ohio Revised Code, that Dr. Mouginis has successfully completed a minimum of 28 days of inpatient/residential treatment for chemical dependency/abuse at a treatment provider approved by the Board.
 - b. Evidence of continuing full compliance with an aftercare contract with a treatment provider approved under Section 4731.25, Ohio Revised Code. Such evidence shall include, but shall not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with Rule 4731-16-10, Ohio Administrative Code.
 - c. Evidence of continuing full compliance with this Order.
 - d. Two written reports indicating that Dr. Mouginis' ability to practice has been assessed and that she has been found capable of practicing according to acceptable and prevailing standards of care, with respect to chemical dependency/abuse.

The reports shall have been made by physicians knowledgeable in the area of addictionology and who are either affiliated with a current Board-approved treatment provider or otherwise have been approved in advance by the Board to provide an assessment of Dr. Mouginis. Further, the two aforementioned physicians shall not be affiliated with the same treatment provider or medical group practice. Prior to the assessments, Dr. Mouginis shall provide the assessors with copies of patient records from any evaluation and/or treatment that she has received, and a copy of this Order. The reports of the assessors shall include any recommendations for treatment, monitoring, or supervision of Dr. Mouginis, and any conditions, restrictions, or limitations that should be imposed on

Dr. Mouginis' practice. The reports shall also describe the basis for the assessor's determinations.

All reports required pursuant to this paragraph shall be based upon examinations occurring within the three months immediately preceding any application for reinstatement or restoration. Further, at the discretion of the Secretary and Supervising Member of the Board, the Board may request an updated assessment and report if the Secretary and Supervising Member determine that such updated assessment and report is warranted for any reason.

4. **Additional Evidence of Fitness To Resume Practice**: In the event that Dr. Mouginis has not been engaged in the active practice of 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 her fitness to resume practice.

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

1. **Terms, Conditions, and Limitations Continued from Suspension Period**: Dr. Mouginis shall continue to be subject to the terms, conditions, and limitations specified in Paragraph B of this Order.
2. **Personal/Professional Ethics Course(s)**: Before the end of the first year of probation, or as otherwise approved by the Board, Dr. Mouginis shall submit acceptable documentation of successful completion of a course or courses dealing with personal/professional ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any course(s) taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.

In addition, at the time Dr. Mouginis submits the documentation of successful completion of the course(s) dealing with personal/professional ethics, she shall also submit to the Board a written report describing the course(s), setting forth what she learned from the course(s), and identifying with specificity how she will apply what she has learned to her practice of medicine in the future.

3. **Controlled Substances Log [Including Disposal]**: Dr. Mouginis shall keep a log of all controlled substances prescribed, administered, or

personally furnished. Moreover, Dr. Mouginis shall dispose of all excess or unused controlled substances properly, and shall assure that such disposal is witnessed and countersigned by a person who is permitted under State law to administer controlled substances and who is employed by or has privileges in the hospital or institution in which Dr. Mouginis is practicing. The witness shall sign the controlled substance log indicating that Dr. Mouginis has properly disposed of any excess or unused controlled substance.

Such log shall be submitted in a format of Dr. Mouginis' 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. Mouginis' declarations of compliance, or as otherwise directed by the Board. Further, Dr. Mouginis shall make her patient records with regard to such prescribing, dispensing, or administering available for review by an agent of the Board upon request.

4. **Tolling of Probationary Period While Out of Compliance:** In the event Dr. Mouginis 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.

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

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

G. **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. Mouginis shall provide a copy of this Order to all employers or entities with which she 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 she has privileges or appointments. Further, Dr. Mouginis shall promptly provide a copy of this Order to all employers or entities with which she 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

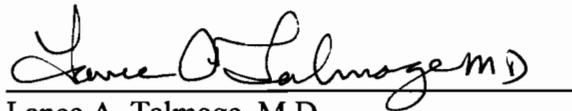
center where she applies for or obtains privileges or appointments. This requirement shall continue until Dr. Mouginis receives from the Board written notification of the successful completion of her probation.

In the event that Dr. Mouginis 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, she 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. Mouginis receives from the Board written notification of the successful completion of her probation.

2. **Required Reporting to Other State Licensing Authorities:** Within 30 days of the effective date of this Order, Dr. Mouginis shall provide a copy of this Order to the proper licensing authority of any state or jurisdiction in which she currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which she currently holds any license or certificate. Also, Dr. Mouginis shall provide a copy of this Order at the time of application to the proper licensing authority of any state or jurisdiction in which she applies for any professional license or reinstatement/restoration of any professional license. This requirement shall continue until Dr. Mouginis receives from the Board written notification of the successful completion of her probation.
3. **Required Reporting to Treatment Providers/Monitors:** Within 30 days of the effective date of this Order, Dr. Mouginis shall provide a copy of this Order to all persons and entities that provide chemical dependency/abuse treatment to or monitoring of Dr. Mouginis. This requirement shall continue until Dr. Mouginis receives from the Board written notification of the successful completion of her probation.
4. **Required Documentation of the Reporting Required by Paragraph G:** Dr. Mouginis 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.

(SEAL)



Lance A. Talmage, M.D.
Secretary

June 9, 2010

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

2010 MAY -7 PM 5: 06

In the Matter of

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Case No. 09-CRF-133

Tamyra Lee Mouginis, M.D.,

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Hearing Examiner Porter

Respondent.

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REPORT AND RECOMMENDATION

Basis for Hearing

In a Notice of Summary Suspension and Opportunity for Hearing dated October 14, 2009, the State Medical Board of Ohio [Board] notified Tamyra Lee Mouginis, M.D., that, pursuant to Section 4731.22(G), Ohio Revised Code, the Board had adopted an Entry of Order summarily suspending her certificate to practice allopathic medicine and surgery in Ohio. The Board further advised that continued practice would be considered practicing without a certificate, in violation of Section 4731.41, Ohio Revised Code. Moreover, the Board notified Dr. Mouginis that it intended to determine whether to take disciplinary action against her certificate based on the following allegations:

- impairment of ability to practice due to abuse or dependency upon alcohol and/or drugs, in violation of Section 4731.22(B)(26), Ohio Revised Code;
- false statements made on applications for renewal of her Ohio certificate, in violation of Section 4731.22(B)(5), Ohio Revised Code; and/or,
- action taken by the Iowa Board of Medicine against her certificate to practice medicine in that state, in violation of Section 4731.22(B)(22), Ohio Revised Code. (State's Exhibit [St. Ex.] 1A)

Finally, the Board advised Dr. Mouginis of her right to request a hearing in this matter, and received her written request on November 12, 2009. (St. Exs. 1A, 1B)

Appearances

Richard Cordray, Attorney General, and Kyle C. Wilcox, Assistant Attorney General, for the State of Ohio. Stephen B. Yurik, Esq., for Dr. Mouginis.

Hearing Date: April 7, 2010

PROCEDURAL MATTER

The Hearing Record was briefly held open at the Respondent's request in order to admit an additional exhibit to the record. That exhibit was received by the Hearing Examiner later on the same day as the hearing, as marked Respondent's Exhibit G and admitted to the hearing record

without objection from the State. The Hearing Examiner also redacted a Social Security number from Respondent's Exhibit G *sua sponte*. The hearing record closed on April 7, 2010.

SUMMARY OF THE EVIDENCE

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

Background

1. Tamyra Lee Mouginis, M.D., obtained her medical degree in 1988 from the Case Western Reserve University School of Medicine in Cleveland, Ohio. From 1988 through 1991 she participated in a residency in internal medicine at University Hospitals of Cleveland, and from 1991 through 1993 she participated in a residency in anesthesiology at Johns Hopkins Hospital [Johns Hopkins] in Baltimore, Maryland. Dr. Mouginis testified that the last six months of her anesthesiology residency "was a fellowship in open heart anesthesia where [she] did adult and pediatric cardiac anesthesia." Dr. Mouginis was certified in internal medicine by the American Board of Internal Medicine in 1991, which she allowed to expire in 2001, and was certified in anesthesiology by the American Board of Anesthesiology in 1996. (Hearing Transcript [Tr.] at 19-22; Respondent's Exhibit [Resp. Ex.] F)

Dr. Mouginis' educational background and work history are more fully described in her curriculum vitae and hearing testimony. (Tr. at 20-29; Resp. Ex. F)

2. Dr. Mouginis holds a current license to practice medicine in Ohio, which is summarily suspended pending the outcome of this matter. Dr. Mouginis previously held medical licenses in Maryland, Illinois, and Iowa, but allowed them to expire. Dr. Mouginis testified that she has always maintained her Ohio license because Ohio is her home state. (Tr. at 19-20)
3. Dr. Mouginis testified that she had been exposed to drug use as a child: "My mother used a lot of—they weren't benzodiazepines then, whatever they were, phenobarbital or whatever, because she had stomach ulcers." (Tr. at 30) Dr. Mouginis first drank alcohol as a teenager but did not like it at that time. She also started using recreational drugs during her teen years "like most people in the '60s did," and primarily used amphetamines because they helped her "stay up all night studying" when she went to college. Dr. Mouginis testified that she quit using amphetamines when she was 22 years old because they were adversely affecting her health. (Tr. at 30) After she quit using amphetamines, she did not abuse drugs or alcohol again until her residency at Johns Hopkins in 1991:

It started because of exhaustion where I would come home and I was just—you know, we would work these ungodly shifts. Much harder than the medicine residency at Case was, much, much, much harder.

I would come home and I'd be, like, you know, adrenaline like this (indicating), and I knew I had to sleep. If I didn't sleep, I wouldn't be able to do tomorrow's 30-hour shift. So I would drink wine, and it became habitual and I became an alcoholic.

(Tr. at 31)

4. Dr. Mouginis testified that she remained in denial of her alcoholism for many years. (Tr. at 31)

Dr. Mouginis' DUI Arrest and Treatment for Alcohol Dependence

5. In 1998, Dr. Mouginis was charged and convicted of Driving Under the Influence [DUI] of Drugs or Alcohol [DUI] in Northbrook, Illinois. In 1999, she entered a nighttime treatment program at Highland Park Hospital in Highland Park, Illinois, where she was diagnosed with alcoholism. (Tr. at 32-33; St. Ex. 12 at 5, 17)
6. Dr. Mouginis testified that she last consumed alcohol on September 26, 1999. (Tr. at 33)

Dr. Mouginis' Marijuana Dependency and Treatment

7. Dr. Mouginis testified that, about one year after she quit drinking alcohol, she began smoking marijuana. Dr. Mouginis testified that her addictionologist referred to her marijuana use as a "skip addiction" or substitute addiction. Dr. Mouginis also began smoking cigarettes at that time. Dr. Mouginis testified concerning her marijuana use:

I think I really minimized the impact of marijuana in my life. I mean, it seems so much less intrusive. I don't know if that's the right word, but it seemed a lot less intrusive than alcohol did.

