

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

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FRANKLIN CO. OHIO
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Joseph Ridgeway, M.D.,
Appellant-Appellant,
v.
State Medical Board of Ohio,
Appellee-Appellee.

No. 07AP-446
(C.P.C. No. 06CVF03-3795)
(REGULAR CALENDAR)

JUDGMENT ENTRY

For the reasons stated in the opinion of this court rendered herein on March 25, 2008, appellant's six assignments of error are overruled, and it is the judgment and order of this court that the judgment of the Franklin County Court of Common Pleas is affirmed. Costs are assessed against appellant.

BROWN, BRYANT & FRENCH, JJ.



Judge Susan Brown

HEALTH & HUMAN
MAR 28 2008
SERVICES SECTION

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TENTH APPELLATE DISTRICT

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Appellant-Appellant, : No. 07AP-446
(C.P.C. No. 06CVF03-3795)
v. :
(REGULAR CALENDAR)
State Medical Board of Ohio, :
Appellee-Appellee. :

O P I N I O N

Rendered on March 25, 2008

Joseph Ridgeway, M.D., pro se.

Marc Dann, Attorney General, Kyle C. Wilcox, and Damion M. Clifford, for appellee.

APPEAL from the Franklin County Court of Common Pleas.

BROWN, J.

{¶1} This is an appeal by appellant, Joseph Ridgeway, M.D., from a judgment of the Franklin County Court of Common Pleas, affirming an order by appellee, State Medical Board of Ohio ("medical board"), imposing a suspension of appellant's license to practice medicine for an indefinite period, but not less than three months from the date of the order, and setting forth conditions for reinstatement.

{¶2} Appellant, a radiologist, is licensed to practice medicine in Ohio and Indiana. On November 9, 2005, the medical board issued an order summarily suspending

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appellant's certificate to practice medicine or surgery in the state of Ohio based upon the provisions of R.C. 4731.22(B)(26). On that same date, the medical board sent written notice to appellant informing him of the board's order. On November 14, 2005, appellant requested a hearing before the medical board regarding the license suspension.

{¶3} On November 28, 2005, a hearing was conducted before a medical board hearing examiner. A number of witnesses, including appellant, testified during the hearing. The following factual background relating to the suspension of appellant's medical license is based upon testimony and exhibits presented at that hearing.

{¶4} Appellant began drinking alcohol in high school at age 17. In 1989, appellant graduated from the Ohio State University College of Medicine. He finished a residency program in 1994, and began private practice in 1995.

{¶5} In February of 1992, appellant was charged with driving under the influence of alcohol ("DUI"). Appellant refused to take a breathalyzer test at the time of his arrest. He subsequently entered a guilty plea and was convicted of the charge. During his testimony before the medical board hearing examiner, appellant stated he had been drinking a "small amount" of alcohol on the evening he was arrested, but he did not believe he was actually under the influence at the time. (Tr. Vol. I, at 49.)

{¶6} In the summer of 1993, appellant was in a vehicle with another individual at a park in Grandview, Ohio, when a Grandview Police Officer questioned him about whether he had consumed alcohol that evening. Appellant refused a breathalyzer test, and he was charged with DUI. The charge was eventually reduced to reckless operation, and appellant entered a guilty plea to that charge. As a result of the plea, appellant was ordered to undergo counseling for alcohol dependency.

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{¶7} In 2002, appellant, while driving in Whitehall, was stopped by a police officer after the officer observed appellant's vehicle weaving. Appellant refused a breathalyzer test, and he was arrested and charged with operating a vehicle while under the influence ("OMVI"). Appellant subsequently entered a guilty plea to reckless operation on the advice of his legal counsel. During the medical board hearing, appellant acknowledged having "[p]robably three or four drinks" on the evening of that incident, but he did not believe he was drunk at the time. (Tr. Vol. I, at 61.)

{¶8} Following this incident, appellant attended an alcohol program at Talbot Hall, The Ohio State University (hereafter "Talbot Hall"), where he was diagnosed with alcohol abuse. Appellant signed an outpatient participation agreement, under which he agreed to abstain from alcohol and to attend an intensive outpatient program meeting three times per week. A case manager at Talbot Hall prepared a report which included the following comments:

Client has self-diagnosed as a substance abuser rather than dependent. He can identify two of the 7 criteria for a diagnosis of dependency. There is a third criteria that he meets, yet he cannot see it. That is the need to control his drinking. If he fails, he has crossed the line to dependency.
* * *

(State's Exhibit No. 4, at 5.)

{¶9} In October of 2004, while driving in Indiana and accompanied by his wife and four-year-old daughter, appellant was stopped by a police officer for speeding. He was charged with DUI and child endangerment when it was discovered he and his wife had been consuming wine from a bottle during the trip from Ohio to Indiana. In his testimony before the hearing examiner, appellant acknowledged he had been drinking a

"small amount" of alcohol that evening. (Tr. Vol. I, at 72.) Appellant and his wife spent the evening in jail, while their daughter was taken into protective custody for the weekend.

{¶10} In 2005, appellant was charged with domestic violence, and he completed an anger management assessment. On August 22, 2005, appellant entered a treatment facility, The Woods at Parkside (hereafter "Parkside"), where he underwent a 72-hour impairment assessment. According to appellant, he agreed "voluntarily to undergo an assessment" after a discussion with an investigator regarding alcohol-related driving incidents. (Tr. Vol. I, at 39.) When he left the facility on August 25, 2005, appellant did not believe he had been diagnosed as an alcoholic.

{¶11} Dr. Edna Jones, the medical director at Parkside, issued a final written report on October 8, 2005 regarding appellant's treatment at Parkside. In that report, Dr. Jones opined that appellant met the criteria for statutory impairment. Dr. Jones further opined appellant was in denial, and that he required treatment and monitoring.

{¶12} On January 23, 2006, the medical board hearing examiner issued a report and recommendation, finding evidence that appellant was appropriately diagnosed with alcohol dependency, and that his conduct constituted "[i]mpairment of ability to practice" due to excessive use or abuse of alcohol. The hearing examiner also rejected appellant's contention that patient harm is required before a summary suspension. The hearing examiner recommended a proposed order that appellant be suspended for an indefinite period of time, but not less than 30 days from the effective date of the order.

{¶13} On February 2, 2006, appellant filed objections to the report and recommendation of the hearing examiner. On February 8, 2006, the medical board met to consider the matter. Following deliberations, the medical board voted to amend the

proposed order to increase the minimum suspension period to three months. The medical board also found that there existed clear and convincing evidence, at the time of the issuance of the summary suspension, that appellant was in violation of R.C. 4731.22(B)(26). On February 8, 2006, the medical board issued an order suspending appellant's license for an indefinite period, but not less than three months from the date of the order.

{¶14} On March 20, 2006, appellant filed an appeal with the trial court from the order of the medical board. The trial court rendered a decision on April 13, 2007, finding that the order of the medical board was supported by reliable, probative, and substantial evidence, and was in accordance with law.

{¶15} On appeal, appellant, pro se, sets forth the following six assignments of error for this court's review:

First Assignment of Error: The trial court erred and abused its discretion in determining that the board order was supported by the statute in accordance with the law.

Second Assignment of Error: The trial court erred and abused its discretion in determining that the evidence in this case is reliable, probative and substantial.

Third Assignment of Error: The trial court erred and abused its discretion by allowing the plaintiff's fundamental and constitutional right to the presumption of innocence to be denied at every level in the proceedings of this case.

Fourth Assignment of Error: The trial court abused its discretion in denying the plaintiff's motion to introduce critical additional evidence.

Fifth Assignment of Error: The trial court erred in its assumption that the defendant medical board possesses "special expertise" beyond the level of the court.

Sixth Assignment of Error: The trial court abused its discretion in failing to determine that the inappropriate summary suspension was prejudicial to the plaintiff with regard to the administrative hearing and subsequent board determination.

{¶16} Pursuant to R.C. 4731.22, the medical board is authorized "to enforce the provisions of R.C. Chapter 4731, to investigate violations thereof, to conduct disciplinary proceedings, and to discipline those persons within the Board's licensing authority." *State ex rel. Gelesh v. Ohio State Med. Bd.*, 172 Ohio App.3d 365, 2007-Ohio-3328, at ¶26. R.C. Chapter 119 provides for an appeal of the administrative proceedings to the common pleas court. *Id.*

{¶17} In *Pons v. Ohio State Med. Bd.* (1993), 66 Ohio St.3d 619, 621, the Ohio Supreme Court set forth the applicable standards of review for a trial court and an appellate court from an order of the medical board, holding:

In an appeal from a medical board's order, a reviewing trial court is bound to uphold the order if it is supported by reliable, probative, and substantial evidence, and is in accordance with law. R.C. 119.12; *In re Williams* (1991), 60 Ohio St.3d 85, 86, 573 N.E.2d 638, 639. The appellate court's review is even more limited than that of the trial court. While it is incumbent on the trial court to examine the evidence, this is not a function of the appellate court. The appellate court is to determine only if the trial court has abused its discretion, *i.e.*, being not merely an error of judgment, but perversity of will, passion, prejudice, partiality, or moral delinquency. Absent an abuse of discretion on the part of the trial court, a court of appeals may not substitute its judgment for those of the medical board or a trial court. Instead, the appellate court must affirm the trial court's judgment. *Lorain City School Dist. Bd. of Edn. v. State Emp. Relations Bd.* (1988), 40 Ohio St.3d 257, 260-261, 533 N.E.2d 264, 266. See, also, *Rosford Exempted Village School Dist. Bd. of Edn. v. State Bd. of Edn.* (1992), 63 Ohio St.3d 705, 707, 590 N.E.2d 1240, 1241.

Moreover, when reviewing a medical board's order, courts must accord due deference to the board's interpretation of the

technical and ethical requirements of its profession. The policy reason for this was noted in *Arlen v. State* (1980), 61 Ohio St.2d 168, 173, * * *: " * * * The purpose of the General Assembly in providing for administrative hearings in particular fields was to facilitate such matters by placing the decision on facts with boards or commissions composed of [people] equipped with the necessary knowledge and experience pertaining to a particular field. * * * ' ' " (Quoting *Farrand v. State Med. Bd.* [1949], 151 Ohio St. 222, 224, 39 O.O. 41, 42, 85 N.E.2d 113, 114.)

{¶18} In the instant case, appellant's license was suspended based upon a finding he was in violation of R.C. 4731.22(B)(26). Pursuant to R.C. 4731.22(B)(26), the medical board may take disciplinary action against a physician, including revocation or suspension of an individual's certificate to practice, for "[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." Under Ohio Adm.Code 4731-16-01(A), "[i]mpairment includes inability to practice in accordance with such standards, and inability to practice in accordance with such standards without appropriate treatment, monitoring or supervision."

{¶19} Under his first assignment of error, appellant argues that the medical board's disciplinary action, based primarily upon alcohol-related driving charges that did not directly implicate patient care, was not authorized by statute. Appellant argues there is no evidence he failed to practice medicine according to acceptable and prevailing standards of care and that, in the absence of evidence as to adverse impact on his patient practice as a result of alcohol abuse, the medical board exceeded its authority in attempting to impose sanctions or limitations.

{¶20} Both the trial court and the medical board found unpersuasive appellant's contention that patient harm is required before the medical board is authorized to take disciplinary action. We also reject appellant's contention that the medical board is precluded from taking disciplinary action unless it has been presented with evidence that actual patient harm has already occurred.

{¶21} Arguments similar to that raised by appellant in the instant case have been rejected by courts in other jurisdictions. In *Griffiths v. Superior Court* (2002), 96 Cal.App.4th 757, a physician claimed that the conduct at issue in that case, three drunk driving offenses, could not result in disciplinary action because there was no evidence he ever treated patients while under the influence or that he caused harm to any of his patients. The statute under which the physician was disciplined provided, in part, for action against a physician's license where the use of drugs or alcoholic beverages "impairs the ability of the licensee to practice medicine safely." *Id.*, at 768.

{¶22} In *Griffiths*, *supra*, at 771, the court found unpersuasive the physician's assertion that the disciplinary action imposed was invalid, holding in relevant part:

* * * Griffiths contends that private conduct having no effect on a physician's treatment of patients cannot be a basis for imposing discipline on a medical license. In relation to multiple convictions involving driving and alcohol consumption, we reject the argument that a physician can seal off or compartmentalize personal conduct so it does not affect the physician's professional practice. * * *

For a nexus to exist between the misconduct and the fitness or competence to practice medicine, it is not necessary for the misconduct forming the basis for discipline to have occurred in the actual practice of medicine. "[The Medical Board] is authorized to discipline physicians who have been convicted of criminal offenses not related to the quality of health care."

(*Bryce v. Board of Medical Quality Assurance* [1986], 184 Cal.App.3d 1471, 1476 * * *.)

Substantial legal authority provides that conduct occurring outside the practice of medicine may form the basis for imposing discipline on a licensee because such conduct reflects on a licensee's fitness and qualifications to practice medicine. * * *

{¶23} In response to the physician's specific argument that he could not be disciplined because there was no evidence that his drinking and driving convictions resulted in any harm to patients, the court in *Griffiths*, supra, at 772, held:

* * * If accepted, this argument would have a serious implication for license discipline proceedings. In essence, it would prohibit the imposition of discipline on a licensee until harm to patients had already occurred. We reject this argument because it overlooks the preventative functions of license discipline, whose main purpose is protection of the public * * * but whose purposes also include prevention of future harm * * * and the improvement and rehabilitation of the physician * * *. To prohibit license discipline until the physician-licensee harms a patient disregards these purposes; it is far more desirable to discipline *before* a licensee harms any patient than after harm has occurred.

(Emphasis sic; citations omitted.)

{¶24} In *Major v. Dept. of Professional Regulation, Bd. of Medicine* (1988), 531 So.2d 411, a Florida physician similarly contended that her public intoxication, arrest, and admitted drug use did not warrant discipline where the facts failed to show any patient harm arising out of the conduct. The state medical board rejected the view that patient injury was dispositive, and the court in *Major* agreed, holding that the conduct at issue reflected on the physician's competency as a physician, and that the board was not required to find the physician's public intoxication incident as merely "an isolated incident * * * which the Board was required to view as professionally irrelevant." *Id.*, at 413. In

light of the physician's past history of alcohol abuse, the court noted that an impaired physician who is "capable of 'falling off the wagon' in such an explosive way in her personal life may very well do so in her professional life as well – even if she has not as yet done so," and the court recognized that the medical board "need not wait for a physician like Dr. Major to engage in such acts of gross malpractice before it acts, as here, to protect the public interest." *Id.*

{¶25} We find persuasive the above authorities, and conclude, in the instant case, that it was within the province of the medical board to consider the issue of impairment even in the absence of evidence of a specific incident of patient harm. Thus, the trial court did not abuse its discretion in rejecting appellant's contention on that issue, and appellant's first assignment of error is overruled.

{¶26} Appellant's second and fifth assignments of error are interrelated and will be considered together. Under his second assignment of error, appellant argues that the trial court erred in finding that the decision of the medical board is supported by reliable, probative, and substantial evidence. Under his fifth assignment of error, appellant argues the trial court erred in its assumption that the medical board possesses special expertise beyond that of the trial court.

{¶27} In arguing the medical board's order was not supported by reliable, probative, and substantial evidence, appellant first contends that there is a relevant distinction between alcohol dependence and alcohol abuse. Appellant argues that the medical board's order was flawed because the criteria for alcohol dependence, as set forth under the American Psychiatric Association's Diagnostic and Statistical Manual, Fourth Edition (hereafter "DSM-IV"), was not met in this case. On this point, appellant

challenges the diagnosis of Dr. Jones, arguing that her diagnosis should have been alcohol abuse rather than alcohol dependence. Appellant also argues that a "*high level of general incompetence was demonstrated by Dr. Jones throughout the entirety of this case.*" (Emphasis sic; Appellant's brief, at 11.)

{¶28} Because much of appellant's focus, under these assignments of error, involves the testimony of Dr. Jones, we begin by reviewing her testimony and assessment/diagnosis of appellant. As noted under the facts, in August of 2005, appellant was admitted to Parkside, a drug and alcohol rehabilitation center, for a 72-hour evaluation. Following appellant's release, Dr. Jones, the medical director at Parkside, prepared a written assessment.

{¶29} In the report, dated October 8, 2005, Dr. Jones observed that "alcohol is very important to [appellant] who continues drinking despite all of the above [OMVI incidents]." (State's Exhibit No. 2.) According to Dr. Jones, appellant "rationalizes how all of these things have happened to him," while at the same time he "minimizes the role alcohol has played in them." *Id.* Dr. Jones further noted that, when she discussed with appellant the potential of monitoring for a one-year period of time, "his first response was that he wouldn't drink for that time but implied he could resume drinking again when it was over." *Id.* Dr. Jones believed appellant to be "in denial of his alcoholism and warrants treatment and monitoring." Further, Dr. Jones opined that appellant "meets the diagnostic criteria for alcoholism by tolerance, repeated unpredictable loss of control, and repeated use despite consequences," and that he "meets criteria for statutory impairment based on my understanding of The State Medical Board rules and The Ohio Revised Code." *Id.*

{¶30} Dr. Jones also gave the following testimony before the medical board hearing examiner regarding her diagnosis of alcohol dependency. In forming her diagnosis, Dr. Jones, who is certified in addiction medicine, interviewed appellant on two occasions, and reviewed appellant's records from Talbot Hall, as well as other psychological tests. Dr. Jones was on vacation at the time of appellant's admission to Parkside, and she met with him shortly after his release. At the time of release, appellant was given a tentative discharge diagnosis of "alcohol abuse" by Dr. John A. Johnson. (Tr. Vol. II, at 325.) The final diagnosis, however, was to be made after Dr. Jones met with appellant.

{¶31} In considering appellant's history, Dr. Jones noted the DUI charges in 1992, and in 1993, followed by an OMVI charge in 2002. She cited the fact that, after his stay at Talbot Hall, where he was diagnosed with alcohol abuse, appellant did not make significant changes despite being instructed to go to meetings, and she noted that he did not fulfill the requirements of the Talbot Hall out-patient program. Dr. Jones expressed concern that, despite treatment in 2002, appellant did not change his behavior; rather, referencing the 2004 incident, he again drove after consuming alcohol, and was charged with OMVI.

{¶32} Dr. Jones cited the DSM-IV as setting forth the diagnostic criteria, and she found that appellant met at least three of the diagnostic criteria for alcohol dependence. Specifically, the criteria she cited as relevant in this case were: (1) increased tolerance for alcohol; (2) unpredictable loss of control; and (3) repeated use despite consequences.

{¶33} Dr. Jones defined "tolerance" as "an increased capacity to drink higher amounts than in the past with the same effect or the need to use higher amounts over

time to achieve the same effect." (Tr. Vol. II, at 359.) Dr. Jones found evidence of tolerance in appellant's record, including the fact that appellant informed her "he was drinking more than he had in the past," and that, in times of increasing stress, he consumed more alcohol than in the past. (Tr. Vol. II, at 364.)

{¶34} Dr. Jones testified that unpredictable loss of control is present when an individual drinks more alcohol than they intend to drink on more than one occasion. She cited appellant's multiple OMVI charges as instances in which alcohol was consumed in larger amounts than intended.

{¶35} Regarding the criteria of repeated use despite consequences, Dr. Jones testified appellant told her that he sought treatment in 2002 "strictly to get people off his back; thought it would look good in court at that time, should something further come out of that." (Tr. Vol. II, at 366.) Dr. Jones believed that appellant did not take the treatment seriously, and that he would pacify individuals and then "do what he pleases." (Tr. Vol. IV, at 578.) Dr. Jones testified that appellant's subsequent conduct, including resuming consumption of alcohol and the OMVI and child endangerment citations in Indiana, indicates that alcohol is extremely important to appellant, and that he continues to drink despite numerous legal problems.

{¶36} Dr. Jones found appellant to be in "high-level denial" regarding his use of dependency on alcohol. (Tr. Vol. IV, at 579.) She cited alarm at appellant's response, during one of their interviews, to a suggested one-year monitoring period, in which appellant stated: "Oh, I can not drink for a year." (Tr. Vol. IV, at 578.) The manner in which appellant responded indicated to Dr. Jones that appellant "still doesn't see there's a problem and that he won't drink for a year, but then he's planning on drinking again." (Tr.

Vol. IV, at 578.) Citing a repeated pattern of serious issues, Dr. Jones testified that appellant "still doesn't see alcohol as a problem and that he intends to go back to drinking again * * * which I found * * * very, very alarming." (Tr. Vol. IV, at 578.)

{¶37} Dr. Jones opined that appellant meets the criteria of "alcohol dependency," and that he also meets the criteria for statutory impairment based upon the Ohio Revised Code and the medical board's rules. (Tr. Vol. II, at 376.) Dr. Jones reviewed the medical board's rules and state statutes in arriving at her assessment of impairment. Dr. Jones described impairment as a situation in which, "after assessment the person is found to either need ongoing monitoring to assure abstinence so that people are protected or if they need treatment, that that person is considered impaired and unable to practice according to acceptable and prevailing standards of care." (Tr. Vol. II, at 369.) She noted that a physician with a diagnosis of alcohol dependency, if untreated, presents a significant risk of patient harm. Based upon her diagnosis of appellant, Dr. Jones opined that he posed a risk of patient harm.

{¶38} As noted, appellant challenges evidence that he met the criteria for alcohol dependency under the DSM-IV. During the medical board hearing, counsel for appellant questioned Dr. Jones regarding the fact the DSM-IV contained no specific listing for "unpredictable loss of control." Dr. Jones, however, explained that the term was her "phrasing of the criteria." (Tr. Vol. II, at 385.) Dr. Jones stated that, in preparing her assessment reports, she does not necessarily use "word for word" the criteria set forth in the DSM-IV. (Tr. Vol. II, at 390.)

{¶39} Upon review of the challenged testimony, the fact that Dr. Jones may have used somewhat different terminology than that listed under the DSM-IV does not, in our

view, undermine her assessment. One of the "listed" criteria for substance dependence is taking the substance "in larger amounts or over a longer period than was intended." (Respondent's Exhibit I.) As noted previously, Dr. Jones testified that unpredictable loss of control is present when an individual drinks more alcohol than they intend to drink on more than one occasion. Thus, while she may have used differing phraseology, Dr. Jones adequately identified the criteria.

{¶40} In arguing that Dr. Jones showed a general level of incompetence throughout the case, appellant cites Dr. Jones' use of the term "alcoholism" in her assessment report. Appellant contends that the use of alcoholism interchangeably with the term "alcohol dependency" demonstrates poor form and is reflective of substandard practice.

{¶41} During the hearing, Dr. Jones was asked by counsel for appellant whether there is an "alcoholism" category in the DSM-IV. Dr. Jones agreed with counsel that there is no alcoholism category, and made clear that the diagnosis is "alcohol dependency." When asked about the reference in her assessment report to "alcoholism," Dr. Jones stated that she employed "that term interchangeably with alcohol dependency." (Tr. Vol. II, at 375.) According to Dr. Jones, such use of the terms is "accepted in the field." (Tr. Vol. IV, at 593.) In this regard, Dr. Jones noted that a passage from an article by the National Institute for Alcohol Abuse and Alcoholism, provided to her by counsel for appellant, used the terms alcoholism and alcohol dependency as "meaning the same thing." (Tr. Vol. IV, at 593.) Dr. Jones clarified, however, based upon her assessment, that appellant "meets the criteria of alcohol dependency." (Tr. Vol. II, at 376.) Thus, while Dr. Jones sometimes used the terms interchangeably, it is clear from her testimony that

she recognized alcoholism is not a criteria category and that, in context, her opinion was that appellant met the criteria for alcohol dependency.

{¶42} The record in this case reflects that the hearing examiner and the medical board found Dr. Jones to be a credible witness. During the February 8, 2006 proceedings, in which the medical board considered appellant's objections to the hearing examiner's report, medical board members expressed their view that the evidence supported a finding of impairment. One of the physician board members stated "there are so many red flags in this case that it's clear to Board members that this gentleman is impaired." (Medical Board Minutes, Feb. 8, 2006.) Another physician board member found the definition of an impaired individual (i.e., who drinks despite adverse consequences and who minimizes the role alcohol has played in events) "fits Dr. Ridgeway to a tee." Id.

{¶43} Several of the medical board members, in considering appellant's efforts to minimize alcohol in his life, cited the 2004 incident in which appellant's four-year-old daughter was placed in protective custody for the weekend. During the hearing, when asked about the impact of being separated from his daughter for two days that weekend, appellant's response was that his daughter "actually had fun during those two days." (Tr. Vol. I, at 86.) Appellant further stated that his daughter "had a nice weekend with this lady named Rose and was not worried about it; so I would say the consequences were not overwhelming." (Tr. Vol. I, at 87.) One physician medical board member characterized appellant's response to the impact of this incident as "disturbing." Another physician medical board member found that appellant failed to understand the importance

of alcohol disease, citing hearing evidence in which appellant indicated he could maintain sobriety for a period of time, if requested, but that he would resume drinking afterwards.

{¶44} The trial court, in reviewing the evidence presented, found appellant's minimization of events to be "in consonance with Dr. Jones[]" opinion that Appellant was in denial." (Trial Court Decision, at 11.) The trial court, noting that the majority of the medical board members are physicians, agreed with the medical board's conclusion that there was sufficient evidence to support a finding that appellant was impaired and posed a danger to the public. Upon review, we find that the trial court did not abuse its discretion in finding that the order of the board was supported by reliable, probative, and substantial evidence, and was in accordance with law.

{¶45} Appellant contends that the trial court erred in its assumption that the medical board possesses "special expertise" beyond that of the court. Appellant maintains that, while the medical board may have expertise among its members in evaluating medical evidence, it does not have a member physician certified in the field of addiction medicine, thus undermining the medical board's ability to address issues of alcohol abuse and physician impairment.

{¶46} We find appellant's arguments to be unpersuasive. Under Ohio law, "[a] medical disciplinary proceeding is a special statutory proceeding conducted by twelve persons, eight of whom are licensed physicians." *Pons*, supra, at 623, citing R.C. 4731.01. This court has previously noted that "[t]he legislature and the courts of Ohio have delegated comprehensive decision-making power to the [State Medical] Board," and that "[s]uch power includes, but is not limited to, the authority to rely on the Board's own knowledge when making a decision." *Walker, M.D. v. State Med. Bd. of Ohio* (Feb. 21,

2002), Franklin App. No. 01AP-791. Further, "[i]t is well-established that '* * * the board may rely on its own expertise to determine whether a physician failed to conform to minimum standards of care.'" *Id.*, quoting *Arlen v. State* (1980), 61 Ohio St.2d 168, 172. In this respect, "[e]xpert testimony as to a standard of practice is not even mandatory in a license revocation hearing" because the specialized knowledge of licensed physicians on the board "renders the Board capable of both interpreting the technical requirements of the medical profession and determining whether a physician's conduct falls below the minimal standard of care." *Walker*, *supra*. However, "[w]hile the board need not, in every case, present expert testimony to support a charge against an accused physician, the charge must be supported by some reliable, probative and substantial evidence." *In re Williams* (1991), 60 Ohio St.3d 85, 87. Because "a majority of the board members possess the specialized knowledge needed to determine the acceptable standard of general medical practice * * * the medical board is quite capable of interpreting technical requirements of the medical field and quite capable of determining when conduct falls below the minimum standard of care." *Pons*, *supra*, at 623.

{¶47} In the instant case, the trial court's recognition, in its decision, that the medical board has special expertise and knowledge is consistent with the Ohio Supreme Court's admonition that "courts must accord due deference to the [medical] board's interpretation of the technical and ethical requirements of its profession." *Id.*, at 621.

{¶48} Based upon the foregoing, appellant's second and fifth assignments of error are without merit and are overruled.

{¶49} Appellant's third and sixth assignments of error are somewhat interrelated and will be considered together. Under the third assignment of error, appellant asserts

that his constitutional right to the "presumption of innocence" was denied based upon the fact the conduct at issue involved a "pending charge" and only one actual conviction.

{¶50} We find no merit to this argument. The issue of whether appellant suffered an impairment of his ability to practice medicine because of excessive use of alcohol was not dependent upon the existence of a criminal conviction, nor was the medical board required to wait, pending the resolution of appellant's DUI charge in Indiana, to consider this incident in relation to the issue of impairment. Similar to appellant's argument that the medical board was precluded from taking any disciplinary action absent evidence of patient harm, the implication that the medical board could not consider or investigate the circumstances surrounding a "pending" charge would essentially impede its ability to protect the public from potential harm. Further, appellant had the opportunity to testify at the hearing regarding the facts giving rise to the Indiana charge.

{¶51} Under his sixth assignment of error, appellant argues that the trial court erred in failing to find that the summary suspension was prejudicial with regard to the administrative hearing, and as to the subsequent medical board determination. Appellant concedes that the trial court "appears to have been able to distinguish the issue of summary suspension from that of the subsequent final Board order[.]" (Appellant's brief, at 17.) He maintains, however, that the issue of the summary suspension "was not only known to the court but clearly remains in the minds of all those involved in this case," and appellant further contends that the trial court failed to consider "the degree to which this was likely to be prejudicial to the plaintiff throughout the administrative hearing process[.]" (Appellant's brief, at 18.) Appellant's argument is without merit.

{¶52} R.C. 4731.22(G) provides in part:

If the secretary and supervising member determine that there is clear and convincing evidence that an individual has violated division (B) of this section and that the individual's continued practice presents a danger of immediate and serious harm to the public, they may recommend that the board suspend the individual's certificate to practice without a prior hearing. * * *

The board, upon review of those allegations and by an affirmative vote of not fewer than six of its members * * * may suspend a certificate without a prior hearing. A telephone conference call may be utilized for reviewing the allegations and taking the vote on the summary suspension.

The board shall issue a written order of suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. * * * If the individual subject to the summary suspension requests an adjudicatory hearing by the board, the date set for the hearing shall be within fifteen days * * * after the individual requests the hearing, unless otherwise agreed to by both the board and the individual.

Any summary suspension imposed under this division shall remain in effect, unless reversed on appeal, until a final adjudicative order issued by the board pursuant to this section and Chapter 119. of the Revised Code becomes effective. The board shall issue its final adjudicative order within seventy-five days after completion of its hearing. * * *

{¶53} Here, appellant does not contend that the requirements of R.C. 4731.22(G) were ignored, nor does he cite to any specific instances of alleged prejudice from the record. Rather, appellant asserts he has knowledge of "statements made by this particular hearing officer several months after the hearing" regarding Dr. Jones which "calls into question the validity of the Report and Recommendation itself." (Appellant's brief, at 18.) Appellant's reference to purported matters outside the record is insufficient to support a showing of prejudice. The trial court considered appellant's challenge to the

summary suspension and found no prejudice under the circumstances. Upon review, we find no abuse of discretion by the trial court's determination.

{¶54} Based upon the foregoing, appellant's third and sixth assignments of error are without merit and are overruled.

{¶55} Under his fourth assignment of error, appellant contends the trial court abused its discretion in denying his motion to introduce critical additional evidence. Specifically, appellant argues that the court should have considered evidence of his treatment by Dr. Gregory Collins of the Cleveland Clinic Foundation, Alcohol and Drug Recovery Center (hereafter "Cleveland Clinic"). Appellant acknowledges that the evidence as to this assessment was known to exist, but appellant maintains that reasonable diligence was exercised in attempting to get these records before the administrative proceedings. Appellant thus seeks a remand hearing to address this issue.

{¶56} By way of background, on the fifth and final day of the administrative hearing, appellant testified that he had spent 28 days at the Cleveland Clinic. Appellant's counsel then sought to introduce a copy of a document pertaining to that treatment, i.e., a treatment and recovery contract from the Cleveland Clinic. The state objected on the basis that the information at issue had never been submitted prior to the hearing. The hearing examiner found that the information was relevant to the proceedings, and indicated that the state would be allowed additional time, if needed, to respond to the proposed exhibit.

{¶57} In the hearing examiner's report and recommendation, this issue was addressed, in which the hearing examiner noted in part: "The hearing record * * * was

held open to allow the State to determine whether it would be appropriate to present rebuttal evidence in response to particular testimony elicited during the fifth day of [the] hearing." (Hearing Examiner Report, at ¶5.) The hearing examiner further noted, however, that during "post-hearing discussions * * * the parties agreed to strike that testimony in order to forgo additional days of hearing." Id. Thus, that testimony was stricken from the transcripts, unredacted copies of hearing transcripts were sealed, and the exhibit at issue ("Respondent's Exhibit P") was also sealed.

{¶58} Following his appeal to the trial court from the medical board's order, appellant sought to introduce the treatment records from the Cleveland Clinic. The board filed a memorandum contra appellant's motion to introduce additional evidence.

{¶59} By decision filed August 31, 2006, the trial court denied appellant's motion to admit additional evidence. Specifically, the trial court determined that appellant failed to show that the records were "newly discovered," or that appellant had exercised "reasonable diligence" in seeking to ascertain the existence of these records for the administrative hearing.