* * *

So I didn't put, you know, the same level of diligence on avoiding it like I did alcohol. To me alcohol was the devil, and this was not so much of a devil.

* * *

* * * I had some friends that smoked, I have some family members that do. I would often smoke alone at night to, again, relax myself to go to sleep.

(Tr. at 34-35)

8. Medical records from Rush Behavioral Health Center¹ in Downer's Grove, Illinois, indicate that, in 2003, Dr. Mouginis was diagnosed with marijuana dependence and alcohol

¹ Rush behavioral Health Care is now known as Resurrection Health Care. (Tr. at 44-45)

dependence. The records further indicate that Dr. Mouginis had voluntarily submitted to evaluation and treatment, but that she was a difficult patient and her prognosis at the conclusion of her treatment was only fair. (St. Ex. 11; Tr. at 140)

9. Dr. Mouginis testified that, in 2007, her marijuana use dramatically increased when her mother was stricken with cancer. Dr. Mouginis testified that she had visited her mother in Cleveland every other day and, when not visiting her mother, had smoked marijuana all day. Her mother passed away in April 2008. (Tr. at 35-36)
10. Dr. Mouginis testified that, after her mother passed away in 1998, she returned to work doing *locum tenens* assignments, and continued to use marijuana in the evening during her off-duty hours. (Tr. at 37-38; St. Ex. 8 at 11)

Dr. Mouginis' Iowa Arrest

11. In June 2008, Dr. Mouginis was working at a *locum tenens* assignment in Waterloo, Iowa, and was staying in a hotel. One night after work, she was smoking marijuana in her hotel room as she read a magazine. There was a knock at the door. She answered, and it was the police. Dr. Mouginis testified that she was placed under arrest, charged with possession of marijuana and drug paraphernalia, and held overnight in a jail cell. She got out the next morning, but because she had been unable to get to a phone to call her work site prior to her start time, she was fired from her assignment. (Tr. at 38-40; St. Ex. 12 at 17)

Treatment at Arrowhead Behavioral Health

12. From September 9 through November 4, 2008, Dr. Mouginis participated in intensive outpatient treatment at Arrowhead Behavioral Health in Maumee, Ohio, for marijuana dependence. The medical records indicate that the court had required Dr. Mouginis to obtain an assessment in connection with her marijuana possession charge in Iowa. (St. Ex. 9 at 15-35)
13. During her treatment at Arrowhead, a toxicology screen was performed on a specimen provided on October 13, 2008. The report states that it tested positive for "cannabinoids, THC." (St. Ex. 9 at 95)
14. With respect to the positive urine screen at Arrowhead, Dr. Mouginis testified that she had been admitted to Arrowhead on September 9, 2008, and that she had stopped using marijuana about one week before she entered that program and has never used it since. Dr. Mouginis further testified that that had been the only toxicology screened performed at that Arrowhead, and that she wishes that they had followed up with other screens "because it's been causing [her] a lot of grief that they did not[.]" (Tr. at 141)

Evaluation at Resurrection Health Care

15. From January 12 through 15, 2009, Dr. Mouginis was evaluated at Resurrection Health Care based on a referral from the Iowa Board of Medicine. She was diagnosed with,

among other things: (a) alcohol dependence, in remission, and (b) cannabis dependence, in partial remission. (St. Ex. 8 at 3-9)

Consent Agreement with the Iowa Board of Medicine

16. On April 2, 2009, Dr. Mouginis and the Iowa Board of Medicine entered into a Settlement Agreement based upon Dr. Mouginis having engaged in substance abuse in violation of the laws and rules governing the practice of medicine in Iowa. The Settlement Agreement prohibits Dr. Mouginis from engaging in any aspect of the practice of medicine prior to receiving approval from the Iowa Board. If such approval to practice medicine is given, Dr. Mouginis is to be placed on probation subject to conditions including monitoring and counseling. (St. Ex. 2)
17. Dr. Mouginis' Iowa license expired on June 1, 2009. (St. Ex. 12 at 18)

Ohio Board Order to Seventy-Two Hour Inpatient Examination at Shepherd Hill Hospital

18. In a letter dated July 28, 2009, the Board notified Dr. Mouginis that it had reason to believe that she is impaired in her ability to practice medicine and surgery according to acceptable and prevailing standards of care due to: (a) "mental illness or physical illness," in violation of Section 4731.22(B)(19), Ohio Revised Code; and/or, (b) "habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice," in violation of Section 4731.22(B)(26), Ohio Revised Code. The Board further ordered Dr. Mouginis to undergo a 72-hour inpatient examination at Shepherd Hill Hospital [Shepherd Hill], a Board-approved treatment provider in Newark, Ohio, to determine if she is in violation of Sections 4731.22(B)(19) and/or (26), Ohio Revised Code. Finally, the Board advised Dr. Mouginis of the reasons for its order.² (St. Ex. 3)

² Specifically, the Board's July 28, 2009, letter stated:

- (1) On or about April 2, 2009, the Iowa Board of Medicine [Iowa Board] approved a Settlement Agreement to which you were a party wherein you were cited for engaging in substance abuse in violation of the laws and rules governing the practice of medicine in Iowa. The Iowa Board prohibited you from engaging in any aspect of the practice of medicine prior to receiving approval from the Iowa Board. If approval to practice medicine was given, you would be placed on probation subject to conditions including monitoring and counseling. The facts set forth in the Settlement Agreement include the following:
 - (a) In or about 1996 [sic], you were charged and convicted of driving under the influence of drugs or alcohol in Northbrook, Illinois.
 - (b) On or about June 18, 2008, you were arrested and charged with possession of marijuana and possession of drug paraphernalia in Waterloo, Iowa.
- (2) Your history of alcohol and drug use includes initial consumption of alcohol and of smoking marijuana at age fourteen, and at times used these substances daily. You indicated that you stopped consuming alcohol in or about September 1999. You stated that between 2003 and 2008, your use of marijuana was sporadic until in or about January 2008, when your mother was diagnosed with lung cancer, and at that point you began smoking marijuana daily. In or about June 2008, you were arrested and placed in jail for possession of marijuana and

19. Dr. Mouginis testified that the psychiatric issues referenced in the Board's July 28, 2009, letter were in part the results of a hepatitis C infection contracted from the numerous needle sticks she sustained from years of practicing as an anesthesiologist. She testified that she was placed on interferon and Ribavirin to treat hepatitis C, and that those medications had caused debilitating neuropsychiatric side effects. Dr. Mouginis testified that she had previously been taking Prozac due to "garden variety" depression and that lithium was added to treat the side effects. Dr. Mouginis testified that she has continued to take lithium and Prozac for ten years since she was treated for hepatitis C. (Tr. at 46-51)

Dr. Mouginis submitted a printout of the information contained in the package insert for Roferon-A (interferon). The information includes numerous warnings of serious side effects. (Resp. Ex. D)

Board-Ordered Examination at Shepherd Hill Hospital

20. Dr. Mouginis submitted to the 72-hour examination as ordered by the Board, which took place from September 8 through 11, 2009, at Shepherd Hill. In a letter to Board staff dated September 11, 2009, Richard N. Whitney, M.D., Medical Director of Addiction Services at Shepherd Hill, advised that he had diagnosed Dr. Mouginis with Alcohol Dependence, in

possession of drug paraphernalia. Because of your incarceration, you did not show up for work at your locum tenens assignment in Waterloo, Iowa, and as a consequence you were terminated from that position.

With respect to diagnoses related to chemical dependency or abuse, your history includes the following:

- (a) In or about 1999, at Marcy Friedman Highland Park Hospital, Highland Park, Illinois, you were diagnosed with alcoholism and were treated with Antabuse.
- (b) In or about 2003, at Rush Behavioral Health, also known as Resurrection Health Care, Downers Grove, Illinois, you were diagnosed with marijuana addiction.
- (c) In or about 2008, at Arrowhead Behavioral Health, Maumee, Ohio, [Arrowhead] you were diagnosed with marijuana dependence.

You were treated for marijuana dependence at Arrowhead on an outpatient basis from in or about September 9, 2008, through in or about November 11, 2008. On or about October 13, 2008, a drug screen taken during your treatment at Arrowhead returned positive for cannabinoids and THC. In information you provided to the Board, you stated that you last used marijuana on or about September 15, 2008.

- (3) You further indicated that you carry a diagnosis of major depression in remission and post-traumatic stress disorder. You have been prescribed medication including Prozac, Lithium, Zyprexa, Trazadone, Imipramine, and Buspar. You have experienced suicidal ideation without attempts, auditory hallucinations in the form of music, and paranoid ideations. On one occasion one of your treatment providers recorded a diagnosis of bipolar disorder, mixed, severe with psychotic features.

remission, and Cannabis Dependence, status uncertain. Dr. Whitney further advised that Dr. Mouginis is impaired in her ability to practice medicine according to acceptable and prevailing standards of care. (St. Ex. 6) Dr. Whitney further wrote:

I recommend that [Dr. Mouginis] complete treatment at a Board-approved treatment program, as well as complete a Board-approved Aftercare program and appropriate monitoring to document sustained chemical abstinence. We provided her a list of [Board-approved] treatment programs as well as the Medical Board requirement that she be admitted to an approved treatment facility within 48 hours of her diagnosis and recommendations.

(St. Ex. 6)

21. Dr. Whitney further advised in his letter that Dr. Mouginis had been evaluated by a psychiatrist for impairment due to mental illness. The psychiatrist found that “Dr. Mouginis’ symptoms have been adequately treated to allow her to safely practice medicine[.]” Moreover, Dr. Whitney stated that, following psychological testing, there were “no clinical diagnoses requiring additional treatment.” Furthermore, Dr. Whitney stated that laboratory evaluation “indicated no ongoing medical problems or indication of organ damage from alcohol or mood-altering drugs.” (St. Ex. 6)

Testimony of Dr. Whitney

22. Dr. Whitney testified concerning his diagnosis of alcohol dependence, in remission:

[A]lcohol dependence, of course, means the patient is biologically incapable of successfully metabolizing alcohol.

After that diagnosis is made, patients are recommended to never consume alcohol again because the chances of them losing control over the use of alcohol are extremely high.

In remission means that I have evidence to support the conclusion that no current alcohol consumption is ongoing and has not been ongoing for a period of approximately one year or greater.

The evidence that we were able to collect during that period of time that Dr. Mouginis was on our campus was that there was no suggestion or evidence to support use of alcohol after her initial treatment in 1999.

(Tr. at 82-83)

23. Dr. Whitney further testified concerning his diagnoses of cannabis dependence, status uncertain:

[W]e had evidence to support this diagnosis. Dr. Mouginis acknowledged her diagnosis and treatment for cannabis dependence, which is synonymous with

cannabis addiction. Her most recent treatment following a relapse to cannabis use was at Arrowhead Behavioral Health [in 2008] as an outpatient.

Now, at that time Arrowhead was not a Board-approved facility, and the Medical Practices Act of Ohio requires a minimum of 28 days inpatient or residential treatment for a diagnosis of active addiction. When I reviewed the records from Arrowhead, the last urine drug screen that I could find in the records was still positive for marijuana.

Subsequent to that, I had no evidence of ongoing monitoring or ongoing urine drug screening to document that she had not been using any mood-altering chemicals, including marijuana. I had no evidence that she did, but I had no documentation that she had not; therefore, [I] was uncertain and unable to conclude whether she had been abstinent for that period of time since she left Arrowhead or not.

(Tr. at 83-84)

24. Further, with respect to the “status uncertain” qualification on Dr. Mouginis’ diagnosis of cannabis dependence, Dr. Whitney testified:

Without sustained after care, without sustained documented 12-step meetings, and without periodic random drug screens, there was nothing I could rely upon to substantially support a diagnosis of remission. That’s why I said status uncertain.

(Tr. at 97)

25. Dr. Whitney testified that it is his understanding that, since her evaluation at Shepherd Hill, Dr. Mouginis has successfully completed 28 days of inpatient treatment at the Cleveland Clinic. Dr. Whitney further testified: “Dr. Greg Collins was her attending physician, who is a highly qualified, very well-respected physician in the field. If he has indicated that she has successfully completed the recommended course of treatment, then I would accept that without question. (Tr. at 87)
26. With regard to whether Dr. Mouginis is ready to return to practice, having completed treatment, Dr. Whitney testified that some physicians are ready to return to practice immediately “if they show a good attitude during treatment, a positive attitude toward recovery, and a willingness to comply with recommendations.” Dr. Whitney further testified that other patients “are poorly compliant, they’re resistant to treatment, they still have a lot of vestiges of denial, minimization, rationalization of their chemical use and are at higher risk of relapse[.]” Dr. Whitney indicated that Shepherd Hill would recommend that such patients remain out of practice for a time period ranging from 30 days to one year. (Tr. at 88)

With respect to a specific recommendation for Dr. Mouginis, Dr. Whitney testified:

My general answer would be to defer to Dr. Collins and his treatment team, since they had the most recent contact with Dr. Mouginis. I would defer to [Dr. Collins] and his team to make specific recommendations as to how long a period of time before she should return to medical practice.

(Tr. at 89)

Pressed further for a recommendation concerning Dr. Mouginis, Dr. Whitney responded:

My concern specifically with Dr. Mouginis is that she has not complied in the past with recommended treatment and monitoring, that she specifically was given written recommendations at Resurrection in January of 2009. She did not comply with those recommendations. She's had no ongoing monitoring at all.

My concern is that that demonstrates a lack of willingness to comply with treatment recommendations. Personally, all other things are on the table.

But personally my best guess right now is I would recommend a patient like this having just completed treatment at Shepherd Hill be off medical practice for no less than 60 days so we can have clear documentation of continued negative drug screens, compliance and attendance at after care on a regular basis, regular documented attendance at 12-step meetings, and then a reassessment at 60 days for another recommendation and determination with whether medical practice is advisable at that time. That would mean a total of 90 days sobriety, one month in treatment, two months after treatment, and then a reassessment at that time to determine whether medical practice is advisable.

(Tr. at 89-90)

27. Finally, Dr. Whitney recommended that Dr. Mouginis continue to follow up with her mental health professional and receive appropriate medications.³ (Tr. at 91-92)

Treatment at CCAT

28. On September 13, 2009, Dr. Mouginis entered treatment at the Center for Chemical Addiction Treatment [CCAT] in Cincinnati, Ohio, to complete the 28 days of inpatient

³ In *Krain v. State Medical Board of Ohio*, the Franklin County Court of Appeals stated, “[T]he Board cannot require psychiatric treatment as a condition of probation when it had not charged a physician with being mentally impaired.” *Lawrence S. Krain, M.D. v. State Medical Board of Ohio* (Oct. 29, 1998), Franklin App. No. 97APE08-981, unreported, citing *In re Eastway* (1994), 95 Ohio App.3d 516, 642 N.E.2d 1135. In Dr. Mouginis’ case, there is no allegation that she is mentally impaired. Accordingly, in the absence of a waiver of her right to object on this basis, the Board cannot order Dr. Mouginis to seek or continue psychiatric treatment.

treatment necessitated by the Shepherd Hill finding of impairment. However, she left treatment early on September 30, 2009, due to a family emergency. (St. Ex. 7)

29. Dr. Mouginis testified that she had left treatment at CCAT to assist her daughter, who had required surgery following a severe gall bladder attack. Her daughter has two very young children and needed someone to care for them. Dr. Mouginis testified that she had been aware when she left CCAT that she would have to start her treatment over again and that leaving the program early could potentially jeopardize her medical license. However, Dr. Mouginis testified, "I said, well, you know, so be it. I can't leave a four month old and a two year old home alone." (Tr. at 52-55)
30. Dr. Mouginis testified that she had never received *inpatient* treatment for substance abuse/dependency prior to entering the treatment program at CCAT in 2009. (Tr. at 55-56)

Testimony of Molly B. Landek

31. Molly Birk Landek testified that she is Dr. Mouginis' daughter. Ms. Landek lives in Munster, Indiana. Ms. Landek corroborated Dr. Mouginis' testimony concerning her reason for leaving treatment at CCAT. (Tr. at 151, 157-159)

Treatment at the Alcohol and Drug Recovery Center of the Cleveland Clinic Foundation

32. Dr. Mouginis testified that, after she returned from helping her daughter, she had contacted various Board-approved treatment providers to find one she could afford. She stated that the Cleveland Clinic Foundation accepted her as a "charity case." (Tr. at 55)
33. Medical records from the Alcohol and Drug Recovery Center at the Cleveland Clinic Foundation indicate that Dr. Mouginis had been admitted to treatment on January 28, 2010, and was discharged on February 25, 2010. Her principal diagnosis was marijuana dependence and alcohol dependence, "[a]bstinent from both for over 2 years." (Resp. Ex. A)

Testimony of Dr. Collins

34. Gregory B. Collins, M.D., testified that he is the Section Head of the Alcohol and Drug Recovery Center [Center] at the Cleveland Clinic Foundation. Dr. Collins further testified that the Center is a Board-approved treatment provider. (Tr. at 123-124; Resp. Ex. A)

Dr. Collins stated that Dr. Mouginis did well in her treatment program. He noted that she was honest and forthcoming concerning her history and was an active, involved patient. Dr. Collins further noted that Dr. Mouginis successfully completed the program. (Tr. at 124-127)

35. Dr. Collins further testified that, when Dr. Mouginis entered treatment, she claimed that she had been abstinent for nearly two years, and showed no clinical signs of withdrawal from marijuana or alcohol; therefore, the detoxification phase of treatment was skipped. (Tr. at 129)

36. Dr. Collins testified that several toxicology screens were performed during Dr. Mouginis' treatment and all yielded negative results. (Tr. at 128-129)
37. Based upon his impression of Dr. Mouginis formed during her treatment, Dr. Collins testified that he believes that Dr. Mouginis' prognosis is good. (Tr. at 127-128)
38. Dr. Collins opined that Dr. Mouginis is "fully capable of practicing according to acceptable and prevailing standards of care," and that it is safe for her to return to medical practice. Dr. Collins recommended aftercare, toxicology monitoring, and participation in 12-step recovery meetings three times per week. Dr. Collins also recommended that she continue to see her mental-health professional and take her psychiatric medications as directed.⁴ (Tr. at 130-137)

Testimony of Dr. Mouginis Concerning Aftercare

39. Dr. Mouginis testified that, following her discharge from the Center, she entered into a Board-approved aftercare program at Arrowhead Behavioral Health in Maumee, Ohio. Dr. Mouginis further testified that she attends aftercare every Monday night, and submits to weekly urine screens. Moreover, she testified that she attends three AA meetings per week, and that she has a sponsor. (Tr. at 65, 71)

Dr. Mouginis testified that her weekly urine screens are "not exactly random because they're every Monday night, but * * * that was what was agreed between Danielle Bickers and Arrowhead. That's what I do." (Tr. at 71)

Dr. Mouginis' 2000 and 2004 Applications for Renewal of her Ohio Medical License

40. On February 5, 2000, Dr. Mouginis signed and caused to be submitted to the Board her renewal application due on April 1, 2000. In that application, Dr. Mouginis answered "No" to question 3, which asked:

At any time since signing your last application for renewal of your certificate have you:

* * *

Been addicted to or dependent upon alcohol or any chemical substance; or been treated for, or been diagnosed as suffering from, drug or alcohol dependency or abuse? You may answer "no" to this question if you have successfully completed treatment at a program approved by this board and have subsequently adhered to all statutory requirements as contained in

⁴ With respect to Dr. Collins' last recommendation, please refer to Footnote 3.

sections 4731.224 and 4731.25, O.R.C., and related provisions, or you are currently enrolled in a board approved program.

(St. Ex. 4)

41. Subsequently, on May 9, 2004, Dr. Mouginis signed and caused to be submitted to the Board her renewal application due on April 1, 2004, wherein she answered “No” to question 2, which asked:

[At any time since signing your last] application for renewal of your certificate:

* * *

Have you been addicted to or dependent upon alcohol or any chemical substance; or been treated for, or been diagnosed as suffering from, drug or alcohol dependency or abuse? **You may answer “NO” to this question** if you have successfully completed treatment at, or are currently enrolled in, a program approved by this Board and have adhered to all statutory requirements during and subsequent to treatment. You must answer “YES” if you have ever relapsed. * * *

(St. Ex. 5; emphasis in original)

42. Dr. Mouginis acknowledged that she should have answered “Yes” to question 3 on her 2000 renewal application, and to question 2 on her 2004 renewal application. However, Dr. Mouginis testified that she had thought that she could answer “No” because her alcohol and marijuana use had not affected her work. She explained that she had been working for Abbott Laboratories at the time, and “if the drug abuse problem does not occur during your work hours, it does not—your treatment of that problem and the fact that you have that problem is never reported to Human Resources.” When she reported her chemical abuse to the employee assistance program, they had arranged for her to go on disability without impact on her career. All that Abbott Laboratories knew was that she had needed to be out sick. Dr. Mouginis testified that she had had that mindset when she filled out the two renewal application. (Tr. at 58-60)

Additional Information

43. Dr. Mouginis’ curriculum vitae indicates that she last practiced medicine in November 2008. (Resp. Ex. F at 3)
44. Dr. Mouginis testified that her sobriety date for alcohol is September 26, 1999, and that her sobriety date for marijuana is September 1, 2008. (Tr. at 150)
45. Dr. Mouginis testified that she has never had a claim of substandard medical care brought against her. (Tr. at 144)