{¶60} R.C. 119.12 provides in pertinent part:

Unless otherwise provided by law, in the hearing of the appeal, the court is confined to the record as certified to it by the agency. Unless otherwise provided by law, the court may grant a request for the admission of additional evidence when satisfied that the additional evidence is newly discovered and could not with reasonable diligence have been ascertained prior to the hearing before the agency.

{¶61} Upon review, we find the trial court did not abuse its discretion in denying appellant's motion to supplement the record. The evidence sought to be introduced was, by appellant's own admission, not newly discovered. Further, as noted by the trial court,

appellant failed to indicate what specific measures he had taken to show "reasonable diligence" in attempting to obtain this information. In his motion to supplement the record, appellant's supporting memorandum generally asserted that the board was "put on notice of Dr. Ridgeway's attendance at the Cleveland Clinic during the Administrative Hearing." The record indicates, however, that the issue of appellant's attendance at the Cleveland Clinic was not raised during the proceedings until the final day of testimony. Further, despite the hearing examiner's willingness to allow the state time to review the materials, counsel for appellant waived the presentation of this evidence in order to allow the matter to proceed in a timely manner. Under these circumstances, we find no error by the trial court's denial of appellant's motion.

{¶62} Accordingly, appellant's fourth assignment of error is without merit and is overruled.

{¶63} Based upon the foregoing, appellant's first, second, third, fourth, fifth, and sixth assignments of error are overruled, and the judgment of the Franklin County Court of Common Pleas is hereby affirmed.

Judgment affirmed.

BRYANT and FRENCH, JJ., concur.

STEP II
CONSENT AGREEMENT
BETWEEN
JOSEPH ALOYSIUS RIDGEWAY, IV, M.D.
AND
THE STATE MEDICAL BOARD OF OHIO

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

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

BASIS FOR ACTION

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

- A. The Board is empowered by Section 4731.22(B), Ohio Revised Code, to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for violation of Section 4731.22(B)(26), Ohio Revised Code, "impairment 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;" or Section 4731.22(B)(15), Ohio Revised Code, for "violation of the conditions of limitation placed by the board upon a certificate to practice.
- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violation of Sections 4721.22(B)(15) and 4731.22(B)(26), Ohio Revised Code, as set forth in Paragraph D of the Step I Consent Agreement Between Joseph Aloysius Ridgeway, IV, M.D., and The State Medical Board of Ohio effective October 12, 2006 [October 2006 Step I Consent agreement], a copy of which is attached hereto and incorporated herein and as set forth herein. The Board expressly reserves the right to institute formal proceedings based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Consent Agreement.
- C. Dr. Ridgeway is applying for reinstatement of his license to practice medicine and surgery in the State of Ohio, License # 35-062021, which was indefinitely suspended,

but not less than one year, pursuant to the terms of the above-referenced October 2006 Step I Consent Agreement.

- D. Dr. Ridgeway states that he is not licensed to practice medicine and surgery in any other State.
- E. Dr. Ridgeway admits that after a urine specimen he provided on or about July 5, 2006, tested positive for the presence of a cocaine metabolite, benzoylecgonine, on or about July 31, 2006, he entered treatment at the Cleveland Clinic Foundation [Cleveland Clinic], a Board approved treatment provider, and he successfully completed thirty days of in-patient treatment for chemical dependency and was discharged on August 29, 2006.
- F. Dr. Ridgeway states that following his discharge from the Cleveland Clinic on August 29, 2006, he was again under an aftercare contract with the Cleveland Clinic that was initially entered on December 5, 2005, as modified on March 9, 2006, and which was signed by Dr. Ridgeway on September 25, 2007. Dr. Ridgeway states, and the Board acknowledges receipt of information to support, that Dr. Ridgeway has remained compliant with his aftercare contract with the Cleveland Clinic that became effective with his signature on September 25, 2007. Dr. Ridgeway further states that such aftercare contract remains in effect to date.
- G. Dr. Ridgeway states, and the Board acknowledges, that David Goldberg, D.O., of Greene Hall Chemical Dependency Services, Greene Memorial Hospital, a Board approved treatment provider in Xenia, Ohio, and Gregory B. Collins, M.D., of the Cleveland Clinic Foundation, a Board approved treatment provider in Cleveland, Ohio, have provided written reports indicating that Dr. Ridgeway's ability to practice has been assessed and that he has been found capable of practicing medicine and surgery according to acceptable and prevailing standards of care, so long as certain treatment and monitoring requirements are in place, including that he undertake counseling related to aggressive behavior.
- H. Dr. Ridgeway states, and the Board acknowledges, that Dr. Ridgeway has fulfilled the conditions for reinstatement of his certificate to practice medicine and surgery in the State of Ohio, as established in the above-referenced October 2006 Step I Consent Agreement.

AGREED CONDITIONS

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, the certificate of Dr. Ridgeway to practice medicine and surgery in the State of Ohio shall be reinstated, and Dr. Ridgeway knowingly and voluntarily agrees with the Board to the following PROBATIONARY terms, conditions and limitations:

1. Dr. Ridgeway shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.
2. Dr. Ridgeway 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 Consent Agreement. The first quarterly declaration must be received in the Board's offices on the date his quarterly declaration would have been due pursuant to his October 2006 Step I Consent Agreement with the Board. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
3. Dr. Ridgeway shall appear in person for an interview before the full Board or its designated representative. The first such appearance shall take place on the date his appearance would have been scheduled pursuant to his October 2006 Step I Consent Agreement with the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
4. Dr. Ridgeway shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed.
5. In the event Dr. Ridgeway is found by the Secretary of the Board to have failed to comply with any provision of this Consent Agreement, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Consent Agreement.

MONITORING OF REHABILITATION AND TREATMENT

Drug Associated Restrictions

6. Dr. Ridgeway shall keep a log of all controlled substances prescribed. Such log shall be submitted, in the format approved by the Board, thirty days prior to Dr. Ridgeway's personal appearance before the Board or its designated representative, or as otherwise directed by the Board. Further, Dr. Ridgeway shall make his patient records with regard to such prescribing available for review by an agent of the Board upon request.
7. Dr. Ridgeway shall not, without prior Board approval, administer, personally furnish, or possess (except as allowed under Paragraph 8 below) any controlled substances as

defined by state or federal law. In the event that the Board agrees at a future date to modify this Consent Agreement to allow Dr. Ridgeway to administer or personally furnish controlled substances, Dr. Ridgeway shall keep a log of all controlled substances prescribed, administered or personally furnished. Such log shall be submitted in the format approved by the Board thirty days prior to Dr. Ridgeway's personal appearance before the Board or its designated representative, or as otherwise directed by the Board. Further, Dr. Ridgeway shall make his patient records with regard to such prescribing, administering, or personally furnishing available for review by an agent of the Board upon request.

Sobriety

8. Dr. Ridgeway shall abstain completely from the personal use or possession of drugs, except those prescribed, dispensed or administered to him by another so authorized by law who has full knowledge of Dr. Ridgeway's history of chemical dependency.
9. Dr. Ridgeway shall abstain completely from the use of alcohol.

Drug and Alcohol Screens/Supervising Physician

10. Dr. Ridgeway shall submit to random urine screenings for drugs and alcohol on a twice per week basis or as otherwise directed by the Board. Dr. Ridgeway 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. Further, the supervising physician shall ensure that additional testing of urine specimens for ethyl glucuronide is done on a random basis to include at least two out of every six urine specimens.

Dr. Ridgeway shall abstain from consumption of poppy seeds or any other food or liquid that may produce false results in a toxicology screen.

Dr. Ridgeway and the Board agree that the person or entity previously approved by the Board to serve as Dr. Ridgeway's supervising physician pursuant to the October 2006 Step I Consent Agreement is hereby approved to continue as Dr. Ridgeway's designated supervising physician under this Consent Agreement, unless within thirty days of the effective date of this Consent Agreement, Dr. Ridgeway submits to the Board for its prior approval the name and curriculum vitae of an alternative supervising physician to whom Dr. Ridgeway shall submit the required urine specimens. In approving an individual to serve in this capacity, the Board will give preference to a physician who practices in the same locale as Dr. Ridgeway. Dr. Ridgeway and the supervising physician shall ensure that the urine specimens are obtained on a random basis and that the giving of the specimen is witnessed by a reliable person. In addition, the supervising physician shall assure that appropriate control over the specimen is

maintained and shall immediately inform the Board of any positive screening results.

The Board expressly reserves the right to disapprove any person or entity proposed to serve as Dr. Ridgeway's designated supervising physician, or to withdraw approval of any person or entity previously approved to serve as Dr. Ridgeway's designated supervising physician, in the event that the Secretary and Supervising Member of the Board determine that any such supervising physician has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

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

In the event that the designated supervising physician becomes unable or unwilling to so serve, Dr. Ridgeway must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Dr. Ridgeway shall further ensure that the previously designated supervising physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

All screening reports and supervising physician reports required under this paragraph must be received in the Board's offices no later than the due date for Dr. Ridgeway's quarterly declaration. It is Dr. Ridgeway's responsibility to ensure that reports are timely submitted.

11. The Board retains the right to require, and Dr. Ridgeway agrees to submit, blood or urine specimens for analysis at Dr. Ridgeway's expense upon the Board's request and without prior notice. Dr. Ridgeway's refusal to submit a blood or urine specimen upon request of the Board shall result in a minimum of one year of actual license suspension.

Monitoring Physician

12. Before engaging in any medical practice, Dr. Ridgeway shall submit the name and curriculum vitae of a monitoring physician for prior written approval by the Secretary or Supervising Member of the Board. In approving an individual to serve in this capacity, the Secretary and Supervising Member will give preference to a physician who practices in the same locale as Dr. Ridgeway and who is engaged in the same or similar practice specialty.

The monitoring physician shall monitor Dr. Ridgeway and his medical practice, and shall review Dr. Ridgeway's patient charts. The chart review may be done on a random basis, with the frequency and number of charts reviewed to be determined by the Board.

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

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

Rehabilitation Program

13. Dr. Ridgeway shall maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., C.A., or Caduceus, no less than three times per week. Substitution of any other specific program must receive prior Board approval.

Dr. Ridgeway shall submit acceptable documentary evidence of continuing compliance with this program which must be received in the Board's offices no later than the due date for Dr. Ridgeway's quarterly declarations.

Aftercare

14. Dr. Ridgeway shall contact an appropriate impaired physicians committee, approved by the Board, to arrange for assistance in recovery or aftercare.
15. Dr. Ridgeway shall maintain continued compliance with the terms of the aftercare contract entered into with his treatment provider, provided that, where terms of the aftercare contract conflict with terms of this Consent Agreement, the terms of this Consent Agreement shall control.

Mental Health Treatment

16. Within thirty days of the effective date of this Consent Agreement, Dr. Ridgeway shall submit to the Board for its prior approval the name and qualifications of a psychiatrist of his choice. Upon approval by the Board, Dr. Ridgeway shall undergo and continue psychiatric treatment, to include psychotherapy, at least once a week for a minimum period of six months, or as otherwise directed by the Board. Dr. Ridgeway shall comply with his psychiatric treatment plan.

Dr. Ridgeway shall ensure that psychiatric reports are forwarded by his treating psychiatrist to the Board on a quarterly basis, or as otherwise directed by the Board. The psychiatric reports shall contain information describing Dr. Ridgeway's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Ridgeway's compliance with his treatment plan; Dr. Ridgeway's mental status; Dr. Ridgeway's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Ridgeway shall ensure that his treating psychiatrist immediately notifies the Board of his failure to comply with his psychiatric treatment plan.

The psychotherapy required pursuant to this paragraph may be delegated by Dr. Ridgeway's treating psychiatrist to an appropriately licensed mental health professional approved in advance by the Board, and may be limited to group counseling under the direction of a licensed mental health professional, so long as Dr. Ridgeway treating psychiatrist oversees/supervises such psychotherapy; includes information concerning Dr. Ridgeway's participation and progress in psychotherapy in his or her quarterly reports; and continues to meet personally with Dr. Ridgeway at least monthly. Should the psychotherapy required pursuant to this provision be delegated to a licensed mental health professional, Dr. Ridgeway shall ensure that psychotherapy reports are forwarded by his treating licensed mental health professional to the Board on a quarterly basis, or as otherwise directed by the Board. The psychotherapy reports shall contain information describing Dr. Ridgeway's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Ridgeway compliance with his treatment plan; Dr. Ridgeway's mental status; Dr. Ridgeway's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Ridgeway shall ensure that his treating licensed mental health professional immediately notifies the Board of his failure to comply with his psychotherapy treatment plan. These psychotherapy reports shall be in addition to the psychiatric reports.

It is Dr. Ridgeway's responsibility to ensure that all quarterly reports (psychiatric and psychotherapy, if applicable) are received in the Board's offices no later than the due date for Dr. Ridgeway's quarterly declaration.

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

Releases

17. Dr. Ridgeway 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. Ridgeway's chemical dependency, mental health counseling, or related conditions, or for purposes of complying with this Consent Agreement, whether such treatment or evaluation occurred before or after the effective date of this Consent Agreement. The above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute. Dr. Ridgeway further agrees to provide the Board written consent permitting any treatment provider and/or mental health provider from whom he obtains treatment to notify the Board in the event he 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 Consent Agreement.

Required Reporting by Licensee

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

professional license or for reinstatement of any professional license. Further, Dr. Ridgeway shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

20. Dr. Ridgeway shall provide a copy of this Consent Agreement to all persons and entities that provide Dr. Ridgeway chemical dependency and/or mental health counseling, treatment or monitoring.

FAILURE TO COMPLY

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

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

DURATION/MODIFICATION OF TERMS

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

ACKNOWLEDGMENTS/LIABILITY RELEASE

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

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

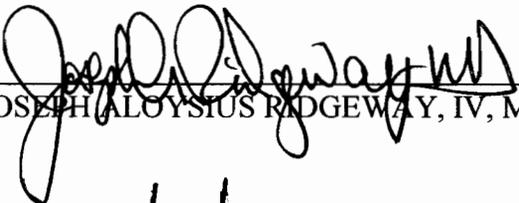
Dr. Ridgeway hereby releases the Board, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

This Consent Agreement shall be considered a public record as that term is used in Section

149.43, Ohio Revised Code. Further, this information may be reported to appropriate organizations, data banks and governmental bodies. Dr. Ridgeway acknowledges that his social security number will be used if this information is so reported and agrees to provide his social security number to the Board for such purposes.

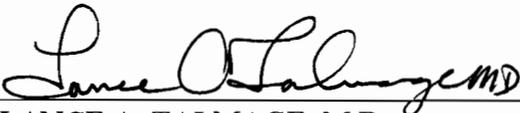
EFFECTIVE DATE

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



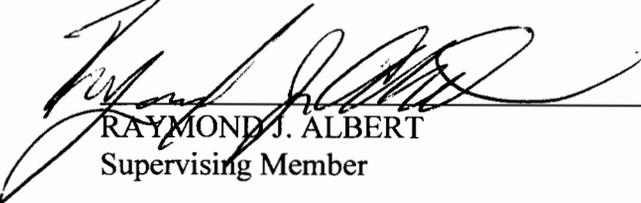
JOSEPH ALOYSIUS RIDGEWAY, IV, M.D.

DATE 11/6/07



LANCE A. TALMAGE, M.D.
Secretary

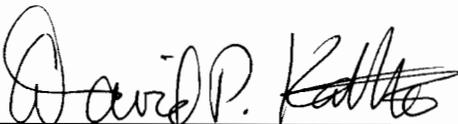
DATE 11-15-07



RAYMOND J. ALBERT
Supervising Member

11/15/07

DATE



DAVID P. KATKO
Enforcement Attorney

11/06/07

DATE

07H

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

FILED
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FRANKLIN CO. OHIO
2007 OCT 23 PM 12:18
CLERK OF COURTS

Joseph A. Ridgeway, M.D., :
 :
Plaintiff-Appellant, : No. 06AP-1197
 : (C.P.C. No. 05CVH10-11563) and
v. : No. 06AP-1198
 : (C.P.C. No. 05CVF11-12906)
State Medical Board of Ohio, :
 : (REGULAR CALENDAR)
Defendant-Appellee. :

O P I N I O N

Rendered on October 23, 2007

Joseph A. Ridgeway, pro se.

Marc Dann, Attorney General, Kyle C. Wilcox and Damion M. Clifford, for appellee.

APPEAL from the Franklin County Court of Common Pleas

KLATT, J.