46. Dr. Mouginis testified that she has never abused narcotics. Dr. Mouginis further testified that she has never abused her position as an anesthesiologist to obtain medication for self-use. (Tr. at 72, 143)
47. Dr. Mouginis testified that she would like to resume her practice as an anesthesiologist “[i]mmmediately.” (Tr. at 144)
48. Dr. Mouginis testified that, prior to the Board’s summary suspension of her license, she had signed a contract with an anesthesiology group in Youngstown, Ohio, and was in the process of credentialing. She further testified that that ended when her license was suspended, but that she has stayed in contact with the group. She noted that that employment opportunity may still be open to her. In addition, Dr. Mouginis testified that she would also like to consider practices closer to her home. (Tr. at 144-145)
49. Dr. Mouginis testified that, having been out of work for a while, her financial situation is “abysmal. I have experienced poverty in America.” She further testified that her house is in foreclosure, she no longer has health insurance, and she cannot afford to address her own medical needs. She is selling her furniture and pawning jewelry to make ends meet. She testified that she feels very isolated because she sits in her house alone all day, and she cannot afford to go anywhere or do anything: “I’d like to get out and be with people, but I don’t dare because what if I run out of money and I can’t afford to drive to AA then.” Dr. Mouginis testified, “Every parameter of my life is depressed with the exception of my spirituality.” (Tr. at 145-149)

FINDINGS OF FACT

1. In a letter dated July 28, 2009, the Board notified Tamyra Lee Mouginis, M.D., that it had reason to believe that she is impaired in her ability to practice medicine and surgery according to acceptable and prevailing standards of care due to: (a) “mental illness or physical illness,” in violation of Section 4731.22(B)(19), Ohio Revised Code; and/or, (b) “habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice,” in violation of Section 4731.22(B)(26), Ohio Revised Code. The Board further ordered Dr. Mouginis to undergo a 72-hour inpatient examination at Shepherd Hill Hospital, a Board-approved treatment provider in Newark, Ohio, to determine if she is in violation of Sections 4731.22(B)(19) and/or (26), Ohio Revised Code. The Board based its order upon one or more of the reasons outlined in the letter, which stated as follows:
 - (1) On or about April 2, 2009, the Iowa Board of Medicine [Iowa Board] approved a Settlement Agreement to which you were a party wherein you were cited for engaging in substance abuse in violation of the laws and rules governing the practice of medicine in Iowa. The Iowa Board prohibited you from engaging in any aspect of the practice of medicine prior to receiving approval from the Iowa Board. If approval to practice

medicine was given, you would be placed on probation subject to conditions including monitoring and counseling. The facts set forth in the Settlement Agreement include the following:

- (a) In or about 1996 [sic], you were charged and convicted of driving under the influence of drugs or alcohol in Northbrook, Illinois.
 - (b) On or about June 18, 2008, you were arrested and charged with possession of marijuana and possession of drug paraphernalia in Waterloo, Iowa.
- (2) Your history of alcohol and drug use includes initial consumption of alcohol and of smoking marijuana at age fourteen, and at times used these substances daily. You indicated that you stopped consuming alcohol in or about September 1999. You stated that between 2003 and 2008, your use of marijuana was sporadic until in or about January 2008, when your mother was diagnosed with lung cancer, and at that point you began smoking marijuana daily. In or about June 2008, you were arrested and placed in jail for possession of marijuana and possession of drug paraphernalia. Because of your incarceration, you did not show up for work at your locum tenens assignment in Waterloo, Iowa, and as a consequence you were terminated from that position.

With respect to diagnoses related to chemical dependency or abuse, your history includes the following:

- (a) In or about 1999, at * * * Highland Park Hospital, Highland Park, Illinois, you were diagnosed with alcoholism and were treated with Antabuse.
- (b) In or about 2003, at Rush Behavioral Health, also known as Resurrection Health Care, Downers Grove, Illinois, you were diagnosed with marijuana addiction.
- (c) In or about 2008, at Arrowhead Behavioral Health, Maumee, Ohio, [Arrowhead] you were diagnosed with marijuana dependence.

You were treated for marijuana dependence at Arrowhead on an outpatient basis from in or about September 9, 2008, through in or about November 11, 2008. On or about October 13, 2008, a drug screen taken during your treatment at Arrowhead returned positive for cannabinoids and THC. In information you provided to the Board, you stated that you last used marijuana on or about September 15, 2008.

- (3) You further indicated that you carry a diagnosis of major depression in remission and post-traumatic stress disorder. You have been prescribed medication including Prozac, Lithium, Zyprexa, Trazadone, Imipramine, and Buspar. You have experienced suicidal ideation without attempts, auditory hallucinations in the form of music, and paranoid ideations. On one occasion one of your treatment providers recorded a diagnosis of bipolar disorder, mixed, severe with psychotic features.
2. Dr. Mouginis submitted to the 72-hour examination as ordered by the Board, which took place from September 8 through 11, 2009, at Shepherd Hill Hospital. In a letter to Board staff dated September 11, 2009, Richard N. Whitney, M.D., Medical Director of Addiction Services at Shepherd Hill Hospital, advised that Dr. Mouginis is impaired in her ability to practice medicine according to acceptable and prevailing standards of care due to diagnoses of alcohol dependence, in remission, and cannabis dependence, status uncertain. However, Dr. Whitney further advised that that Dr. Mouginis is not impaired in her ability to practice due to mental or physical illness.
3. On September 13, 2009, Dr. Mouginis entered treatment at the Center for Chemical Addiction Treatment, a Board-approved treatment provider in Cincinnati, Ohio, to complete 28 days of inpatient treatment. However, she left treatment on September 30, 2009, due to a family emergency without completing the required treatment or entering into an aftercare contract with a Board-approved treatment provider.
4. On February 5, 2000, Dr. Mouginis signed and caused to be submitted to the Board her renewal application due on April 1, 2000. In that application, Dr. Mouginis answered "No" to question 3, which asked:

At any time since signing your last application for renewal of your certificate have you:

* * *

Been addicted to or dependent upon alcohol or any chemical substance; or been treated for, or been diagnosed as suffering from, drug or alcohol dependency or abuse? You may answer "no" to this question if you have successfully completed treatment at a program approved by this board and have subsequently adhered to all statutory requirements as contained in sections 4731.224 and 4731.25, O.R.C., and related provisions, or you are currently enrolled in a board approved program.

In fact, Dr. Mouginis had been diagnosis with alcoholism in 1999 at Highland Park Hospital in Highland Park, Illinois.

5. On May 9, 2004, Dr. Mouginis signed and caused to be submitted to the Board her renewal application due on April 1, 2004, wherein she answered "No" to question 2, which asked:

At any time since signing your last application for renewal of your certificate:

* * *

Have you been addicted to or dependent upon alcohol or any chemical substance; or been treated for, or been diagnosed as suffering from, drug or alcohol dependency or abuse? **You may answer “NO” to this question** if you have successfully completed treatment at, or are currently enrolled in, a program approved by this Board and have adhered to all statutory requirements during and subsequent to treatment. You must answer “YES” if you have ever relapsed. * * *

In fact, Dr. Mouginis was diagnosed with marijuana dependence in 2003 at Rush Behavioral Health Center (now known as Resurrection Health Care) in Downer’s Grove, Illinois.

6. On April 2, 2009, Dr. Mouginis and the Iowa Board of Medicine entered into a Settlement Agreement based upon Dr. Mouginis having engaged in substance abuse in violation of the laws and rules governing the practice of medicine in Iowa. The Settlement Agreement prohibits Dr. Mouginis from engaging in any aspect of the practice of medicine prior to receiving approval from the Iowa Board. If such approval to practice medicine is given, Dr. Mouginis is to be placed on probation subject to conditions including monitoring and counseling.

CONCLUSIONS OF LAW

1. The acts, conduct, and/or omissions of Tamyra Lee Mouginis, M.D., as set forth in Findings of Fact 2 through 6, individually and/or collectively, constitute “[i]mpairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice,” as that clause is used in Section 4731.22(B)(26), Ohio Revised Code.
2. Dr. Mouginis’ acts, conduct, and/or omissions as set forth in Findings of Fact 4 and 5, 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, podiatric medicine and surgery, 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.
3. The Settlement Agreement between Dr. Mouginis and the Iowa Board of Medicine as set forth in Finding of Fact 6 constitutes “[a]ny of the following actions taken by the agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or the limited branches of medicine in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual’s license to practice; acceptance of an individual’s license

surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand,” as that clause is used in Section 4731.22(B)(22), Ohio Revised Code.

RATIONALE FOR THE PROPOSED ORDER

Dr. Mouginis attended a 72-hour examination at Shepherd Hill Hospital to determine whether she is impaired in her ability to practice medicine. Following the evaluation, Dr. Whitney advised that Dr. Mouginis suffers from alcohol dependence and marijuana dependence, and that she is impaired in her ability to practice medicine as a result. With respect to Dr. Mouginis’ ability to resume practice, Dr. Whitney opined that Dr. Mouginis should not return to practice until 60 days following her treatment, but deferred to Dr. Collins’ recommendation, who had treated Dr. Mouginis following her examination at Shepherd Hill Hospital. Dr. Collins testified that it is safe for Dr. Mouginis to resume medical practice, subject to monitoring to ensure her continued recovery. In any case, by the time the Board considers this matter, more than three months will have passed since Dr. Mouginis completed treatment in February 2010.

The Proposed Order would suspend Dr. Mouginis’ certificate for an indefinite period of time, as required by Rule 4731-16-02(C), Ohio Administrative Code, and includes conditions for reinstatement or restoration, and probationary terms. No minimum term is specified, and it is anticipated that Dr. Mouginis can return to practice as soon as she documents her ability to resume practice as set forth in the reinstatement requirements, files an application for reinstatement, and receives the Board’s written approval of that application. Further, in the Hearing Examiner’s view, if Dr. Mouginis were to seek reinstatement of her certificate within three months of April 7, 2010, Dr. Collins’ April 7, 2010, testimony could be accepted as one of the required assessments finding her capable of practicing.

In addition to the impairment issues, the evidence indicates that Dr. Mouginis provided false answers on applications to renew her Ohio license in 2000 and 2004. To address that issue, the Proposed Order would require Dr. Mouginis to document completion of a course or courses concerning personal and professional ethics.

Finally, no additional action is recommended concerning the Settlement Agreement between Dr. Mouginis and the Iowa Board of Medicine, inasmuch as that action was based upon Dr. Mouginis’ substance abuse.

PROPOSED ORDER

It is hereby ORDERED that:

- A. **SUSPENSION OF CERTIFICATE:** The certificate of Dr. Mouginis, to practice medicine and surgery in the State of Ohio shall be **SUSPENDED** for an indefinite period of time.