{¶1} Plaintiff-appellant, Joseph A. Ridgeway, M.D., appeals from a judgment of the Franklin County Court of Common Pleas dismissing his actions against defendant-appellee, the State Medical Board of Ohio ("Board"). For the following reasons, we affirm.

{¶2} In an October 8, 2005 letter, Dr. Edna Jones informed Dr. Ridgeway and the Board that, in her opinion, Dr. Ridgeway suffered from alcoholism. Additionally, Dr. Jones stated that Dr. Ridgeway met "criteria for statutory impairment based upon [her] understanding of The State Medical Board rules and The Ohio Revised Code." In response to the letter, Dr. Ridgeway filed a complaint against the Board seeking injunctive

and declaratory relief. Essentially, Dr. Ridgeway wanted the trial court to prevent the Board from summarily suspending his medical license based upon Dr. Jones' opinion.

{¶3} The trial court denied Dr. Ridgeway a temporary restraining order. Thereafter, the Board acted upon the information contained in Dr. Jones' letter. Finding that the letter constituted clear and convincing evidence of Dr. Ridgeway's impairment and of his danger to the public, the Board entered an order of summary suspension on November 9, 2005.

{¶4} Dr. Ridgeway appealed the Board's November 9, 2005 order to the trial court. Simultaneously, Dr. Ridgeway requested an administrative hearing on the matter. In the trial court, the Board moved to consolidate Dr. Ridgeway's injunctive and declaratory relief action with the later-filed appeal. The trial court granted that motion.

{¶5} Meanwhile, Dr. Ridgeway argued in the administrative hearing that no disciplinary action against his license was warranted. Despite Dr. Ridgeway's arguments, the Board issued a final administrative order on February 8, 2006 that, in part, required Dr. Ridgeway to obtain alcohol treatment and suspended Dr. Ridgeway's medical license for three months.

{¶6} On March 20, 2006, Dr. Ridgeway appealed the Board's February 8, 2006 final administrative order to the trial court. At that point, Dr. Ridgeway was the plaintiff or appellant in three actions before the trial court: the consolidated actions (the declaratory/injunctive relief action and the appeal from the summary suspension) and the appeal from the February 8, 2006 final administrative order.

{¶7} The Board notified the trial judge assigned to the consolidated actions of the appeal of the February 8, 2006 final administrative order. Additionally, the Board

asserted that Dr. Ridgeway's appeal of the February 8, 2006 final administrative order made the consolidated actions moot. The trial court agreed, and on November 1, 2006, it issued a decision and judgment entry dismissing the consolidated actions.¹ Dr. Ridgeway now appeals from the November 1, 2006 decision and judgment entry.

{¶8} On appeal, Dr. Ridgeway assigns the following errors:

[1.] The trial court abused its discretion in determining that the summary suspension was supported by the statute.

[2.] The trial court abused its discretion in granting defendant's motion to dismiss when the record presents genuine issues of material fact that demand resolution by the trier of fact.

[3.] The trial court erred by failing to allow plaintiff due process of law with regard to the presentation of evidence in support of the claims for declaratory judgment/injunctive relief and appeal of the summary suspension.

[4.] The trial court erred and abused its discretion by denying plaintiff the due process right of the opportunity to be heard at a meaningful time and in a meaningful manner.

[5.] The trial court abused its discretion by failing to recognize defendant's involvement as potential conflict of interest or tortious interference with the plaintiff's relationship with a board-approved ("defendant-approved") treatment provider and its staff, including a material witness.

[6.] The trial court erred in failing to treat the consolidated case(s) at bar (appeals of summary suspension and declaratory judgment action with injunctive relief—05CV12906 and 05CV11563 respectively) as separate and distinct from the "unconsolidated" later appeal of the final board order (06CV-3795).

[7.] The trial court erred by dismissing the appeal of the summary suspension on the basis of mootness.

¹ This dismissal had no effect on Dr. Ridgeway's appeal of the February 8, 2006 final administrative order, which another trial judge separately considered.

[8.] The trial court abused its discretion by failing to consider an irreparable injury due to the inadequate remedy at law when denying injunctive relief.

{¶9} As an initial matter, we note that Dr. Ridgeway failed to separately argue each of his assignments of error as required by App.R. 16(A)(7). Pursuant to App.R. 12(A)(2), this court may disregard an assignment of error presented for review if the party raising it fails to argue the assignment separately in his brief. *Wells v. Michael*, Franklin App. No. 05AP-1353, 2006-Ohio-5871, ¶18. Nevertheless, in the interest of justice, we will address Dr. Ridgeway's arguments to the extent that we can align them with the pertinent assignment of error.

{¶10} We begin our analysis with Dr. Ridgeway's seventh assignment of error, by which he argues that his consolidated actions are not moot. We disagree.

{¶11} Actions are moot when " 'they involve no actual genuine, live controversy, the decision of which can definitely affect existing legal relations.' " *Lingo v. Ohio Cent. RR., Inc.*, Franklin App. No. 05AP-206, 2006-Ohio-2268, at ¶20, quoting *Grove City v. Clark*, Franklin App. No. 01AP-1369, 2002-Ohio-4549, at ¶11. See, also, *Robinson v. Indus. Commn.*, Franklin App. No. 04AP-1010, 2005-Ohio-2290, at ¶6 (holding that an action is moot "when a litigant receives the relief sought before the completion of the lawsuit * * * "). Ohio courts have long recognized that a court should not entertain jurisdiction over cases that are not actual controversies. *Tschantz v. Ferguson* (1991), 57 Ohio St.3d 131, 133; *State ex rel. Eliza Jennings, Inc. v. Noble* (1990), 49 Ohio St.3d 71, 74. If, while an action is pending, an event occurs that renders it impossible for a court to grant any effectual relief, the court will generally dismiss the action. *Tschantz*, supra, quoting *Miner v. Witt* (1910), 82 Ohio St. 237, syllabus.

{¶12} In the consolidated actions, Dr. Ridgeway contests the Board's right to summarily suspend his medical license and seeks a reversal of the summary suspension. According to R.C. 4731.22(G), "[a]ny summary suspension * * * shall remain in effect * * * until a final adjudicative order issued by the board pursuant to this section and Chapter 119 of the Revised Code becomes effective." Here, the Board issued a final adjudicative order on February 8, 2006. Consequently, Dr. Ridgeway's license is no longer under summary suspension and his attempts to contest the summary suspension are moot. See *Vogel song v. Ohio State Bd. of Pharmacy* (1997), 123 Ohio App.3d 260, 267 (under a similar statutory scheme, a final adjudication mooted a pharmacist's challenge to the summary suspension of his license); *Angerman v. State Med. of Ohio* (Feb. 27, 1990), Franklin App. No. 89AP-896 (the Board's final adjudicative order rendered the appeal of a physician's summary suspension moot).

{¶13} Dr. Ridgeway asserts that he presents this court with an issue capable of repetition yet evading review, and on that basis, he argues that this court should except the consolidated actions from the mootness doctrine. Although an action may be moot, a court may still resolve it if: "(1) the challenged action is too short in its duration to be fully litigated before its cessation or expiration, and (2) there is a reasonable expectation that the same complaining party will be subject to the same action again." *State ex rel. Calvary v. Upper Arlington*, 89 Ohio St.3d 229, 231, 2000-Ohio-142. At best, Dr. Ridgeway has demonstrated only that a summary suspension does not exist long enough for a trial court to review it. He has not come forth with any evidence establishing that he expects the Board to issue a summary suspension against his license again.

Accordingly, because we conclude that Dr. Ridgeway's consolidated actions are moot, we overrule his seventh assignment of error.

{¶14} Our resolution of Dr. Ridgeway's seventh assignment of error renders review of his other assignments of error unnecessary. Therefore, we overrule the remainder of Dr. Ridgeway's assignments of error as moot.

{¶15} For the foregoing reasons, we overrule Dr. Ridgeway's seventh assignment of error, and we overrule his first, second, third, fourth, fifth, sixth, and eighth assignments of error as moot. Further, we affirm the judgment of the Franklin County Court of Common Pleas.

Judgment affirmed.

SADLER, P.J., and FRENCH, J., concur.

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO
COMMON PLEAS, CIVIL DIVISION

~~IN THE COURT OF APPEALS OF FRANKLIN COUNTY, OHIO~~
~~TENTH APPELLATE DISTRICT~~

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FRANKLIN CO. OHIO
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CLERK OF COURTS

JOSEPH RIDGEWAY, M.D.
30 Ashbourne Road
Columbus, Ohio 43209-1451
Plaintiff-Appellant, pro se

Case No. 06 CV 3795

NOTICE OF APPEAL

v.

STATE MEDICAL BOARD OF OHIO
77 South High Street, 16th Floor
Columbus, Ohio 43215-6127
Defendant-Appellee

07 APE - - 5 - 0446
Judge Schneider

Notice is hereby given that Joseph A. Ridgeway, M.D., Appellant, hereby appeals to the Court of Appeals of Franklin County, Ohio, Tenth Appellant District from the Judgment Entry entered in this action (see attached), Notice of which was served on the 1st day of May, 2007.

Appellant appeals the decision of the trial court based upon the fact that the trial court abused its discretion in granting the Motion to Dismiss filed by the Ohio State Medical Board in the above-referenced case.

HEALTH & HUMAN
JUN 07 2007
SERVICES SECTION

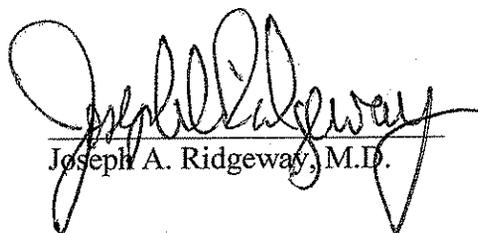
Respectfully submitted,


Joseph A. Ridgeway, M.D.
30 Ashbourne Road
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(614)240-1347(pager)

FILED
COMMON PLEAS COURT
FRANKLIN CO. OHIO
2007 MAY 30 PM 12:14
CLERK OF COURTS

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Appeal has been served on Counsel for Appellee, Damion M. Clifford, Assistant Attorney General, 30 East Broad Street, 26th Floor, HHS, Columbus, Ohio 43215 by regular U.S. mail this 30th day of May, 2007.


Joseph A. Ridgeway, M.D.

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO
CIVIL DIVISION

FINAL APPEALABLE ORDER

JOSEPH RIDGEWAY, M.D.

Case No. 06 CV 3795

Appellant

v.

Judge Schneider

THE STATE MEDICAL BOARD OF OHIO

Appellee

TERMINATION NO. 10
BY KT 4/26/07

**JUDGMENT ENTRY AFFIRMING ORDER OF
THE STATE MEDICAL BOARD OF OHIO**

For the reasons contained in the April 13, 2007 decision, it is **ORDERED, ADJUDGED
AND DECREED** that the Ohio State Medical Board's February 8, 2006 order concerning
Joseph Ridgeway, M.D. is **AFFIRMED**.

This is a final entry.

Judge Charles A. Schneider

FILED
COMMON PLEAS COURT
FRANKLIN CO. OHIO
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CLERK OF COURTS

Approved By:

/s/ per telephone authority
Joseph A. Ridgeway, M.D.
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Counsel for Appellee

FILED
COMMON PLEAS COURT
FRANKLIN COUNTY, OHIO
COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

JOSEPH RIDGEWAY, M.D.,

APPELLANT,

vs.

STATE MEDICAL BOARD OF OHIO,

APPELLEE.

2007 APR 13 PM 2:23
CASE NO. 06CV-3795
CLERK OF COURTS
JUDGE SCHNEIDER

DECISION ON MERITS OF APPEAL

Entered this 13th day of April, 2007.

This action is before the Court upon appeal by Joseph Ridgeway, M.D. from a February 8, 2006 Order by the State Medical Board of Ohio ("Board"). That Order imposed a three month suspension of Appellant's license to practice medicine as well as imposition of various requirements and conditions after the suspension was served. The Court notes that an ancillary case was brought before Judge Fais in Case Nos. 05CV-11563 and 12906 and a decision was rendered in those consolidated actions. Those matters related to the summary suspension of Appellant's license on November 9, 2005. The docket reflects that those cases are on appeal.

Dr. Ridgeway is a radiologist and is licensed to practice medicine in Ohio and Indiana. As noted above, the Board issued a Notice of Summary Suspension of Appellant's license and Opportunity for Hearing on the suspension on November 9, 2005. The Order stated that the Board had determined that there was clear and convincing evidence of violation of R.C. 4731.22(B)(26) and that continued practice by Appellant presented a danger of immediate and serious harm to the public. The decision in this appeal required Appellant to obtain drug/alcohol treatment and imposed various

HEALTH & HUMAN
APR 17 2007
SERVICES SECTION

requirements in addition to the three month suspension. The Board's actions were premised upon R.C. 4731.22(B)(26) and Ohio Administrative Code (O.A.C.) 4731-16-01 et seq. The appeal in this action has been filed pursuant to R.C. 119.12. Appellant asserts that the Order is not supported by reliable, probative, and substantial evidence and is not in accordance with law, including a denial of due process, equal protection and fundamental fairness. The record of proceedings from below has been filed and the parties have offered their legal arguments.

STANDARD OF REVIEW

Appellant has asserted that the decision by the Commission is not supported by reliable, probative, and substantial evidence and is in error of law. R.C. 119.12 and the multitude of cases addressing that section govern the Court's review of a decision of an administrative agency, such as the Commission. The most often cited case is that of *Univ. of Cincinnati v. Conrad*¹. The *Conrad* decision states that in an administrative appeal filed pursuant to R.C. 119.12, the trial court must review the agency's order to determine whether it is supported by reliable, probative and substantial evidence and is in accordance with law. The Court states at pages 111 and 112 that "In undertaking this hybrid form of review, the Court of Common Pleas must give due deference to the administrative resolution of evidentiary conflicts. The findings of the agency are not conclusive. Where the court, in its appraisal of the evidence, determines that there exist legally significant reasons for discrediting certain evidence relied upon by the administrative body, the court may reverse, vacate or modify the administrative order. Where it appears that the administrative determination rests upon inferences improperly drawn from the evidence adduced, the court may reverse the administrative order."

Although a review of applicable law is de novo, the reviewing court should defer to the agency's factual findings.² The basis for such due deference is the expertise in interpretation of the technical and ethical requirements of a profession provided by its administrative body.³

Appellant has offered that the decision of the Commission is not supported by the evidence. The quantum and quality of evidence to support the decision or order must be evidence that is reliable, probative, and substantial. The case of *Our Place, Inc. v. Ohio Liquor Control Comm.*⁴ is cited for its explanation of the terms reliable, probative, and substantial in a Chapter 119 application. Justice Wright applied the following definitions.

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

Several other cases have offered similar analyses.⁵ With the above standard in mind, the Court will address the issues raised in this appeal.

¹ 63 Ohio St. 2d 108, 407 N.E.2d 1265, (1980)

² *Pons v. Ohio State Med. Bd.* (1993), 66 Ohio St.3d 619, 614 N.E.2d 748. Rehearing denied by: *Pons v. State Medical Bd.* (1993), 67 Ohio St. 3d 1439, 617 N.E.2d 688. also *VFW Post 8586 v. Ohio Liquor Control Comm.* (1998), 83 Ohio St.3d 79, 82, 697 N.E.2d 655

³ *Joudah v. Ohio Dept. of Human Serv.* (1994), 94 Ohio App. 3d 614, 617, fn.2, 641 N.E.2d 288

⁴ (1992), 63 Ohio St. 3d 570, 589 N.E.2d 1303

PROCEDURAL HISTORY

On October 13, 2005 Appellant was notified by the Chief Enforcement Officer for the Board, Rebecca Marshall, that the Board required a minimum 28 day inpatient treatment in a Board approved program for alcohol impairment. The Board's decision was prompted not by standard of care issues, but upon four charged alcohol related driving violations. Appellant admits that in the last 13 years, he was involved in alcohol related driving violations but was found guilty of operating a motor vehicle while under the influence in only one in 1992. In October 2004 Appellant was stopped in Elkhart, Indiana for speeding and then charged with driving while under the influence of alcohol. Appellant entered a misdemeanor plea to those charges. Appellant had three separate evaluations of alcohol impairment in the ninety days preceding the Board's Notice. First, the Elkhart County Court required Appellant to be evaluated at the Elkhart Clinic. In the clinic, Doctor Davis concluded Appellant had "alcohol abuse with no clear evidence of alcohol dependence at this point in time." (7-27-05 letter) Davis' letter recommended monitoring by the Indiana and Ohio Physician's Assistance Programs. August 22, 2005 Appellant had an impairment assessment at the Woods at Parkside in Gahanna. This was a seventy- two hour Board mandated assessment. It was initially determined that there was alcohol abuse, but Appellant was not impaired or alcohol dependent. The medical director of the facility, Edna Jones, conducted a follow-up assessment. She authored a letter to counsel for Appellant and the Board dated October 8, 2005 in which she determined that "***he meets the criteria for statutory impairment based on my

⁵ *Ohio Civil Rights Comm'n v. Case Western Reserve Univ.*, 76 Ohio St. 3d 168, 1996 Ohio 53, 666 N.E.2d 1376, 1996.

understanding of the State Medical Board rules and the Ohio Revised Code.” Dr. Jones recommended a 28 day inpatient treatment program.