- B. **INTERIM MONITORING:** During the period that Dr. Mouginis' certificate to practice medicine and surgery in Ohio is suspended, Dr. Mouginis shall comply with the following terms, conditions, and limitations:
1. **Obey the Law:** Dr. Mouginis shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.
 2. **Declarations of Compliance:** Dr. Mouginis 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 this Order becomes effective. 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. Mouginis shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which this Order becomes effective, or as otherwise directed by the Board. Subsequent personal appearances shall occur every three 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. **Sobriety**
 - a. **Abstention from Drugs:** Dr. Mouginis shall abstain completely from the personal use or personal possession of drugs, except those prescribed, dispensed, or administered to her by another so authorized by law who has full knowledge of Dr. Mouginis' history of chemical dependency and/or abuse and who may lawfully prescribe for her (for example, a physician who is not a family member). Further, in the event that Dr. Mouginis is so prescribed, dispensed, or administered any controlled substance, carisoprodol, or tramadol, Dr. Mouginis shall notify the Board in writing within seven days, providing the Board with the identity of the prescriber, the name of the drug Dr. Mouginis received, the medical purpose for which she received the drug, the date the drug was initially received, and the dosage, amount, number of refills, and directions for use. Further, within 30 days of the date said drug is so prescribed, dispensed, or administered to her, Dr. Mouginis shall provide the Board with either a copy of the written prescription or other written verification from the prescriber, including the dosage, amount, number of refills, and directions for use.
 - b. **Abstention from Alcohol:** Dr. Mouginis shall abstain completely from the use of alcohol.

5. **Drug and Alcohol Screens; Drug Testing Facility and Collection Site**

- a. Dr. Mouginis shall submit to random urine screenings for drugs and alcohol at least four times per month, or as otherwise directed by the Board. Dr. Mouginis shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis. The drug-testing panel utilized must be acceptable to the Secretary of the Board, and shall include Dr. Mouginis' drug(s) of choice.
- b. Dr. Mouginis shall submit, at her expense and on the day selected, urine specimens for drug and/or alcohol analysis. (The term "toxicology screen" is also be used herein for "urine screen" and/or "drug screen.")

All specimens submitted by Dr. Mouginis shall be negative, except for those substances prescribed, administered, or dispensed to her in conformance with the terms, conditions and limitations set forth in this Order.

Refusal to submit such specimen, or failure to submit such specimen on the day she is selected or in such manner as the Board may request, shall constitute a violation of this Order.

- c. Dr. Mouginis shall abstain from the use of any substance that may produce a positive result on a toxicology screen, including the consumption of poppy seeds or other food or liquid that may produce a positive result on a toxicology screen.

Dr. Mouginis shall be held to an understanding and knowledge that the consumption or use of various substances, including but not limited to mouthwashes, hand-cleaning gels, and cough syrups, may cause a positive toxicology screen, and that unintentional ingestion of a substance is not distinguishable from intentional ingestion on a toxicology screen, and that, therefore, consumption or use of substances that may produce a positive result on a toxicology screen is prohibited under this Order.

- d. All urine screenings for drugs and alcohol shall be conducted through a Board-approved drug-testing facility and Board-approved collection site pursuant to the global contract between the approved facility and the Board, which provides for the Board to maintain ultimate control over the urine-screening process and to preserve the confidentiality of positive screening results in accordance with Section 4731.22(F)(5), Ohio Revised Code. The screening process for random testing shall require a daily call-in procedure. Further, in the event that the Board exercises its discretion, as provided in Paragraph B.6, below, to approve urine screenings to be conducted at an alternative drug-testing facility, collection site, and/or supervising physician, such approval shall be expressly contingent upon the Board's retaining ultimate control over the urine-screening process in a manner that preserves the confidentiality of positive screening results.

- e. Within 30 days of the effective date of this Order, Dr. Mouginis shall enter into the necessary financial and/or contractual arrangements with the Board-approved drug-testing facility and/or collection site (“DFCS”) in order to facilitate the screening process in the manner required by this Order.

Further, within 30 days of making such arrangements, Dr. Mouginis shall provide to the Board written documentation of completion of such arrangements, including a copy of any contract entered into between Dr. Mouginis and the Board-approved DFCS. Dr. Mouginis’ failure to timely complete such arrangements, or failure to timely provide written documentation to the Board of completion of such arrangements, shall constitute a violation of this Order.

- f. Dr. Mouginis shall ensure that the urine-screening process performed through the Board-approved DFCS requires a daily call-in procedure, that the urine specimens are obtained on a random basis, and that the giving of the specimen is witnessed by a reliable person.

In addition, Dr. Mouginis and the Board-approved DFCS shall ensure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening result.

- g. Dr. Mouginis shall ensure that the Board-approved DFCS provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Order, and whether all urine screens have been negative.
- h. In the event that the Board-approved DFCS becomes unable or unwilling to serve as required by this Order, Dr. Mouginis shall immediately notify the Board in writing, and make arrangements acceptable to the Board, pursuant to Paragraph B.6, below, as soon as practicable. Dr. Mouginis shall further ensure that the Board-approved DFCS also notifies the Board directly of its inability to continue to serve and the reasons therefor.
- i. The Board, in its sole discretion, may withdraw its approval of any DFCS in the event that the Secretary and Supervising Member of the Board determine that the DFCS has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

- 6. **Alternative Drug-testing Facility and/or Collection Site:** It is the intent of this Order that Dr. Mouginis shall submit urine specimens to the Board-approved DFCS chosen by the Board. However, in the event that using the Board-approved DFCS creates an extraordinary hardship on Dr. Mouginis, as determined in the sole discretion of the Board, then, subject to the following requirements, the Board may

approve an alternative DFCS or a supervising physician to facilitate the urine-screening process for Dr. Mouginis.

- a. Within 30 days of the date on which Dr. Mouginis is notified of the Board's determination that utilizing the Board-approved DFCS constitutes an extraordinary hardship on Dr. Mouginis, she shall submit to the Board in writing for its prior approval the identity of either an alternative DFCS or the name of a proposed supervising physician to whom Dr. Mouginis shall submit the required urine specimens.

In approving a facility, entity, or an individual to serve in this capacity, the Board will give preference to a facility located near Dr. Mouginis' residence or employment location, or to a physician who practices in the same locale as Dr. Mouginis. Dr. Mouginis shall ensure that the urine-screening process performed through the alternative DFCS or through the supervising physician requires a daily call-in procedure, that the urine specimens are obtained on a random basis, and that the giving of the specimen is witnessed by a reliable person. In addition, Dr. Mouginis shall ensure that the alternative DFCS or the supervising physician maintains appropriate control over the specimen and immediately informs the Board of any positive screening result.

- b. Dr. Mouginis shall ensure that the alternative DFCS or the supervising physician provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Order, and whether all urine screens have been negative.
- c. In the event that the designated alternative DFCS or the supervising physician becomes unable or unwilling to so serve, Dr. Mouginis shall immediately notify the Board in writing. Dr. Mouginis shall further ensure that the previously designated alternative DFCS or the supervising physician also notifies the Board directly of the inability to continue to serve and the reasons therefor. Further, in the event that the approved alternative DFCS or supervising physician becomes unable to serve, Dr. Mouginis shall, in order to ensure that there will be no interruption in her urine-screening process, immediately commence urine screening at the Board-approved DFCS chosen by the Board, until such time, if any, that the Board approves a different DFCS or supervising physician, if requested by Dr. Mouginis.
- d. The Board, in its sole discretion, may disapprove any entity or facility proposed to serve as Dr. Mouginis' designated alternative DFCS or any person proposed to serve as her supervising physician, or may withdraw its approval of any entity, facility or person previously approved to so serve in the event that the Secretary and Supervising Member of the Board determine that any such entity, facility or person has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

7. **Reports Regarding Drug and Alcohol Screens:** All screening reports required under this Order from the Board-approved DFCS, the alternative DFCS and/or supervising physician must be received in the Board's offices no later than the due date for Dr. Mouginis' declarations of compliance. It is Dr. Mouginis' responsibility to ensure that reports are timely submitted.
8. **Additional Screening Without Prior Notice:** Upon the Board's request and without prior notice, Dr. Mouginis shall provide a specimen of her blood, breath, saliva, urine, and/or hair for screening for drugs and alcohol, for analysis of therapeutic levels of medications that may be prescribed for Dr. Mouginis, or for any other purpose, at Dr. Mouginis' expense. Dr. Mouginis' refusal to submit a specimen upon the request of the Board shall result in a minimum of one year of actual license suspension. Further, the collection of such specimens shall be witnessed by a representative of the Board, or another person acceptable to the Secretary and Supervising Member of the Board.
9. **Rehabilitation Program:** Dr. Mouginis shall undertake and maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., or C.A., no less than three times per week, or as otherwise ordered by the Board. Substitution of any other specific program must receive prior Board approval.

Dr. Mouginis shall submit acceptable documentary evidence of continuing compliance with this program, including submission to the Board of meeting attendance logs, which must be received in the Board's offices no later than the due date for Dr. Mouginis' declarations of compliance.

10. **Comply with the Terms of Aftercare Contract:** Dr. Mouginis shall maintain continued compliance with the terms of the aftercare contract(s) entered into with her treatment provider(s), provided that, where terms of an aftercare contract conflict with terms of this Order, the terms of this Order shall control.
11. **Releases:** Dr. Mouginis shall provide authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Dr. Mouginis' chemical dependency and/or related conditions, or for purposes of complying with this Order, whether such treatment or evaluation occurred before or after the effective date of this Order. To the extent permitted by law, the above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43, Ohio Revised Code, and are confidential pursuant to statute.

Dr. Mouginis shall also provide the Board written consent permitting any treatment provider from whom she obtains treatment to notify the Board in the event Dr. Mouginis fails to agree to or comply with any treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Order.

12. **Absences from Ohio:** Dr. Mouginis shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the suspension/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.

In the event that Dr. Mouginis resides and/or is employed at a location that is within 50 miles of the geographic border of Ohio and a contiguous state, Dr. Mouginis may travel between Ohio and that contiguous state without seeking prior approval of the Secretary or Supervising Member provided that Dr. Mouginis is otherwise able to maintain full compliance with all other terms, conditions and limitations set forth in this Order.

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

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

1. **Application for Reinstatement or Restoration:** Dr. Mouginis shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
2. **Compliance with Interim Conditions:** Dr. Mouginis shall have maintained compliance with all the terms and conditions set forth in Paragraph B of this Order.
3. **Demonstration of Ability to Resume Practice:** Dr. Mouginis shall demonstrate to the satisfaction of the Board that she can practice in compliance with acceptable and prevailing standards of care. Such demonstration shall include but shall not be limited to the following:
 - a. Certification from a treatment provider approved under Section 4731.25, Ohio Revised Code, that Dr. Mouginis has successfully completed a minimum of 28 days of inpatient/residential treatment for chemical dependency/abuse at a treatment provider approved by the Board.
 - b. Evidence of continuing full compliance with an aftercare contract with a treatment provider approved under Section 4731.25, Ohio Revised Code. Such evidence shall include, but shall not be limited to, a copy of the signed aftercare

contract. The aftercare contract must comply with Rule 4731-16-10, Ohio Administrative Code.