The Board afforded Appellant a hearing before a Hearing Officer which was conducted on November 28, December 5, 8, 12, and 15, 2005. The Hearing Officer issued her Report and Recommendation on January 23, 2006 and the Board approved the Report and Recommendation with modifications. The mailing date of the Board’s Order was March 8, 2006.

ANALYSIS OF ASSIGNED ERRORS

The legislature has granted the Medical Board authority to impose discipline under R.C. 4731.22(B)(26) if it determines its licensee has “Impairment 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.” Under that authority the Board has promulgated O.A.C. 4731-16-01 which in part (A) states ““Impairment” means impairment 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. Impairment includes inability to practice in accordance with such standards, and inability to practice in accordance with such standards without appropriate treatment, monitoring or supervision.” Appellant contends that the Board has erred in applying the above statute and code sections. It is generally contended by Appellant that the Order is not supported by reliable, probative, and substantial evidence and is not in accordance with law.

More specifically, Appellant has propounded the following errors which are set forth seriatim. Appellant contends that the jurisdiction of the Board does not extend to

doctors whose practices are not affected by alcohol abuse. Appellant contends that three assessments prior to November 9, 2005 found that there was alcohol abuse, but not impairment. Appellant also disagrees with Dr. Jones' diagnosis of alcoholism and believed that the doctor misapplied the statutory definition of impairment. Appellant also takes issue with the analysis because it is not based upon generally accepted diagnostic principles contained in DSM-IV⁶. Appellant also cites the report of the Cleveland Clinic that contained a diagnosis of abuse and not impairment and has offered a letter from that which was not admitted into evidence. The Court has already indicated that the Cleveland Clinic material is not being considered in this appeal. Appellant also contends that Rebecca Marshall failed to present evidence to the Board. It is acknowledged that Ms. Marshall asserts that she orally provided information to the Board but that the written assessments were not given to the Board except for Dr. Jones'. Appellant asserts that there is no evidence of an impaired ability to practice medicine and the statutory requirement of impairment does not include an expectation of future impairment. It is contended that the Board does not have authority pursuant to R.C. 4731.22 or O.A.C. 4731 to apply limitations or sanctions for actions not related to a doctor's practice. Appellant lastly offers of that there should have been separate hearings on the summary suspension and the merits suspension.⁷

The Board has responded to Appellant's arguments. It is offered that the Board had clear and convincing evidence that there was a threat of severe and immediate harm. The Board contends that Appellant's impairment is sufficient to impose conditions upon a practitioner's license. The Board asserts that Jones is an expert in the field of addiction

⁶ Diagnostic and Statistical Manual of Mental Disorders

⁷ Citing *Doriott v. State Med. Bd* Franklin App. No.05AP-1079, 2006-Ohio-2171

and that based upon the evidence and her opinion, Appellant met three of seven diagnostic criteria for alcohol dependence. The Board contends that the opinion of Jones, utilizing the term alcoholism may be a failure to use exact verbiage, but does not reflect a defect in her opinion. It is further offered that the Board has sufficient expertise in the area of alcohol addiction to form its own opinion without being unduly reliant upon Jones's opinion. The Board contends that no pertinent information was withheld from the Board and that the later opportunity before the Board in which Appellant was given an audience negates any error in this respect. The Board offers that the actions of Appellant created serious and immediate harm in that there is no requirement that the Board delay their action until the doctor becomes intoxicated at work and endangers patients. In essence, the Board offers that the intent of the statute is to be proactive. The Board responds that the both the statute and administrative code are constitutional and are not unduly broad. The Board and Hearing Officer concluded that separate hearings are not required as to summary suspension and a merits determination of sanctions. The Board also offers that even if separate hearings were to be required, a summary suspension hearing requires the burden of proof to be clear and convincing which is a higher standard than would be required under a normal hearing. The Board argues that there is no prejudice from any combined hearing. The Board also notes that there was sufficient notice given to Appellant and that a full opportunity for due process was provided.

Appellant's reply takes the position that the cases of *Gipe v. State Medical Board*⁸ and *Landefeld v State Medical Board*⁹ hold that impairment in and of itself is insufficient

⁸ Franklin App. 02AP-1315) 2003-Ohio-4061

⁹ June 15, 2000, Franklin App. 99AP-612

for the Board to levy sanctions. Appellant takes the position that if there is no impact on patient practice from alcohol abuse then the Board exceeds its authority in attempting to impose sanctions or limitations.

As remarked above, Appellant was granted five separate days to present evidence and to contest evidence as to the issues in this matter. The hearing officer determined that separate hearings were not necessary between the summary suspension and the violations noted by the Board. The hearing officer took evidence establishing that Appellant graduated from Ohio State University in 1989 and received his first DUI charge in 1992. Appellant offered that he was not guilty to that charge of driving under the influence but pled guilty upon the advice of counsel. In 1993 and 2002 driving under the influence charges were pled down to misdemeanor reckless operation citations. As part of the 2002 plea agreement, Appellant was required to attend an outpatient program at Talbot Hall at Ohio State University. While there was to be abstention from the use of alcohol and attendance at AAA meetings, those conditions were apparently not followed by Appellant. The 2004 incident in Indiana resulted in not only a driving under the influence charge, but also a charge of child endangering. Because Appellant and his wife had their six-year-old child in the car, the child was taken to foster care while both parents spent the night in jail. It is obvious from the minutes of the Board's meeting, that several Board members found Appellant's cavalier attitude towards his daughter's night in foster care to be disturbing. The hearing officer also noted domestic violence charge in April 2005. Evidence reflects that in July 2005 Appellant had an evaluation for substance abuse in Indiana. In August of 2005 Appellant underwent a 72 hour evaluation. That evaluation resulted in abuse diagnoses from the medical staff with the

exception of Edna Jones who was absent. From further evaluation of the facts and two separate conversations with Appellant, Dr. Jones gave her opinion and finding of alcoholism. Ms. Jones testified at the hearing that the diagnosis of alcoholism is the same as alcohol dependency. Her determination of dependency was based upon the criteria that Appellant was having an increased tolerance to alcohol, unpredictable or loss of control, which she deemed to be evidenced by the DUI's, and repeated actions of alcohol use, despite the consequences. Her opinion was that Appellant was impaired and that only a program with continuing monitoring and evaluation would result in a successful treatment program. Dr. Jones admitted that she had no information showing a lack of patient care or drinking on the job. She still opined that there was a risk of harm. She expected that the disease would progress and that eventually it would carry into the patient care area. (Transcript 590.) She also felt that Appellant failed to complete the Talbot Hall program and refused to recognize his problem. She determined that he was in a high level of denial. (Transcript 579) The hearing officer concluded that the Board did not have to wait to address Appellant's problem until patient care or harm became an issue. The Board concluded likewise.

In considering the issues in this appeal, the Court must keep in mind the statutory framework for the administrative process and the deference to be given the Board in conducting its affairs in regulating conduct and insuring that the public be protected. Further undisputed is that the Medical Board has expertise among its members in evaluating medical evidence and expert opinions.¹⁰

A license to practice medicine in this state is a privilege extended to those individuals who have the necessary education, training and met the requirements imposed

by law. The Board is vested with considerable authority to deal with examinations, applications, and continuing education of physicians. In addition, R.C. 4731.22 provides an array of matters for which the Board may consider discipline. While Appellant seeks to have consideration of the issues in his case considered under subpart (19) as a physical or mental impairment, the legislature manifestly intended to treat drug, alcohol, or other substance abuse or impairment as a different category by enactment of subpart (26). That section has a lengthy description of duties and requirements to be met by an impaired physician.

The first and possibly most contentious of the assigned errors is that the Board lacks authority to address circumstances where there is evidence that a physician has an alcohol abuse or dependence issue that has not yet manifested itself in his or her practice. There is no evidence of patient care or standard of care departure by Appellant. Under the argument espoused by Appellant, until such evidence exists, the Board lacks authority to address the substance abuse or dependence. While Appellant denies that he has a serious problem, the history of his alcohol related traffic charges reflects otherwise. Two charges for driving under the influence over a span of thirteen years might simply reflect bad luck and poor judgment. Three charges cause greater concern and four charges evidence a problem to be faced and dealt with. The Court will admit that the line may be fine between abuse and dependence. The record reflects that Appellant knew that as a result of the Talbott Hall intervention, that he should attend AAA or participate with some other type of support group and that he should abstain from alcohol use. Instead, he drank wine in his vehicle and caused his daughter to spend the night in foster car. The Court, like the Board, finds the reaction to what will be termed the Indiana incident,

¹⁰ *Landefeld, supra*

disconcerting. By Appellant's own admission, he had consumed a third of a bottle of wine, while driving on the Indiana Turnpike, when he was stopped for speeding. He chose not to take a breathalyzer which he felt he would have passed. He testified that he did not believe his daughter was impacted by the events. (Transcript pages 644-645)

This minimization of the events appears in consonance with Dr. Jones opinion that Appellant was in denial. The above evidentiary recapitulation is offered to help gain the perspective of the Board when reviewing the Report and Recommendation and issues before it. Whether Dr. Jones dotted the i's or crossed the t's in writing her diagnosis and evaluation, the Board, which has eight members who are physicians, concluded that Appellant's alcohol problem was not de minimis and the danger he presented to himself and his family in the Indiana incident justified a similar concern for the public. The minutes of the Board meeting indicate that the doctor's driving while consuming alcohol was paramount in their mind as an indicator of impairment.

The Court must conclude, as did the Board, that Appellant was impaired by abuse of alcohol. Like the Board, the Court does not find that a crisis in patient care or performance of his duties as a radiologist must occur before the Board can act. Appellant enjoys a position, through undoubtedly years of education and hard work, of great importance to the community. Accompanying that prestigious occupation, is the necessity that the community be protected from lapses or clouded judgment arising from alcohol impairment. Few other occupations are regulated or scrutinized by the state in greater detail than that of a physician, ostensibly because there are few occupations that can have such impact on the citizenry.

Appellant's argument that only Dr. Jones found impairment with other evaluators finding the less serious diagnosis of abuse is a matter of weight of evidence. The Hearing Officer and the Board concluded that the most exhaustive and most educated opinion was that of Dr. Jones, a specialist in the field of addiction. As observed above, the Board has its own self-contained body of experts, the physician members, who possess far superior skill in evaluating Appellant's status than this Court.

Whether or not the Board's investigator, Ms. Marshall, conveyed all of the information that she should have to the Board, the ultimate determination of Appellant's fate did not rest upon her actions, but rather upon the extensive hearing, Report and Recommendation and consideration of that information by the Board. The Court concurs with the Hearing Officer and the Board in finding no efficacy in having a separate hearing on the summary suspension. There may be situations which merit such a hearing, but due process was given to Appellant in this matter.

Appellant has relied upon the *Gipes* and *Landefeld* cases, *supra*, for support of his argument that the Board has held that evidence of impairment does not necessarily render an individual unable to practice according to acceptable and prevailing standards of care.¹¹ The Court will note that both cases are factually distinguishable from the instant matter. Neither case had to address an impairment only situation. *Gipes* addressed the issue of failure to disclose a felony drug possession and *Landefeld* concerned several different charges including patient care issues. In both of those cases, the doctor's sought to have the Board proceed only under the provisions of R.C. 4731.22(B)(19) pertaining to impairment. Neither case has applicability to the instant matter.

¹¹ *Landefeld* at. 641

Appellant's final argument is that the Board lacks authority to impose restrictions or sanctions upon conduct not related to the doctor's practice. The response of the Board is that it is necessary to be proactive and that it would be contrary to the intent of the legislature if intervention must wait until there is a departure from the standards for patient care. The Court will agree that this is a fine balance. It can only be commented that the issue will predominantly rest upon the particular circumstances in each case. A single alcohol related traffic citation would likely never rise to the level for justification of intervention by the Board. Had Appellant only been involved with the 1992 and 1993 violations, then Board action in 2005 would be suspect. The facts in the instant matter establish a third alcohol related event in 2002, with a failed attempt for rehabilitation. It can be discerned that the 2004 Indiana incident was the culminating factor in forcing the Board to act.

After consideration of the record and the arguments of counsel, the Court finds the Order of the Board is supported by reliable, probative, and substantial evidence and is in accordance with law. Counsel for the Board shall prepare a Judgment Entry pursuant to Local Rule 25.01.



Judge Charles Schneider

Appearances:

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Attorney for Appellant

Kyle C. Wilcox
Damien M. Clifford
Assistant Attorney General
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Attorneys for Appellee

NOTICE OF APPEAL TO A COURT OF APPEALS
FROM A JUDGMENT OR
APPEALABLE ORDER

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

FILED
COURT OF APPEALS
FRANKLIN CO. OHIO
2006 NOV 28 PM 12:00
CLERK OF COURTS

Joseph Ridgeway, M.D.
30 Ashbourne Road
Columbus, Ohio 43209
Appellant

:
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Case No. 05-CV11563, 12906

NOTICE OF APPEAL

v.

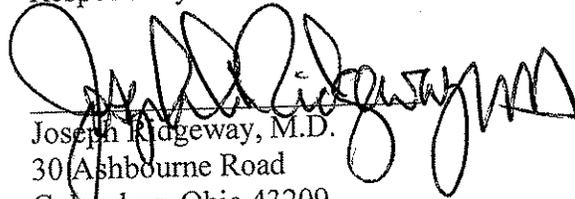
STATE MEDICAL BOARD OF OHIO
77 South High Street, 16th floor
Columbus, Ohio 43215-6127
Appellee

06 APE - 11 - 1197

Notice is hereby given that Joseph Ridgeway, M.D., Appellant, hereby appeals to the Court of Appeals of Franklin County, Ohio, Tenth Appellant District from the Judgment Entry entered in this action on the 30th day of October, 2006. (see attached)

Appellant appeals the decision of the trial court based upon the fact that the trial court abused its discretion in granting the Motion to Dismiss filed by the Ohio State Medical Board in the above referenced consolidated cases.

Respectfully submitted,



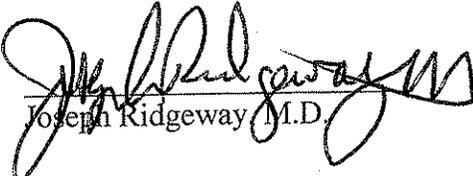
Joseph Ridgeway, M.D.
30 Ashbourne Road
Columbus, Ohio 43209
(614)

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2006 NOV 28 AM 11:56
CLERK OF COURTS

HEALTH & HUMAN
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SERVICES SECTION

Certificate of Service

I hereby certify that a copy of the foregoing Notice of Appeal has been served on Counsel for Appellee, Kyle C. Wilcox, Assistant Attorney General, 30 E. Broad Street, 26th Floor, HHS, Columbus, Ohio 43215 by regular U.S. mail, this 28th day of November, 2006.


Joseph Ridgeway M.D.

COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO
CIVIL DIVISION

Joseph Ridgeway, M.D.,

Appellant,

-VS-

State Medical Board Of Ohio,

Appellee.

CASE NOS. 05CV-11563, 12906

JUDGE DAVID W. FAIS

[Handwritten signature]
18

DECISION AND ENTRY ON MERITS OF APPEAL

Rendered this 30th day of October, 2006.

FAIS, JUDGE

FINAL APPEAL COURT

These consolidated actions arise from a November 9, 2005 Summary Suspension of Appellant's medical license by the State Medical Board of Ohio (hereinafter "Board"). Case Number 06CV-11563 was filed on October 19, 2005 seeking declaratory judgment and injunctive relief. Case Number 06CV-12906 was brought as an appeal under Chapter 119 and sought an expedited hearing on the merits of the appeal.

Joseph Ridgeway, M.D. (hereinafter "Dr. Ridgeway") is a radiologist and was licensed to practice medicine in Ohio. The Board issued a Notice of Summary Suspension of Appellant's license and Opportunity for Hearing on the suspension on November 9, 2005. The Order states that the Board determined that there is clear and convincing evidence of violation of R.C. 4731.22(B)(26) and that continued practice by Appellant presents a danger of immediate and serious harm to the public. Appellant requested a hearing before the Board on the suspension. The decision of the Board was

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CLERK OF COURTS

based upon the conclusion that Appellant was impaired by habitual or excessive use of alcohol.