- c. Evidence of continuing full compliance with this Order.
- d. Two written reports indicating that Dr. Mouginis' ability to practice has been assessed and that she has been found capable of practicing according to acceptable and prevailing standards of care, with respect to chemical dependency/abuse.

The reports shall have been made by physicians knowledgeable in the area of addictionology and who are either affiliated with a current Board-approved treatment provider or otherwise have been approved in advance by the Board to provide an assessment of Dr. Mouginis. Further, the two aforementioned physicians shall not be affiliated with the same treatment provider or medical group practice. Prior to the assessments, Dr. Mouginis shall provide the assessors with copies of patient records from any evaluation and/or treatment that she has received, and a copy of this Order. The reports of the assessors shall include any recommendations for treatment, monitoring, or supervision of Dr. Mouginis, and any conditions, restrictions, or limitations that should be imposed on Dr. Mouginis' practice. The reports shall also describe the basis for the assessor's determinations.

All reports required pursuant to this paragraph shall be based upon examinations occurring within the three months immediately preceding any application for reinstatement or restoration. Further, at the discretion of the Secretary and Supervising Member of the Board, the Board may request an updated assessment and report if the Secretary and Supervising Member determine that such updated assessment and report is warranted for any reason.

- 4. **Additional Evidence of Fitness To Resume Practice:** In the event that Dr. Mouginis has not been engaged in the active practice of 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 her fitness to resume practice.

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

- 1. **Terms, Conditions, and Limitations Continued from Suspension Period:** Dr. Mouginis shall continue to be subject to the terms, conditions, and limitations specified in Paragraph B of this Order.

2. **Personal/Professional Ethics Course(s)**: Before the end of the first year of probation, or as otherwise approved by the Board, Dr. Mouginis shall submit acceptable documentation of successful completion of a course or courses dealing with personal/professional ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any course(s) taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.

In addition, at the time Dr. Mouginis submits the documentation of successful completion of the course(s) dealing with personal/professional ethics, she shall also submit to the Board a written report describing the course(s), setting forth what she learned from the course(s), and identifying with specificity how she will apply what she has learned to her practice of medicine in the future.

3. **Controlled Substances Log [Including Disposal]**: Dr. Mouginis shall keep a log of all controlled substances prescribed, administered, or personally furnished. Moreover, Dr. Mouginis shall dispose of all excess or unused controlled substances properly, and shall assure that such disposal is witnessed and countersigned by a person who is permitted under State law to administer controlled substances and who is employed by or has privileges in the hospital or institution in which Dr. Mouginis is practicing. The witness shall sign the controlled substance log indicating that Dr. Mouginis has properly disposed of any excess or unused controlled substance.

Such log shall be submitted in a format of Dr. Mouginis' 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. Mouginis' declarations of compliance, or as otherwise directed by the Board. Further, Dr. Mouginis shall make her patient records with regard to such prescribing, dispensing, or administering available for review by an agent of the Board upon request.

4. **Tolling of Probationary Period While Out of Compliance**: In the event Dr. Mouginis 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.
- E. **TERMINATION OF PROBATION**: Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Mouginis' certificate will be fully restored.
 - F. **VIOLATION OF THE TERMS OF THIS ORDER**: If Dr. Mouginis violates the terms of this Order in any respect, the Board, after giving her notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of her certificate.

G. 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. Mouginis shall provide a copy of this Order to all employers or entities with which she 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 she has privileges or appointments. Further, Dr. Mouginis shall promptly provide a copy of this Order to all employers or entities with which she 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 she applies for or obtains privileges or appointments. This requirement shall continue until Dr. Mouginis receives from the Board written notification of the successful completion of her probation.

In the event that Dr. Mouginis 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, she 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. Mouginis receives from the Board written notification of the successful completion of her probation.

2. **Required Reporting to Other State Licensing Authorities:** Within 30 days of the effective date of this Order, Dr. Mouginis shall provide a copy of this Order to the proper licensing authority of any state or jurisdiction in which she currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which she currently holds any license or certificate. Also, Dr. Mouginis shall provide a copy of this Order at the time of application to the proper licensing authority of any state or jurisdiction in which she applies for any professional license or reinstatement/restoration of any professional license. This requirement shall continue until Dr. Mouginis receives from the Board written notification of the successful completion of her probation.
3. **Required Reporting to Treatment Providers/Monitors:** Within 30 days of the effective date of this Order, Dr. Mouginis shall provide a copy of this Order to all persons and entities that provide chemical dependency/abuse treatment to or monitoring of Dr. Mouginis. This requirement shall continue until Dr. Mouginis receives from the Board written notification of the successful completion of her probation.
4. **Required Documentation of the Reporting Required by Paragraph G:** Dr. Mouginis 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.

A handwritten signature in black ink, appearing to read 'R. Gregory Porter', written over a horizontal line.

R. Gregory Porter
Hearing Examiner

State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.
Executive Director

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EXCERPT FROM THE DRAFT MINUTES OF JUNE 9, 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 and Proposed Orders, and any objections filed in the matters of: Sheila Annette Barnes, M.D.; Raquel Grant-Venable, P.A.; John Mark Hatheway, M.D.; and Tamyra Lee Mouginis, 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
	Dr. Madia	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- 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
	Dr. Madia	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Dr. Ramprasad	- aye

Dr. Amato noted that, in accordance with the provision in Section 4731.22(F)(2), Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in

further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of these matters. They may, however, participate in the matter of Ms. Grant-Venable, as that case is not disciplinary in nature and concerns only Ms. Grant-Venable'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.

.....
TAMYRA LEE MOUGINIS, M.D.

.....
Dr. Talmage exited the meeting prior to this discussion of this case.

.....
DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF TAMYRA LEE MOUGINIS, M.D. MR. HAIRSTON SECONDED THE MOTION.

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

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

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October 14, 2009

Case number: 09-CRF- **133**

Tamyra Lee Mouginis, M.D.
7225 S. Fulton Lucas Road
Swanton, OH 43558

Dear Doctor Mouginis:

Enclosed please find certified copies of the Entry of Order, the Notice of Summary Suspension and Opportunity for Hearing, and an excerpt of the Minutes of the State Medical Board, meeting in regular session on October 14, 2009, including a Motion adopting the Order of Summary Suspension and issuing the Notice of Summary Suspension and Opportunity for Hearing.

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

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

THE STATE MEDICAL BOARD OF OHIO


Lance A. Talmage, M.D., Secretary

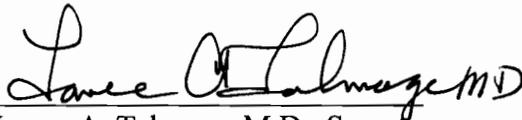
LAT/KHM/flb
Enclosures

Mailed 10.15.09

CERTIFICATION

I hereby certify that the attached copies of the Entry of Order of the State Medical Board of Ohio and the Motion by the State Medical Board, meeting in regular session on October 14, 2009, to Adopt the Order of Summary Suspension and to Issue the Notice of Summary Suspension and Opportunity for Hearing, constitute true and complete copies of the Motion and Order in the Matter of Tamyra Lee Mougins, M.D., Case number: 09-CRF- 133 as they appear in the Journal of the State Medical Board of Ohio.

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


Lance A. Talmage, M.D., Secretary

(SEAL)

October 14, 2009
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF :
 :
TAMYRA LEE MOUGINIS, M.D. :
 :
CASE NUMBER: 09-CRF- **133** :

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio the 14th day of October, 2009.

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

Pursuant to their determination, based upon their review of the information supporting the allegations as set forth in the Notice of Summary Suspension and Opportunity for Hearing, that there is clear and convincing evidence that Tamyra Lee Mouginitis, M.D., has violated Section 4731.22(B)(26), Ohio Revised Code, as alleged in the Notice of Summary Suspension and Opportunity for Hearing that is enclosed herewith and fully incorporated herein; and,

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

The following Order is hereby entered on the Journal of the State Medical Board of Ohio for the 14th day of October, 2009:

It is hereby ORDERED that the certificate of Tamyra Lee Mouginitis, M.D., to practice medicine and surgery in the State of Ohio be summarily suspended.

It is hereby ORDERED that Tamyra Lee Mouginitis, M.D., shall immediately cease the practice of medicine and surgery in Ohio and immediately refer all active patients to other appropriate physicians.

This Order shall become effective immediately.

(SEAL)


Lance A. Talmage, M.D., Secretary

October 14, 2009
Date

State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
med.ohio.gov

EXCERPT FROM THE DRAFT MINUTES OF OCTOBER 14, 2009

CITATIONS, PROPOSED DENIALS, ORDERS OF SUMMARY SUSPENSION & NOTICES OF IMMEDIATE SUSPENSION

.....

TAMYRA LEE MOUGINIS, M.D. – ORDER OF SUMMARY SUSPENSION AND NOTICE OF OPPORTUNITY FOR HEARING

At this time the Board read and considered the proposed Order of Summary Suspension and Notice of Opportunity For Hearing in the above matter, a copy of which shall be maintained in the exhibits section of this Journal.

DR. STEINBERGH MOVED TO ENTER AN ORDER OF SUMMARY SUSPENSION IN THE MATTER OF TAMYRA LEE MOUGINIS, M.D., IN ACCORDANCE WITH SECTION 4731.22(G), OHIO REVISED CODE, AND TO ISSUE THE NOTICE OF SUMMARY SUSPENSION AND OPPORTUNITY FOR HEARING. MR. HAIRSTON SECONDED THE MOTION. A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Varyani	- aye
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Mr. Ogg	- aye
	Mr. Hairston	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- 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

NOTICE OF SUMMARY SUSPENSION AND OPPORTUNITY FOR HEARING

October 14, 2009

Case number: 09-CRF- **133**

Tamyra Lee Mouginis, M.D.
7225 S. Fulton Lucas Road
Swanton, OH 43558

Dear Doctor Mouginis:

The Secretary and the Supervising Member of the State Medical Board of Ohio [Board] have determined that there is clear and convincing evidence that you have violated Section 4731.22(B)(26), Ohio Revised Code, and have further determined that your continued practice presents a danger of immediate and serious harm to the public, as set forth in paragraphs (1) through (6), below.

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

Furthermore, in accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the 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) By letters dated July 28, 2009, and July 31, 2009, the Board notified you of its determination that it had reason to believe that you are in violation of Section 4731.22(B)(26), Ohio Revised Code, and ordered you to undergo a seventy-two hour inpatient examination to determine if you are in violation of Section 4731.22(B)(26), Ohio Revised Code. The Board's determination was based upon one or more of the reasons outlined in such letters, which included:

- (a) On or about April 2, 2009, the Iowa Board of Medicine [Iowa Board] approved a Settlement Agreement to which you were a party wherein you were cited for engaging in substance abuse in violation of the laws and rules governing the practice of medicine in Iowa. The Iowa Board prohibited you from engaging in any aspect of the practice of medicine prior to receiving approval from the Iowa Board. If approval to practice medicine was given, you would be placed on probation subject to conditions including monitoring and counseling. The facts set forth in the Settlement Agreement include the following:
- (i) In or about 1996, you were charged and convicted of driving under the influence of drugs or alcohol in Northbrook, Illinois.
 - (ii) On or about June 18, 2008, you were arrested and charged with possession of marijuana and possession of drug paraphernalia in Waterloo, Iowa.
- (b) Your history of alcohol and drug use includes initial consumption of alcohol and of smoking marijuana at age fourteen, and at times used these substances daily. You indicated that you stopped consuming alcohol in or about September 1999. You stated that between 2003 and 2008, your use of marijuana was sporadic until in or about January 2008, when your mother was diagnosed with lung cancer, and at that point you began smoking marijuana daily. In or about June 2008, you were arrested and placed in jail for possession of marijuana and possession of drug paraphernalia. Because of your incarceration, you did not show up for work at your locum tenens assignment in Waterloo, Iowa, and as a consequence you were terminated from that position.

With respect to diagnoses related to chemical dependency or abuse, your history includes the following:

- (i) In or about 1999, at Marcy Friedman Highland Park Hospital, Highland Park, Illinois, you were diagnosed with alcoholism and were treated with Antabuse.
- (ii) In or about 2003, at Rush Behavioral Health, also known as Resurrection Health Care, Downers Grove, Illinois, you were diagnosed with marijuana addiction.
- (iii) In or about 2008, at Arrowhead Behavioral Health, Maumee, Ohio, [Arrowhead] you were diagnosed with marijuana dependence.

You were treated for marijuana dependence at Arrowhead on an outpatient basis from in or about September 9, 2008, through in or about November 11, 2008. On or about October 13, 2008, a drug screen taken during your treatment at Arrowhead returned positive for cannabinoids and THC. In information you provided to the Board, you stated that you last used marijuana on or about September 15, 2008.

- (c) You further indicated that you carry a diagnosis of major depression in remission and post-traumatic stress disorder. You have been prescribed medication including Prozac, Lithium, Zyprexa, Trazadone, Imipramine, and Buspar. You have experienced suicidal ideation without attempts, auditory hallucinations in the form of music, and paranoid ideations. On one occasion one of your treatment providers recorded a diagnosis of bipolar disorder, mixed, severe with psychotic features.
- (2) By letter dated September 11, 2009, from Richard N. Whitney, Medical Director of Addiction Services at Shepherd Hill Hospital, a Board-approved treatment provider, the Board was notified that following the Board-ordered evaluation conducted from September 8 through September 11, 2009, you were determined to be impaired in your ability to practice according to acceptable and prevailing standards of care and to require residential treatment.
- (3) Although you entered treatment on or about September 13, 2009, you left treatment and have not completed the recommended/required treatment and entered into an aftercare contract with a Board-approved treatment provider. In addition, the Board has not received information that you have been determined to be capable of practicing in accordance with acceptable and prevailing standards of care.
- (4) Further, on or about February 5, 2000, you signed and caused to be submitted to the Board your renewal application due on April 1, 2000, wherein you answered "No" to Question 3, which asked:

At any time since signing your last application for renewal of your certificate have you:

Been addicted to or dependent upon alcohol or any chemical substance; or been treated for, or been diagnosed as suffering from, drug or alcohol dependency or abuse? You may answer "no" to this question if you have successfully completed treatment at a program approved by this board and have subsequently adhered to all statutory requirements as contained in sections 4731.224 and 4731.25, O.R.C., and related provisions, or you are currently enrolled in a board approved program.

In fact, in or about 1999, at Marcy Friedman Highland Park Hospital, Highland Park, Illinois, you were diagnosed with alcoholism.

- (5) Further, on or about May 9, 2004, you signed and caused to be submitted to the Board your renewal application due on April 1, 2004, wherein you answered “No” to Question 2, which asked:

At any time since signing your last application for renewal of your certificate:

Have you been addicted to or dependent upon alcohol or any chemical substance; or been treated for, or been diagnosed as suffering from, drug or alcohol dependency or abuse? **You may answer “NO” to this question** if you have successfully completed treatment at, or are currently enrolled in, a program approved by this Board and have adhered to all statutory requirements during and subsequent to treatment. You must answer “YES” if you have ever relapsed.

In fact, in or about 2003, at Rush Behavioral Health, also known as Resurrection Health Care, Downers Grove, Illinois, you were diagnosed with marijuana addiction.

- (6) On or about April 2, 2009, the Iowa Board approved as a final order the terms and conditions set forth in the Settlement Agreement and Order, wherein, *inter alia*, you were cited for engaging in substance abuse in violation of the laws and rules governing the practice of medicine in Iowa; prohibited from engaging in any aspect of the practice of medicine prior to receiving approval from the Iowa Board; and, if such approval to practice medicine was given, placing you on probation subject to conditions including monitoring and counseling.

A copy of the Iowa Board Settlement Agreement and Order is attached hereto and incorporated herein.

Section 4731.22(B)(26), Ohio Revised Code, provides that if the Board determines that an individual’s ability to practice is impaired, the Board shall suspend the individual’s certificate and shall require the individual, as a condition for continued, reinstated, or renewed certification to practice, to submit to treatment and, before being eligible to apply for reinstatement, to demonstrate to the Board the ability to resume practice in compliance with acceptable and prevailing standards of care, including completing required treatment, providing evidence of compliance with an aftercare contract or written consent agreement, and providing written reports indicating that the individual’s ability to practice has been assessed by individuals or providers approved by the Board and that the individual has been found capable of practicing according to acceptable and prevailing standards of care.

Further, Rule 4731-16-02(B)(1), Ohio Administrative Code, provides that if an examination discloses impairment, or if the Board has other reliable, substantial and probative evidence demonstrating impairment, the Board shall initiate proceedings to suspend the licensee, and may issue an order of summary suspension as provided in Section 4731.22(G), Ohio Revised Code.

Your acts, conduct, and/or omissions as alleged in paragraphs (1) through (6) above, individually and/or collectively, constitute “[i]mpairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice,” as that clause is used in Section 4731.22(B)(26), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (4) and (5) above, individually and/or collectively, constitute “[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, 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, the Iowa Board Settlement Agreement and Order as alleged in paragraph (6) above, constitutes “[a]ny of the following actions taken by the agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or the limited branches of medicine in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand,” as that clause is used in Section 4731.22(B)(22), Ohio Revised Code.

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

Notice of Summary Suspension
& Opportunity for Hearing
Tamyra L. Mouginis, M.D.
Page 6

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/KHM/flb
Enclosures

CERTIFIED MAIL #91 7108 2133 3936 3070 4190
RETURN RECEIPT REQUESTED

cc: Stephen B. Yurik, Esq.
Lane, Alton & Horst, LLC
Attorneys at Law
2 Miranova Place, Suite 500
Columbus, Ohio 43215-7052

CERTIFIED MAIL #91 7108 2133 3936 3070 4183
RETURN RECEIPT REQUESTED



STATE OF IOWA

CHESTER J. CULVER
GOVERNOR
PATTY JUDGE
LT. GOVERNOR

IOWA BOARD OF MEDICINE
MARK BOWDEN
EXECUTIVE DIRECTOR

OHIO STATE MEDICAL BOARD

CERTIFICATION

MAY 11 2009

RECEIVED

STATE OF IOWA
Polk County, ss.

I, Crystal Tice, Compliance Secretary for the Iowa Board of Medicine (the Board), having legal custody of the disciplinary records of the Board, hereby certify that the attached are true copies of documents on file in the office of the Board relating to a medical licensure disciplinary action taken against **Tamyra Lee Mouginis, M.D.**

A handwritten signature in black ink, appearing to read "Crystal Tice", written over a horizontal line.

Crystal Tice
Compliance Secretary
Iowa Board of Medicine



May 5, 2009

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

TAMYRA L. MOUGINIS, M.D., RESPONDENT

File No. 02-08-312

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SETTLEMENT AGREEMENT

COMES NOW the Iowa Board of Medicine (Board), and Tamyra L. Mouginis, M.D., (Respondent), and on April 2, 2009, and pursuant to Iowa Code sections 17A.10(2) and 272C.3(4), enter into this Settlement Agreement to resolve the contested case currently on file.

1. Respondent was issued Iowa medical license no. 37817 on May 15, 2008.
2. Respondent's Iowa medical license is active and will expire on June 1, 2009.
3. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 148 and 272C.

CIRCUMSTANCES

4. Respondent is an Iowa-licensed physician who formerly practiced anesthesia in Waterloo, Iowa.
5. In 1996, Respondent was charged and convicted of driving under the influence of drugs or alcohol (DUI) in Northbrook, Illinois. Respondent was placed on probation and she was required to complete a substance abuse rehabilitation program.

6. On June 18, 2008, Respondent was arrested and charged with possession of marijuana and possession of drug paraphernalia in Waterloo, Iowa.

7. On November 13, 2008, the Board filed formal disciplinary charges against Respondent for engaging in substance abuse which includes, but is not limited to, the excessive use of alcohol, drugs, narcotics, chemicals or other substances in a manner which may impair her ability to practice medicine with reasonable skill and safety.

8. Respondent was subsequently terminated from her employment in Waterloo, Iowa.

9. Respondent declined to self-report to the Iowa Physician Health Program.

SETTLEMENT AGREEMENT

10. **CITATION AND WARNING:** Respondent is hereby **CITED** for engaging in substance abuse in violation of the laws and rules governing the practice of medicine in Iowa. Respondent is hereby **WARNED** that such conduct in the future may result in further disciplinary action, including suspension or revocation of her Iowa medical license.

11. **CIVIL PENALTY:** Upon her return to the practice of medicine, Respondent shall pay a civil penalty in the amount of **\$2,500**. The civil penalty shall be made payable to the Treasurer of Iowa and mailed to the Executive Director of the Board. The civil penalty shall be deposited into the State General Fund.

12. **NOTICE TO HOSPITALS AND CLINICS:** Respondent shall provide the Board with the name, address and telephone number of the administrative director at all current and future hospitals, clinics and other healthcare facilities where Respondent practices medicine. The Board will provide the administrative director with all Board Orders relating to matter.

13. **EVALUATION:** At the direction of the Board, Respondent completed a comprehensive physical, neuropsychological and substance abuse evaluation under the direction of Resurrection Health Center. Respondent shall fully comply with all recommendations of Resurrection and the Board.

14. **PRACTICE PROHIBITION:** Respondent shall not engage in any aspect of the practice of medicine until she receives written approval from the Board. Respondent shall demonstrate that she is safe to return to the practice of medicine prior to receiving Board-approval to return to the practice of medicine.