The Board has noted that Appellant has filed a separate notice of appeal in Case No. 06CV-3795 as to a March 20, 2006 Order of the Board. The docket reflects such a filing, but the Court is not aware of the substance of that order or issues on appeal.

The Board has filed Motions to Dismiss in both of these cases and briefs have been filed. Appellant has offered that on October 13, 2005 he was notified by Rebecca Marshall, Chief Enforcement Officer for the Board that he was to enter a minimum 28 day inpatient treatment regimen at a Board-approved provider. Appellant states that in the last 13 years, he was involved in alcohol related driving violations, but only one Court found him guilty of operating a motor vehicle while under the influence and that was in 1992. The most recent incident was in October 2004 in Elkhart, Indiana for speeding and driving while under the influence of alcohol. Appellant does not offer the disposition of that case.

Appellant indicates that he had three separate evaluations as to possible impairment in the ninety days prior to the Board's Notice. The first was at the Elkhart Clinic (at the behest of the Elkhart County Court). The doctor at that clinic determined that Appellant had alcohol abuse with no clear evidence of alcohol dependence at this point in time. On August 22, 2005, Appellant went for an impairment assessment at the Woods at Parkside. This was a mandated assessment required by the Board. It was determined at that time that there was alcohol abuse, but that Appellant was not impaired or alcohol dependent.

A follow-up assessment was done by another doctor at the facility, Edna Jones. She sent a letter to the Board on October 8, 2005 which stated in part "At the time that he presented, he did not seem impaired. However, that is a relatively brief time and patients often present their best appearance. Though I can say that I agree the he did not seem impaired by alcohol on his job any time I have evidence of, I believe he meets the criteria for statutory impairment based on my understanding of the State Medical Board rules and the Ohio Revised Code." Dr. Jones recommended a 28 day inpatient treatment program. The Board has acted on the history of Appellant's alcohol related incidents and Dr. Jones's opinion.

The Board has moved for dismissal based primarily upon two bases. The first is that the appeal is from an interlocutory decision by the Board and the second is that Appellant has failed to exhaust available administrative remedies. A third issue, one of mootness, has been offered in a March 30, 2006 Notice of Filing of Appeal, offered by the Board.

The Revised Code grants the Board authority to impose discipline if it finds pursuant to R.C. 4731.22(B)(26) "Impairment 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." Summary suspension is provided under R.C. 4731.22(G), which provides that if the Board finds that there is clear and convincing evidence that an individual has violated division (B), and that the individual's continued practice presents a danger of immediate and serious harm to the public, then the board may suspend the individual's certificate to practice

without a prior hearing.. The order of suspension shall not be subject to suspension by the Court during pendency of any appeal filed under section 119.12 of the Revised Code.

There is nothing that specifically negates other judicial avenues. A requested adjudicatory hearing is to be conducted by the board within fifteen days, but not earlier than seven days, after the request for the hearing and a final order is to be issued no later than sixty days from the conclusion of the hearing. Arguably, there should be a decision on the issue of suspension issued within a 67 to 75 day interval. As a matter of practice, the appeals to this Court of the Board's final orders on summary suspension have been beyond those intervals.

The Board asserts that the November 9th summary suspension is not a final or appealable order, but rather an "investigatory decision." Appeals provided by statute are confined to the mechanisms provided by the legislature. In this instance, R.C. 119.06 includes within the definition of adjudication order an order imposing a suspension without hearing. It is concluded that a summary suspension order can be appealed to the Court under R.C. 119.12 or be the subject of a request for declaratory judgment or injunctive relief. The most recent case to address a summary suspension was *Doriott v. State Med. Bd.* (2006), Franklin App. No.05AP-1079, 2006-Ohio-2171. However, that case addressed the requirement of notice and the minimum requirements of due process. The only other decision specifically involved in a summary suspension from the Tenth District is that of *Angerman v. State Medical Bd.* (February 27, 1990), Franklin App. No. 89AP-896, Franklin County App. No. 89AP-897. The *Angerman* court and the Scioto County Appellate Court in *Vogelsong v. Ohio State Bd. of Pharm.* (1997), 123 Ohio App. 3d 260, dismissed summary suspension appeals on the basis of mootness.

While it was the Board and not the doctor who sought review of the issues in *Angerman*, the conclusion of the Court of Appeals was that once the Board held its hearing and an order was issued, the question of validity of the summary suspension was rendered moot. Appellant does not dispute that the Board has conducted the full hearing and issued an order. The Board has offered the Magistrate decision in *Brightwell v. Ohio State Medical Board* as a basis for dismissal. As pointed out by Appellant that decision was never adopted. The underlying context of that consideration appears to be substantially the same as in the instant action. No issue of declaratory judgment or injunctive relief was discussed. This Court recognizes, as did the Magistrate, the effect of a summary suspension on a license holder. Nonetheless, the Court cannot unring the bell.

The Board has issued an order after a full hearing, apparently adverse to Appellant otherwise it would not have been appealed. Despite Appellant's arguments to the contrary, the Court discerns no efficacy in attempting to determine the propriety of the summary suspension. There may be an instance when a Court will entertain injunctive relief and immediately stay a suspension. The Court has concern in this instance that Dr. Jones made a quantum leap from Appellant being an alcohol abuser to an impaired physician. However, the Court must keep in mind the statutory framework for the administrative process and the deference to be given the Board in conducting its affairs in regulating conduct and insuring that the public be protected.

The Board has offered that Appellant failed to exhaust his administrative remedies and dismissal should result on that basis. Appellant points out that there is no other administrative avenue to pursue in a summary suspension. This was true at the time

that the 119 appeal and declaratory and injunctive actions were filed. Since there is now an appeal pending on the order of suspension, with a certified record, that action should take precedence. Further, the filing of that appeal mandates that the suspension be continued until a decision of the Court on the final merits of the appeal. As in the *Blackwell* case, the Appellant agrees that there is no right to file an appeal to seek a stay of the suspension, but offers that the Court should engage in a merit determination of the Board's order. The certified record in the action at bar consists of only the Notice of Opportunity and Suspension Notice and the minutes of the Board. This would not provide evidence for a merits determination.

Appellant seeks to have the Court conclude that the issue of mootness be found inapplicable based upon the contention that the issue is capable of repetition, yet evading review. *State ex rel. Plain Dealer Publishing Co. v. Barners* (1988) 38 Ohio State 3d 165. Two higher courts have had the opportunity to wade into this foray and have chosen not to do so. This Court likewise declines to give what would be an advisory opinion. The Court recognizes that a litigant may seek to file in two different actions, such as was done in these cases. *N. Olmsted Land Holdings v. Planning Comm'n*, (November 8, 2001) Cuyahoga App. No. 77584. The normal issue in such dual filings involves constitutionality. The Court finds no such basis in the instant actions.

The Court finds that the Motions to Dismiss are supported by law and finds that the consolidated actions should be dismissed. The Motions to Dismiss are hereby **GRANTED**.

Rule 58(B) of the Ohio Rules of Civil Procedure provides the following:

(B) **Notice of filing.** When the court signs a judgment, the court shall endorse thereon a direction to the clerk to serve upon all parties not in default for failure to appear notice of the judgment and its date of entry upon the journal. Within three days of entering the judgment on the journal, the clerk shall serve the parties in a manner prescribed by Civ. R. 5(B) and note the service in the appearance docket. Upon serving the notice and notation of the service in the appearance docket, the service is complete. The failure of the clerk to serve notice does not affect the validity of the judgment or the running of the time for appeal except as provided in App. R. 4(A).

The Court finds that there is no just reason for delay. This is a final appealable order. The Clerk is instructed to serve the parties in accordance with Civ. R. 58(B) as set forth above.

[Handwritten signature]
DAVID W. FAIR, JUDGE

COPIES TO:
Douglas E. Graff, Esq., Counsel for Appellant
Kyle C. Wilcox, Esq. & Damien M. Clifford, Esq., Counsel for Appellee

10-30-06

STEP I
CONSENT AGREEMENT
BETWEEN
JOSEPH ALOYSIUS RIDGEWAY, IV, M.D.,
AND
THE STATE MEDICAL BOARD OF OHIO

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

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

BASIS FOR ACTION

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

- A. The Board is empowered by Section 4731.22(B), Ohio Revised Code, to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for any of the enumerated violations, to include Section 4731.22(B)(26), Ohio Revised Code, "impairment 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" and/or Section 4731.22(B)(15), Ohio Revised Code, "violation of the conditions of limitation placed by the Board upon a certificate to practice."
- B. The Board and Dr. Ridgeway enter into this Consent Agreement in lieu of further formal proceedings based upon the allegations set forth in the Notice of Summary Suspension and Opportunity for Hearing issued on July 20, 2006, attached hereto as Exhibit A and incorporated herein by reference. The July 20, 2006 Notice of Summary Suspension and Opportunity for Hearing was based upon the Board's February 6, 2006 Order, which suspended Dr. Ridgeway's medical license based upon his violation of R.C. 4731.22(B)(26). The Board expressly reserves the right to institute additional formal proceedings based upon any other violations of R.C. Chapter 4731., whether occurring before or after the effective date of this Consent Agreement.
- C. Dr. Ridgeway is licensed to practice medicine and surgery in the State of Ohio, License # 35.062021. His license is currently suspended pursuant to the Board's Order of Summary Suspension dated July 20, 2006.

D. Dr. Ridgeway admits all the legal and factual allegations contained in the July 20, 2006, Notice of Summary Suspension and Opportunity for Hearing, previously attached hereto and incorporated herein by reference

AGREED CONDITIONS

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of further formal proceedings at this time, Dr. Ridgeway knowingly and voluntarily agrees with the Board to the following terms, conditions and limitations:

Suspension of Certificate

1. The certificate of Dr. Ridgeway to practice medicine and surgery in the State of Ohio shall be **SUSPENDED** for an indefinite period of time, but not less than one year from the effective date of this Consent Agreement.

Sobriety

2. Dr. Ridgeway shall abstain completely from the personal use or possession of drugs, except those prescribed, dispensed or administered to him by another so authorized by law who has full knowledge of Dr. Ridgeway's history of chemical dependency.
3. Dr. Ridgeway shall abstain completely from the use of alcohol.

Releases; Quarterly Declarations and Appearances

4. Dr. Ridgeway 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. Ridgeway's chemical dependency or related conditions, or for purposes of complying with this Consent Agreement, whether such treatment or evaluation occurred before or after the effective date of this Consent Agreement. The above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute. Dr. Ridgeway further agrees to provide the Board written consent permitting any treatment provider from whom he obtains treatment to notify the Board in the event he 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 Consent Agreement.
5. Dr. Ridgeway 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 Consent Agreement. The first quarterly declaration must be received in the Board's offices on the date his quarterly declaration would have been due pursuant to his February 2006 Board Order. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

6. Dr. Ridgeway shall appear in person for an interview before the full Board or its designated representative. The first such appearance shall take place on the date his appearance would have been scheduled pursuant to his February 2006 Board Order. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

Drug & Alcohol Screens; Supervising Physician

7. Dr. Ridgeway shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board. Dr. Ridgeway 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. Additionally, at least two out of every six urine specimens selected on a random basis must be tested for ethyl glucuronide.

Dr. Ridgeway shall abstain from consumption of poppy seeds or any other food or liquid that may produce false results in a toxicology screen.

Dr. Ridgeway and the Board agree that the person or entity previously approved by the Board to serve as Dr. Ridgeway's supervising physician pursuant to the February 2006 Board Order is hereby approved to continue as Dr. Ridgeway's designated supervising physician under this Consent Agreement, unless within thirty days of the effective date of this Consent Agreement, Dr. Ridgeway submits to the Board for its prior approval the name and curriculum vitae of an alternative supervising physician to whom Dr. Ridgeway shall submit the required urine specimens. In approving an individual to serve in this capacity, the Board will give preference to a physician who practices in the same locale as Dr. Ridgeway. Dr. Ridgeway and the supervising physician shall ensure that the urine specimens are obtained on a random basis and that the giving of the specimen is witnessed by a reliable person. In addition, the supervising physician shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

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

In the event that the designated supervising physician becomes unable or unwilling to so serve, Dr. Ridgeway must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as

practicable. Dr. Ridgeway shall further ensure that the previously designated supervising physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

All screening reports and supervising physician reports required under this paragraph must be received in the Board's offices no later than the due date for Dr. Ridgeway's quarterly declaration. It is Dr. Ridgeway's responsibility to ensure that reports are timely submitted.

8. The Board retains the right to require, and Dr. Ridgeway agrees to submit, blood or urine specimens for analysis at Dr. Ridgeway's expense upon the Board's request and without prior notice.

Rehabilitation Program

9. Within thirty days of the effective date of this Consent Agreement, Dr. Ridgeway shall undertake and maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., C.A., or Caduceus, no less than three times per week. Substitution of any other specific program must receive prior Board approval.

Dr. Ridgeway shall submit acceptable documentary evidence of continuing compliance with this program which must be received in the Board's offices no later than the due date for Dr. Ridgeway's quarterly declarations.

CONDITIONS FOR REINSTATEMENT

10. The Board shall not consider reinstatement of Dr. Ridgeway's certificate to practice medicine and surgery until all of the following conditions are met:
 - a. Dr. Ridgeway shall submit an application for reinstatement, accompanied by appropriate fees, if any.
 - b. Dr. Ridgeway shall demonstrate to the satisfaction of the Board that he can resume practice in compliance with acceptable and prevailing standards of care under the provisions of his certificate. Such demonstration shall include but shall not be limited to the following:
 - i. Certification from a treatment provider approved under Section 4731.25 of the Revised Code that Dr. Ridgeway has successfully completed any required inpatient treatment.
 - ii. Evidence of continuing full compliance with a post-discharge aftercare contract with a treatment provider approved under Section 4731.25 of the Revised Code. Such evidence shall include, but not be limited to, a copy of

the signed aftercare contract. The aftercare contract must comply with rule 4731-16-10 of the Administrative Code.

- iii. Evidence of continuing full compliance with this Consent Agreement.
- iv. Two written reports indicating that Dr. Ridgeway's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by physicians knowledgeable in the area of addictionology and who are either affiliated with a current Board-approved treatment provider or otherwise have been approved in advance by the Board to provide an assessment of Dr. Ridgeway. Prior to the assessments, Dr. Ridgeway shall provide the evaluators with copies of patient records from any evaluations and/or treatment that he has received, and a copy of this Consent Agreement. The reports from the evaluators shall include any recommendations for treatment, monitoring, or supervision of Dr. Ridgeway, and any conditions, restrictions, or limitations that should be imposed on Dr. Ridgeway's practice. The reports shall also describe the basis for the evaluator's determinations.

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

- c. Dr. Ridgeway shall enter into a written consent agreement including probationary terms, conditions and limitations as determined by the Board or, if the Board and Dr. Ridgeway are unable to agree on the terms of a written Consent Agreement, then Dr. Ridgeway further agrees to abide by any terms, conditions and limitations imposed by Board Order after a hearing conducted pursuant to Chapter 119. of the Ohio Revised Code.

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

- 11. In the event that Dr. Ridgeway 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, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of Dr. Ridgeway's fitness to resume practice.

REQUIRED REPORTING BY LICENSEE

12. Within thirty days of the effective date of this Consent Agreement, Dr. Ridgeway shall provide a copy of this Consent Agreement to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Ridgeway shall provide a copy of this Consent Agreement to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments.
13. Within thirty days of the effective date of this Consent Agreement, Dr. Ridgeway shall provide a copy of this Consent Agreement by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Dr. Ridgeway further agrees to provide a copy of this Consent Agreement by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement of any professional license. Further, Dr. Ridgeway shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.
14. Dr. Ridgeway shall provide a copy of this Consent Agreement to all persons and entities that provide Dr. Ridgeway chemical dependency treatment or monitoring.

FAILURE TO COMPLY

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

DURATION/MODIFICATION OF TERMS

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

ACKNOWLEDGMENTS/LIABILITY RELEASE

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

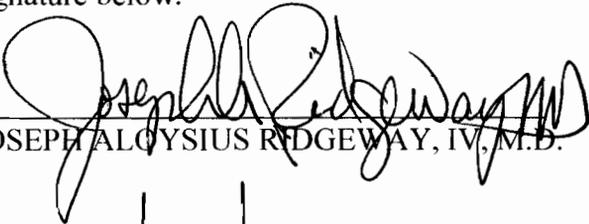
Any action initiated by the Board based on alleged violations of this Consent Agreement shall comply with the Administrative Procedure Act, Chapter 119., Ohio Revised Code.

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

This Consent Agreement shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code. Further, this information may be reported to appropriate organizations, data banks and governmental bodies. Dr. Ridgeway acknowledges that his social security number will be used if this information is so reported and agrees to provide his social security number to the Board for such purposes.

EFFECTIVE DATE

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



JOSEPH ALOYSIUS RIDGEWAY, IV, M.D.



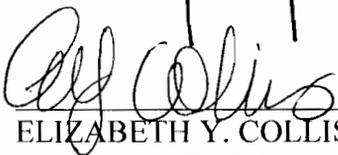
LANCE A. TALMAGE, M.D.
Secretary

9/29/06

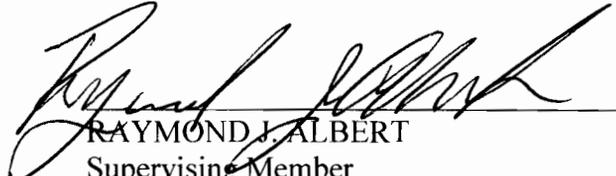
DATE

10-11-06

DATE



ELIZABETH Y. COLLIS, ESQ.
Attorney for Dr. Ridgeway



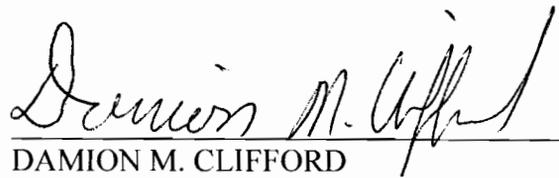
RAYMOND J. ALBERT
Supervising Member

9-29-06

DATE

10/12/06

DATE



DAMION M. CLIFFORD
Assistant Attorney General

10/4/06

DATE

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

CIVIL DIVISION

JOSEPH RIDGEWAY, M.D., :
Appellant, :
v. : Case No. 06CVF03-3795
OHIO STATE MEDICAL BOARD, : Judge Schneider
Appellee. :

**DECISION (1) DENYING APPELLANT'S MOTION TO ADMIT
ADDITIONAL EVIDENCE, FILED JUNE 29, 2006, AND
(2) GRANTING APPELLEE'S MOTION FOR LEAVE TO FILE
AN EXTENDED BRIEF INSTANTER, FILED AUGUST 9, 2006**

FILED COURT
COMMON PLEAS OHIO
FRANKLIN CO.
06 AUG 31 AM 9:03
CLERK OF COURTS

Rendered this 29 day of August, 2006.

Schneider, C., J.

I. Motion to Admit Additional Evidence

On June 29, 2006, appellant filed its motion to admit additional evidence. Appellant seeks to introduce the "records of Dr. Ridgeway's treatment at the Cleveland Clinic."

The Tenth District Court of Appeals has discussed a motion to admit additional evidence as follows:

R.C. 119.12 provides that, unless otherwise provided by law, additional evidence -- -- that is, evidence beyond that in the record certified by the agency -- -- may be admitted by the court of common pleas only when it is newly discovered and could not with reasonable diligence have been ascertained prior to the administrative hearing:

"Unless otherwise provided by law, the court may grant a request for the admission of additional evidence when satisfied that

such additional evidence is newly discovered and could not with reasonable diligence have been ascertained prior to the hearing before the agency." R.C. 119.12.

The decision to admit additional evidence lies within the discretion of the court of common pleas, but only after the court has determined that the evidence is newly discovered and that it could not with reasonable diligence have been ascertained prior to the agency hearing. *Ganley, Inc. v. Ohio Motor Vehicle Dealers Bd.* (Sept. 29, 1994), 1994 Ohio App. LEXIS 4391, Franklin App. No. 93APE12-1646, unreported (1994 Opinions 4662, 4668); see *Rollins v. Ohio Real Estate Comm.* (May 2, 1985), 1985 Ohio App. LEXIS 7552, Cuyahoga App. No. 48546, unreported. Newly discovered evidence is evidence that was in existence at the time of the administrative hearing. *Swope v. Board of Building Standards* (Dec. 23, 1993), 1993 Ohio App. LEXIS 6255, Franklin App. No. 93AP-595, unreported (1993 Opinions 5712, 5725); *Steckler v. Ohio State Bd. of Psychology* (1992), 83 Ohio App. 3d 33, 38, 613 N.E.2d 1070. . . .

Cincinnati City School Dist. v. Ohio Bd. of Educ. (Franklin 1996), 113 Ohio App. 3d 305, 317; see Northfield Park Assocs. v. Ohio State Racing Comm'n (Franklin App., June 30, 2006), No. 05AP-749, 2006 Ohio App. LEXIS 3398, at *35 ("pursuant to R.C. 119.12, the trial court has no discretion to admit additional evidence if it is not satisfied that the evidence is newly discovered and could not with reasonable diligence have been ascertained prior to the hearing before the agency"); Creager v. Ohio Dep't of Agric. (Franklin App., Nov. 16, 2004), No. 04AP-142, 2004 Ohio App. LEXIS 5529, at *8 (quoting Cincinnati City School Dist., 113 Ohio App. 3d at 317); Llubes, Inc., v. Ohio Liquor Control Comm'n (Franklin App., Nov. 6, 2003), No. 02AP-1326, 2003 Ohio App. LEXIS 5262, at *5 (quoting Cincinnati City School Dist., 113 Ohio App. 3d at 317).

Appellant argues that

[t]he Board was put on notice of Dr. Ridgeway's attendance at the Cleveland Clinic during the Administrative Hearing. However, despite

reasonable diligence of both attorney[s] for Dr. Ridgeway and the State, records of Dr. Ridgeway's treatment at the Cleveland Clinic were not available to be introduced in to the Administrative Records.

In response, appellee argues that

Dr. Ridgeway at the time of the issuance of the summary suspension covertly entered inpatient treatment at the Cleveland. The Board's discovery of this evidence was on the last day of the administrative hearing and at a point in the hearing that Dr. Ridgeway believed was a strategic advantage.

The Medical Board agreed to allow the introduction of this evidence so long as the Board had an opportunity to review Dr. Ridgeway's treatment records and cross-examine Dr. Collins[] (Dr. Ridgeway's treating physician at the Cleveland Clinic.) After some delay, Dr. Ridgeway in a telephone conference decided to waive the presentation of this evidence in order to have the hearing examiner's report and recommendation placed on the agenda for the Medical Board's February 2006 meeting.

Appellee also argues that it "and Dr. Ridgeway stipulated that Dr. Ridgeway had successfully completed a twenty-eight (28) day inpatient treatment at the Cleveland Clinic from November to December of 2005" and that "Dr. Ridgeway submitted Dr. Collins'[] diagnosis in his closing argument."

In this regard, appellant's motion is unwarranted. O.R.C. 119.12 states that additional evidence is admissible when it is "newly discovered and could not with reasonable diligence have been ascertained prior to the hearing before the agency." Cincinnati City School Dist., 113 Ohio App. 3d at 317. However, appellant has not met this standard.

First, appellant has failed to show that the Cleveland Clinic's treatment records were "newly discovered." Although arguing that the records "were not available to be introduced" into the record at the administrative hearing, appellant cites no legal authority which has held that "unavailable" meets O.R.C. 119.12's

requirements. Rather, appellant was aware of these documents but was either unable to or chose not to introduce these documents at the time of the administrative hearing. However, neither situation constitutes “newly discovered” evidence.

Second, appellant has failed to demonstrate that it exercised “reasonable diligence” in seeking to ascertain the existence of the treatment records or even to obtain the treatment records for the administrative hearing. Appellant fails to adequately identify the measures which it took and which would constitute “reasonable diligence” to obtain this information prior to the hearings or to adequately explain the reasons it was unable to obtain this information prior to the administrative hearings, despite the exercise of “reasonable diligence.” In any event, as previously discussed, appellant was aware of the treatment records. Although appellant’s conduct concerning the administrative hearing might have been reasonable, reasonableness is insufficient to make the treatment records “newly discovered evidence” or to excuse a lack of “reasonable diligence” in obtaining the records.

Third, the asserted relevance and importance of the treatment records do not meet O.R.C. 119.12’s requirements that additional evidence be admitted only if “newly discovered” and could not have been ascertained with “reasonable diligence.”

Thus, the Court declines to exercise its discretion to permit appellant to introduce additional evidence.

II. Motion for Leave to File

On August 9, 2006, appellee filed its motion for leave to file instanter a brief exceeding Loc. R. 12.01's page limits. This motion is unopposed. In the interest of deciding this case on its merits, appellee will be permitted to file its memorandum.

III. Conclusion

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



CHARLES A. SCHNEIDER, JUDGE

Copies to:

Douglas E. Graff, Esq.
Attorney for Appellant

Kyle C. Wilcox, Esq.
Damion M. Clifford, Esq.
Assistant Attorneys General
Attorneys for Appellee



State Medical Board of Ohio

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

July 20, 2006

Joseph A. Ridgeway IV, M.D.
30 Ashbourne Road
Columbus, OH 43209

Dear Doctor Ridgeway:

Enclosed please find certified copies of the Entry of Order, the Notice of Summary Suspension and Opportunity for Hearing, and the Motion by the State Medical Board of Ohio made at a conference call on July 20, 2006, scheduled pursuant to Section 4731.22(G), Ohio Revised Code, adopting the Order of Summary Suspension and issuing the Notice of Summary Suspension and Opportunity for Hearing.

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

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

THE STATE MEDICAL BOARD OF OHIO

Lance A. Talmage, M.D., Secretary

LAT:blt
Enclosures

Mailed 7-20-06

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, in a conference call on July 20, 2006, scheduled pursuant to Section 4731.22(G), Ohio Revised Code, 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 Joseph A. Ridgeway IV, M.D., as they appear in the Journal of the State Medical Board of Ohio.

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



Lance A. Talmage, M.D., Secretary

(SEAL)

July 20, 2006

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF :
 :
 :
JOSEPH A. RIDGEWAY IV, M.D. :

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio the 20th day of July, 2006.

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 Joseph A. Ridgeway IV, M.D., has violated Sections 4731.22(B)(15) and 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. Ridgeway'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 20th day of July, 2006:

It is hereby ORDERED that the certificate of Joseph A. Ridgeway IV, M.D., to practice medicine or surgery in the State of Ohio be summarily suspended.

It is hereby ORDERED that Joseph A. Ridgeway IV, 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

July 20, 2006
Date



State Medical Board of Ohio

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

EXCERPT FROM THE DRAFT MINUTES OF JULY 20, 2006

CONFERENCE CALL OF JULY 20, 2006 TO CONSIDER THE SUMMARY SUSPENSION OF A CERTIFICATE

JOSEPH A. RIDGEWAY, IV, M.D. - ORDER OF SUMMARY SUSPENSION AND NOTICE OF OPPORTUNITY FOR HEARING

The following Board members participated in the conference call: Andrew F. Robbins, M.D., President; Deepak Kumar, M.D., Vice-President; Lance A. Talmage, M.D., Secretary; Raymond J. Albert, Supervising Member; Nandlal Varyani, M.D.; David S. Buchan, D.P.M.; Anquetette Sloan; Patricia A. Davidson, M.D.; Dalsukh Madia, M.D.; and Anita M. Steinbergh, D.O.

Copies of the Proposed Order of Summary Suspension and Notice of Opportunity for Hearing were previously distributed to Board members.

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

Vote:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye
	Dr. Robbins	- aye

The Motion carried.



State Medical Board of Ohio

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NOTICE OF SUMMARY SUSPENSION AND OPPORTUNITY FOR HEARING

July 20, 2006

Joseph A. Ridgeway IV, M.D.
30 Ashbourne Road
Columbus, OH 43209

Dear Doctor Ridgeway:

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 Sections 4731.22(B)(15) and 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 (3), 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 or 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) On or about November 9, 2005, the Board entered an Order summarily suspending your certificate to practice medicine and surgery in the State of Ohio [Ohio license] based on your violation of 4731.22(B)(26), Ohio Revised Code. Copies of the Board's November 9, 2005 Entry of Order and Notice of Summary Suspension and Opportunity for Hearing are attached hereto and fully incorporated herein.
- (2) On or about February 8, 2006, the Board issued an Order [February 2006 Order] indefinitely suspending your Ohio license for a minimum of three months and imposing certain interim monitoring conditions, conditions for reinstatement, and subsequent probationary terms, conditions, and limitations for at least five years, based on your violation of 4731.22(B)(26), Ohio Revised Code. A copy of the February 2006 Order is attached hereto and incorporated herein.

- (3) On or about June 15, 2006, the Board reinstated your Ohio license subject to certain probationary conditions contained in the February 2006 Order. Paragraph D.1. of the February 2006 Order states that, upon reinstatement, you shall continue to be subject to the terms, conditions, and limitations specified in paragraph B of the February 2006 Order. Paragraph B. 4. of the February 2006 Order further provides that you “shall abstain completely from the personal use or possession of drugs, except those prescribed, administered, or dispensed to [you] by another so authorized by law who has full knowledge of [your] history of chemical dependency.” Despite the requirements set forth in the February 2006 Order, the urine specimen you submitted on or about July 5, 2006, tested positive for, and has been GC/MS confirmed for, the presence of a cocaine metabolite, benzoylecgonine.

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)(3), 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.

Further, Rule 4731-16-02(B)(3), Ohio Administrative Code, provides that an individual’s relapse during or following treatment shall constitute independent proof of impairment and shall support license suspension or denial without the need for an examination.

Your acts, conduct, and/or omissions as alleged in paragraph (3) above, individually and/or collectively, constitute a “[v]iolation of the conditions of limitation placed by the board upon a certificate to practice,” as that clause is used in Section 4731.22(B)(15), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (1) through (3) 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.

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

Notice of Summary Suspension
& Opportunity for Hearing
Joseph A. Ridgeway IV, M.D.
Page 3

such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty days of the time of mailing of this notice.

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

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

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, provides that "[w]hen the board refuses to grant a certificate to an applicant, revokes an individual's certificate to practice, refuses to register an applicant, or refuses to reinstate an individual's certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate."

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Lance A. Talmage, M.D.
Secretary

LAT/blt
Enclosures

CERTIFIED MAIL # 7003 0500 0002 4331 9021
RETURN RECEIPT REQUESTED

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

CERTIFIED MAIL # 7003 0500 0002 4331 9014
RETURN RECEIPT REQUESTED

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

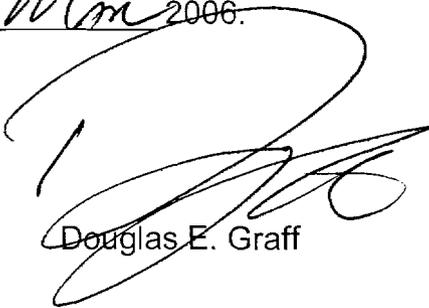
Respectfully submitted,

GRAFF & ASSOCIATES, L.P.A.


Douglas E. Graff (0013222)
604 East Rich Street
Columbus, Ohio 43215-5341
(614) 228-5800
(614) 228-8811 Fax
Attorney for Appellant

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Notice of Appeal was delivered to the State Medical Board of Ohio, 77 South High Street, 17th Floor, Columbus, Ohio 43266-0315, by regular U.S. mail, this 20th day of Mar 2006.


Douglas E. Graff



State Medical Board of Ohio

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

February 8, 2006

Joseph Aloysius Ridgeway, IV, M.D.
30 Ashbourne Road
Columbus, OH 43209

Dear Doctor Ridgeway:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Sharon W. Murphy, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on February 8, 2006, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order.

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

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

THE STATE MEDICAL BOARD OF OHIO

Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

CERTIFIED MAIL NO. 7003 0500 0002 4329 7824
RETURN RECEIPT REQUESTED

Cc: Douglas E. Graff, Esq.
CERTIFIED MAIL NO. 7003 0500 0002 4329 7848
RETURN RECEIPT REQUESTED

Mailed 3-3-06

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Sharon W. Murphy, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on February 8, 2006, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order; constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Joseph Aloysius Ridgeway, IV, M.D., as it appears in the Journal of the State Medical Board of Ohio.

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



Lance A. Talmage, M.D.
Secretary

(SEAL)

February 8, 2006
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF *

*

JOSEPH ALOYSIUS RIDGEWAY, IV, M.D. *

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on February 8, 2006.