15. **FIVE YEARS PROBATION:** Upon her return to the practice of medicine, Respondent shall be placed on **probation for a period of five years** subject to the following terms and conditions:

A. **Board Monitoring Program:** Respondent shall contact Shantel Billington, Compliance Monitor, Iowa Board of Medicine, 400 SW 8th Street, Suite C, Des Moines, IA 50309-4686, Ph. #515-281-3654, to establish a monitoring program. Respondent shall fully comply with the monitoring program.

- B. **Alcohol and Drug Prohibition:** Respondent shall not consume alcohol or any illicit drugs.
- C. **Controlled or Prescription Drug Restriction:** Respondent shall not use any controlled or prescription drug in any form unless the controlled or prescription drug has been prescribed for Respondent's use by another duly licensed treating physician or other qualified treating health care provider. Respondent shall provide the Board written notice within 72 hours of the use of any controlled or prescription drug. Respondent shall inform any treating health care provider of her substance abuse history prior to receiving any prescription drug.
- D. **Drug Screening Program:** Respondent shall fully comply with the Board's drug-screening program. Respondent shall provide random blood or urine specimens when required. Respondent shall also provide random blood or urine specimens on demand by an agent of the Board. The specimens shall be used for drug and alcohol screening, all costs of which shall be paid by Respondent.
- E. **Counseling:** Respondent shall submit to the Board for approval the name and CV of a physician or counselor to provide counseling.
- (1) The counselor shall submit written quarterly reports to the Board no later than 1/20, 4/20, 7/20 and 10/20 of each year of this Order.

- (2) Respondent shall continue with counseling until discharged by the Board-approved counselor and until Respondent's discharge from counseling is approved by the Board.
- (3) Respondent shall meet with the Board-approved counselor as frequently as recommended by the counselor and approved by the Board.

F. **Substance Abuse Meetings:** Respondent shall attend at least three Alcoholics Anonymous (AA) or a similar substance abuse meetings each week, one of which is a home group meeting. Respondent shall obtain documentation of attendance and include copies of this documentation with his quarterly reports. Respondent shall contact her AA sponsor at least once each week.

G. **Psychiatric Care:** Respondent shall submit to the Board the name and curriculum vitae of a psychiatrist for Board approval to supervise Respondent's continued treatment and counseling, including management of medications. The Board shall share a copy of all Board orders, investigative materials and evaluation/treatment reports relating to this matter with the psychiatrist.

- 1) The psychiatrist shall submit written quarterly reports to the Board no later than 1/20, 4/20, 7/20 and 10/20 of each year of this Order.
- 2) Respondent shall continue treatment with the psychiatrist until discharged by the Board-approved psychiatrist and until Respondent's discharge from treatment is approved by the Board.

3) Respondent shall meet with his Board-approved psychiatrist as recommended by the psychiatrist and approved by the Board. All costs shall be the responsibility of Respondent.

H. **Women's Group Therapy:** Respondent shall participate in Board-approved women's group therapy.

I. **Physician Mentoring Plan:** Respondent shall submit a written physician mentoring plan for Board approval with the name and CV of a physician who regularly works with and observes Respondent in the practice of medicine to serve as her physician mentor. The Board shall share a copy of all Board orders relating to this matter with the physician mentor. The physician mentor shall provide a written statement indicating that the mentor has read and understands all Board orders in this matter and agrees to act as the physician mentor under the terms of this Order. The physician mentor shall agree to inform the Board immediately if there is evidence of substance abuse, impairment, professional misconduct, or a violation of this Order.

(1) The physician mentor shall submit written quarterly reports no later than 1/20, 4/20, 7/20 and 10/20 of each year of this Order;

(2) Respondent shall continue meeting with the physician mentor until discharge is approved by the Board; and

(3) Respondent shall meet with the physician mentor as frequently as approved by the Board.

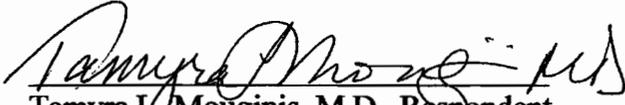
- J. **Quarterly Reports:** Respondent shall file sworn quarterly reports attesting to her compliance with all the terms and conditions of this Settlement Agreement no later than 1/10, 4/10, 7/10 and 10/10 of each year of this Order.
- K. **Board Appearances:** Respondent shall make appearances before the Board or a Board committee annually or upon request. Respondent shall be given reasonable notice of the date, time and location for the appearances. Said appearances shall be subject to the waiver provisions of 653 IAC 24.2(5)(d).
- L. **Monitoring Fee:** Respondent shall make a payment of \$100 to the Board each quarter for the duration of this Order to cover the Board's monitoring expenses in this matter. The monitoring fee shall be received by the Board with each quarterly report from Respondent required by this Order. The monitoring fee shall be sent to: Shantel Billington, Compliance Monitor, Iowa Board of Medicine, 400 SW 8th Street, Suite C, Des Moines, IA 50309-4686. The check shall be made payable to the Iowa Board of Medicine. The Monitoring Fee shall be considered repayment receipts as defined in Iowa Code section 8.2.
16. Respondent shall obey all federal, state and local laws, and all rules governing the practice of medicine in Iowa.
17. This Order constitutes the resolution of a contested case proceeding.
18. Respondent voluntarily submits this Order to the Board for consideration.
19. Periods of residence or practice outside the state of Iowa shall not apply to the duration of this Order.

20. In the event Respondent violates or fails to comply with any of the terms or conditions of this Order, the Board may initiate action to suspend or revoke Respondent's Iowa medical license or to impose other license discipline as authorized in Iowa Code Chapters 148 and 272 and 653 IAC 25.

21. By entering into this Order, Respondent voluntarily waives any rights to a contested case hearing on the allegations contained in the Statement of Charges and waives any objections to the terms of this Settlement Agreement.

22. This Order is subject to approval by the Board. If the Board fails to approve this Settlement Agreement and Final Order, it shall be of no force or effect to either party.

23. The Board's approval of this Order shall constitute a **Final Order** of the Board.


Tamyra L. Mouginis, M.D., Respondent

Subscribed and sworn to before me on March 19, 2009.

Notary Public, State of Ohio. 

JUDITH SUSAN KAMPFER
Notary Public, State of Ohio
My Commission Expires Oct. 8, 2013

This Order is approved by the Board on April 2, 2009.


Yasyn Lee, M.D., Chair
Iowa Board of Medicine
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

TAMYRA L. MOUGINIS, M.D., RESPONDENT

File No. 02-08-312

CONTINUANCE ORDER

COMES NOW the Iowa Board of Medicine and files this Continuance Order.

IT IS HEREBY ORDERED that the contested case hearing pending in this matter currently scheduled for January 14, 2009, is continued until further order.

This order dated January 7, 2009.

IOWA BOARD OF MEDICINE

Ann E. Mowery
Ann E. Mowery, Ph.D.
Executive Director
400 SW 8th Street, Suite C

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

TAMYRA L. MOUGINIS, M.D., RESPONDENT

File No. 02-08-312

STATEMENT OF CHARGES

COMES NOW the Iowa Board of Medicine on November 13, 2008, and files this Statement of Charges pursuant to Iowa Code section 17A.12(2)(2007). Respondent was issued Iowa medical license no. 37817 on May 15, 2008. Respondent's Iowa medical license is active and will next expire on June 1, 2009.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing. A disciplinary contested case hearing shall be held on January 14, 2009, before the Board. The hearing shall begin at 8:30 a.m. and shall be located in the conference room at the Board office at 400 SW 8th Street, Suite C, Des Moines, Iowa.
2. Answer. Within twenty (20) days of the date you are served this Statement of Charges you are required by 653 IAC 24.2(5)(d) to file an Answer. In that Answer, you should state whether you will require a continuance of the date and time of the hearing.
3. Presiding Officer. The Board shall serve as presiding officer, but the Board may request an Administrative Law Judge make initial rulings on prehearing matters, and be present to assist and advise the Board at hearing.

4. Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 653 IAC 25. At hearing, you will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf, cross-examine witnesses, and examine any documents introduced at hearing. You may appear personally or be represented by counsel at your own expense. If you need to request an alternative time or date for hearing, you must review the requirements in 653 IAC 25.16. The hearing may be open to the public or closed to the public at the discretion of the Respondent.

5. Prosecution. The office of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Pleadings shall be filed with the Board and copies should be provided to counsel for the State at the following address: Theresa O'Connell Weeg, Assistant Attorney General, Iowa Attorney General's Office, 2nd Floor, Hoover State Office Building, Des Moines, Iowa 50319.

6. Communications. You may not contact board members by phone, letter, facsimile, e-mail, or in person about this Notice of Hearing. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve upon all parties in the case. You should direct any questions to Kent M. Nebel, J.D., the Board's Legal Director at 515-281-7088 or to Assistant Attorney General Theresa O'Connell Weeg at 515-281-6858.

B. LEGAL AUTHORITY AND JURISDICTION

7. Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 17A, 147, 148, and 272C.

8. Legal Authority: If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code chapters 17A, 147, 148, and 272C and 653 IAC 25.

9. Default. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code section 17A.12(3) and 653 IAC 25.20.

C. SECTIONS OF STATUTES AND RULES INVOLVED

COUNT I

10. Respondent is charged pursuant to Iowa Code section 148.6(2)(c) and 653 IAC 23.1(10) for violating a statute or law of this state, another state, or the United States, without regard to its designation as either a felony or misdemeanor, which statute or law relates to the practice of medicine.

COUNT II

11. Respondent is charged pursuant to Iowa Code sections 147.55(3) and 272C.10(3) and 653 IAC 23.1(4) with engaging in unethical or unprofessional conduct or practice harmful or detrimental to the public.

STATEMENT OF THE MATTERS ASSERTED

12. Respondent is an Iowa-licensed physician who formerly practiced anesthesia in Waterloo, Iowa.

13. In 1996, Respondent was charged and convicted of driving under the influence of drugs or alcohol (DUI) in Northbrook, Illinois. Respondent was placed on probation and she was required to complete a substance abuse rehabilitation program.

14. On June 18, 2008, Respondent was arrested and charged with Possession of Marijuana in violation of Iowa Code section 124.401(3) M and Possession of Drug Paraphernalia in violation of Iowa Code section 124.414, in Black Hawk County, Iowa.

15. Respondent was subsequently terminated from her employment in Waterloo, Iowa.

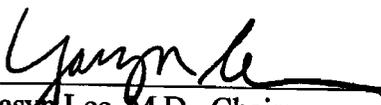
16. Respondent declined to self-report to the Iowa Physician Health Program.

E. SETTLEMENT

17. Settlement. This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 653 Iowa Administrative Code 25. If you are interested in pursuing settlement of this matter, please contact Kent M. Nebel, J.D., Legal Director at 515-281-7088.

F. PROBABLE CAUSE FINDING

18. On November 13, 2008, the Iowa Board of Medicine found probable cause to file this Statement of Charges.


Yash Lee, M.D., Chairperson
Iowa Board of Medicine
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686