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

It is hereby ORDERED that:

- A. **SUSPENSION:** The certificate of Joseph Aloysius Ridgeway, IV, M.D., to practice medicine and surgery in the State of Ohio shall be **SUSPENDED** for an indefinite period of time, but not less than three (3) months from the effective date of this Order.
- B. **INTERIM MONITORING:** During the period that Dr. Ridgeway's license is suspended, he shall comply with the following terms, conditions, and limitations:
 1. **Obey the Law:** Dr. Ridgeway shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.
 2. **Personal Appearances:** Dr. Ridgeway shall appear in person for an interview before the full Board or its designated representative during the third month following the effective date of this Order. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

3. **Quarterly Declarations:** Dr. Ridgeway 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.
4. **Abstention from Drugs:** Dr. Ridgeway shall abstain completely from the personal use or possession of drugs, except those prescribed, administered, or dispensed to him by another so authorized by law who has full knowledge of Dr. Ridgeway's history of chemical dependency.
5. **Abstention from Alcohol:** Dr. Ridgeway shall abstain completely from the use of alcohol.
6. **Initiate Drug/Alcohol Treatment:** Within thirty days of the effective date of this Order, or as otherwise approved by the Board, Dr. Ridgeway shall submit to appropriate drug/alcohol treatment, as determined by an informed assessment of his current needs. Such assessment and treatment shall be provided by a treatment provider approved under Section 4731.25 of the Revised Code for treatment of drug and alcohol dependency.

Unless otherwise determined by the Board, prior to the initial assessment, Dr. Ridgeway shall furnish the approved treatment provider copies of the Board's Summary of the Evidence, Findings of Fact, and Conclusions, and any other documentation from the hearing record that the Board may deem appropriate or helpful to the treatment provider. Within ten days after the completion of the initial assessment, or as otherwise determined by the Board, Dr. Ridgeway shall cause a written report to be submitted to the Board from the treatment provider, which report shall include:

- a. A detailed plan of recommended treatment based upon the treatment provider's informed assessment of Dr. Ridgeway's current needs;
- b. A statement indicating that Dr. Ridgeway entered into or commenced the recommended treatment program within forty-eight hours of its determination;
- c. A copy of a treatment contract signed by Dr. Ridgeway establishing the terms of treatment and aftercare, including any required supervision or restrictions on practice during treatment or aftercare; and
- d. A statement indicating that the treatment provider will immediately report to the Board any failure by Dr. Ridgeway to comply with the

terms of the treatment contract during inpatient or outpatient treatment or aftercare.

7. **Comply with the Terms of Treatment and Aftercare Contract:** Dr. Ridgeway shall maintain continued compliance with the terms of the treatment and aftercare contracts entered into with his treatment provider, provided that, where terms of the treatment and aftercare contract conflict with terms of this Order, the terms of this Order shall control.
8. **Drug & Alcohol Screens; Supervising Physician:** Dr. Ridgeway shall submit to random urine screenings for drugs and/or alcohol on a weekly basis or as otherwise directed by the Board. Dr. Ridgeway shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis. The drug-testing panel utilized must be acceptable to the Secretary of the Board.

Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Ridgeway shall submit to the Board for its prior approval the name and curriculum vitae of a supervising physician to whom Dr. Ridgeway shall submit the required specimens. In approving an individual to serve in this capacity, the Board will give preference to a physician who practices in the same locale as Dr. Ridgeway. Dr. Ridgeway and the supervising physician shall ensure that the urine specimens are obtained on a random basis and that the giving of the specimen is witnessed by a reliable person. In addition, the supervising physician shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

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

In the event that the designated supervising physician becomes unable or unwilling to so serve, Dr. Ridgeway must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Dr. Ridgeway shall further ensure that the previously designated supervising physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

All screening reports and supervising physician reports required under this paragraph must be received in the Board's offices no later than the due date

for Dr. Ridgeway's quarterly declaration. It is Dr. Ridgeway's responsibility to ensure that reports are timely submitted.

9. **Submission of Blood or Urine Specimens upon Request:** Dr. Ridgeway shall submit blood and urine specimens for analysis without prior notice at such times as the Board may request, at Dr. Ridgeway's expense.
 10. **Comply with the Terms of Treatment and Aftercare Contract:** Dr. Ridgeway shall maintain continued compliance with the terms of the aftercare contract entered into with his treatment provider, provided that, where terms of the aftercare contract conflicts with terms of this Order, the terms of this Order shall control.
 11. **Rehabilitation Program:** Dr. Ridgeway shall maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., C.A., or Caduceus, no less than three times per week, unless otherwise determined by the Board. Substitution of any other specific program must receive prior Board approval. Dr. Ridgeway shall submit acceptable documentary evidence of continuing compliance with this program, which must be received in the Board's offices no later than the due date for Dr. Ridgeway's quarterly declarations.
 12. **Contact Impaired Physicians Committee:** Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Ridgeway shall contact an impaired physicians committee, approved by the Board, to arrange for assistance in recovery and/or aftercare.
 13. **Continued Compliance with a Contract with an Impaired Physicians Committee:** Dr. Ridgeway shall maintain continued compliance with the terms of the contract entered into with an impaired physicians committee, approved by the Board, to assure continuous assistance in recovery and/or aftercare.
- C. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Ridgeway's certificate to practice medicine and surgery until all of the following conditions have been met:
1. **Application for Reinstatement or Restoration:** Dr. Ridgeway shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
 2. **Compliance with Interim Conditions:** Dr. Ridgeway shall have maintained compliance with all the terms and conditions set forth in Paragraph B of this Order, unless otherwise determined by the Board.

3. **Demonstration of Ability to Resume Practice:** Dr. Ridgeway shall demonstrate to the satisfaction of the Board that he can resume practice in compliance with acceptable and prevailing standards of care under the provisions of his certificate. Such demonstration shall include but shall not be limited to the following:
 - a. Certification from a treatment provider approved under Section 4731.25 of the Revised Code that Dr. Ridgeway has successfully completed any required inpatient treatment.
 - b. Evidence of continuing full compliance with a post-discharge aftercare contract with a treatment provider approved under Section 4731.25 of the Revised Code. Such evidence shall include, but not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with rule 4731-16-10 of the Administrative Code.
 - c. Evidence of continuing full compliance with this Order.
 - d. Two written reports indicating that Dr. Ridgeway's ability to practice has been evaluated for chemical dependency and/or impairment and that he has been found capable of practicing according to acceptable and prevailing standards of care. The evaluations shall have been performed by individuals or providers approved by the Board for making such evaluations. Moreover, the evaluations shall have been performed within sixty days prior to Dr. Ridgeway's application for reinstatement or restoration. The reports of evaluation shall describe with particularity the bases for the determination that Dr. Ridgeway has been found capable of practicing according to acceptable and prevailing standards of care and shall include any recommended limitations upon his practice.
4. **Absence from Practice:** In the event that Dr. Ridgeway has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to the submission of his application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of Dr. Ridgeway's fitness to resume practice.

D. **PROBATIONARY CONDITIONS:** Upon reinstatement or restoration, Dr. Ridgeway's 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. Ridgeway shall continue to be subject to the terms, conditions, and limitations specified in Paragraph B of this Order.

2. **Tolling of Probationary Period While Out of State:** Dr. Ridgeway shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed.

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

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

- G. **RELEASES:** Dr. Ridgeway shall provide continuing authorization, through appropriate written consent forms, for disclosure by his treatment providers of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Dr. Ridgeway's chemical dependency, psychiatric condition and/or related conditions, or for purposes of complying with this Order, whether such treatment or evaluations occurred before or after the effective date of this Order. The above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute.

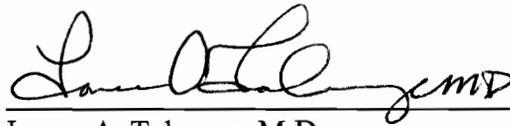
- H. **REQUIRED REPORTING BY LICENSEE TO EMPLOYERS AND HOSPITALS:** Within thirty days of the effective date of this Order, Dr. Ridgeway shall provide a copy of this Order to all employers or entities with which he is under contract to provide health care services or is receiving training, and to the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Ridgeway shall provide a copy of this Order to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and to the Chief of Staff at each hospital where he applies for or obtains privileges or appointments. Further, Dr. Ridgeway shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt. This requirement shall continue until Dr. Ridgeway receives from the Board written notification of his successful completion of probation.

- I. **REQUIRED REPORTING BY LICENSEE TO OTHER STATE LICENSING AUTHORITIES:** Within thirty days of the effective date of this Order, Dr. Ridgeway shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Dr. Ridgeway shall also provide a copy of this Order by certified mail, return receipt requested, at time of application to the

proper licensing authority of any state in which he applies for any professional license or reinstatement or restoration of any professional license. Further, Dr. Ridgeway shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt. This requirement shall continue until Dr. Ridgeway receives from the Board written notification of his successful completion of probation.

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

(SEAL)



Lance A. Talmage, M.D.
Secretary

February 8, 2006

Date

2006 JAN 23 P 4: 55

**REPORT AND RECOMMENDATION
IN THE MATTER OF JOSEPH ALOYSIUS RIDGEWAY, IV, M.D.**

The Matter of Joseph Aloysius Ridgeway, IV, M.D., was heard by Sharon W. Murphy, Esq., Hearing Examiner for the State Medical Board of Ohio, on November 28, December 5, December 8, December 12, and December 15, 2005.

INTRODUCTION

I. Basis for Hearing

- A. In a Notice of Summary Suspension and Opportunity for Hearing dated November 9, 2005, the State Medical Board of Ohio [Board] notified Joseph Aloysius Ridgeway, IV, M.D., that, pursuant to Section 4731.22(G), Ohio Revised Code, the Board had adopted an Order of Summary Suspension of Dr. Ridgeway's certificate to practice medicine and surgery in Ohio. The Board further advised that continued practice would be considered practicing without a certificate, in violation of Section 4731.141, Ohio Revised Code.

Moreover, the Board notified Dr. Ridgeway that it had proposed to take disciplinary action against his certificate. The Board based its proposed action on events relating to Dr. Ridgeway's alleged history of impairment. Further, the Board alleged that Dr. Ridgeway's conduct constitutes "'impairment 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." Accordingly, the Board advised Dr. Ridgeway of his right to request a hearing in this matter. (State's Exhibit 1A)

- B. On or about November 14, 2005, the Board received a written hearing request submitted by Douglas E. Graff, Esq., on behalf of Dr. Ridgeway. (State's Exhibit 1B)

II. Appearances

- A. On behalf of the State of Ohio: Jim Petro, Attorney General, by Kyle C. Wilcox and Damion M. Clifford, Assistant Attorneys General.
- B. On behalf of the Respondent: Douglas E. Graff, Esq.

EVIDENCE EXAMINED

I. Testimony Heard

A. Presented by the State

1. Joseph Aloysius Ridgeway, IV, M.D., as upon cross-examination
2. Edna M. Jones, M.D.
3. Rebecca Jean Marshall, Esq.

B. Presented by the Respondent

1. Rebecca Jean Marshall, Esq.
2. Edward Poczekaj, CCDC III-E
3. Edna M. Jones M.D.
4. John A. Johnson, M.D.
5. Terri Lynn Williams, CCDC-I
6. Dorothy Lerum, LICDC
7. Holly Loveland
8. Charles Bass, CCDC-I
9. Charlotte Michael
10. Joseph Aloysius Ridgeway, IV, M.D.

II. Exhibits Examined

A. Presented by the State

1. State's Exhibits 1A through 1W and 1Y through HH: Procedural exhibits.
2. State's Exhibit 2: Copy of a report of an assessment of Dr. Ridgeway performed by Edna Jones, M.D., Medical Director of The Woods at Parkside in Columbus, Ohio. (Note: This exhibit is sealed to protect patient confidentiality.)
3. State's Exhibit 3: Copy of an October 20, 2005, letter to Dr. Jones from the Board, with hand-written comments made by Dr. Jones. (Note: This exhibit is sealed to protect patient confidentiality.)
4. State's Exhibit 4: Certified copies of medical records for Dr. Ridgeway maintained by Talbot Hall, Ohio State University East, Columbus, Ohio. (Note: This exhibit is sealed to protect patient confidentiality.)

5. State's Exhibit 5: Copies of Dr. Ridgeway's responses to interrogatories presented to him by the Board.
6. State's Exhibit 6: State's Closing Argument.

B. Presented by the Respondent

1. Respondent's Exhibit A: Prehearing Brief on the Jurisdiction of State Medical Board Administrative Hearing Officer to Hear and Review Ohio State Medical Board Summary Suspension Orders under 119.12 and 4731.22(G).
2. Respondent's Exhibit B: Dr. Ridgeway's authorization to disclose information by the Woods at Parkside, signed August 22, 2005.
3. Respondent's Exhibit C: A copy of an October 8, 2005, letter to Mr. Graff authored by Edna Jones, M.D. (Note: This exhibit is sealed to protect patient confidentiality.)
4. Respondent's Exhibit E: Dr. Ridgeway's second authorization to disclose information by the Woods at Parkside, signed December 5, 2005.
5. Respondent's Exhibit G: Excerpt from the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision, on Alcohol-Related Disorders.
6. Respondent's Exhibit H: Copy of an article entitled "Alcohol Alert," obtained on November 23, 2005, from the website of National Institute on Alcohol Abuse and Alcoholism.
7. Respondent's Exhibit I: Excerpt from the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision, on Substance-Related Disorders.
8. Respondent's Exhibit J: Certified copies of medical records for Dr. Ridgeway maintained by The Woods at Parkside. (Note: This exhibit is sealed to protect patient confidentiality.)
9. Respondent's Exhibit K-1: Affidavit of Charlotte A. Michael.
10. Respondent's Exhibit L: A copy of a July 27, 2005, report of an evaluation of Dr. Ridgeway by Timothy E. Davis, M.D., Elkhart Clinic, Elkhart Indiana. (Note: This exhibit is sealed to protect patient confidentiality.) (Further note:

This Exhibit was admitted for limited purposes. See Procedural Matters, paragraph 4, below.)

11. Respondent's Exhibit M: A list of addictionologists certified by the American Society of Addiction compiled by the Medical Licensing Board of Indiana.
12. Respondent's Exhibit N: Copy of a Certification Verification Module pertaining to Dr. Davis, obtained from the website of the American Society of Addiction Medicine.
13. Respondent's Exhibit O: Copy of a Certification Verification Module pertaining to Dr. Jones, obtained from the website of the American Society of Addiction Medicine.
13. Respondent's Exhibit R-1: Respondent's Closing Argument, as redacted.

PROFFERED MATERIALS

A. The following exhibits are proffered on behalf of the State:

State's Exhibit 7. See Procedural Matters, paragraph 9, below.

B. The following exhibits are proffered on behalf of the Respondent:

1. Respondent's Exhibit D. See Procedural Matters, paragraph 7.a, below.
2. Respondent's Exhibits F and Substitute -F. See Procedural Matters, paragraph 7.b, below.
3. Respondent's Exhibit K. See Procedural Matters, paragraph 7.d, below.
4. Respondent's Exhibits P and Q. See Procedural Matters, paragraph 5, below.
5. Respondent's Exhibit R: See Procedural Matters, paragraph 9, below.

C. Proffered exhibits are not considered by the Hearing Examiner in preparing a Report and Recommendation or by Members of the Board in making a final decision in a matter. Should the Board choose to do so, however, the Board may vote to overrule the decision of the Hearing Examiner, and admit any proffered exhibit into evidence.

PROCEDURAL MATTERS

1. In prehearing motions and at the start of the hearing, the Respondent argued that, because the Board had issued an Order of Summary Suspension in this matter, the Board was required, under Sections 119.06, 119.07, and 4731.22, Ohio Revised Code, to provide

separate hearings on the issue of summary suspension and on the underlying allegations. The State argued against the Respondent's request. The Hearing Examiner denied the Respondent's request. (See the Hearing Transcript at 6-15; State's Exhibit 1R)

Thereafter, the Respondent requested that the Hearing Examiner bifurcate the hearing to address the issue of summary suspension separately from the underlying allegations. The Hearing Examiner denied that request, but advised that she would reconsider the ruling if the Respondent could show, during the course of the hearing, that he was prejudiced by the failure to bifurcate the hearing. (See the Hearing Transcript at 15-17, 33-36, and 311) The Respondent failed to do so to the Hearing Examiner's satisfaction.

2. During the course of the hearing, the Respondent objected to the process employed by the Board in processing the Respondent's subpoena requests. The Hearing Examiner advised that she did not have jurisdiction to address that issue; however, she allowed the parties to brief the issue for purposes of appeal. (See the Hearing Transcript at 18-26) Nevertheless, the parties did not submit briefs on that issue.
3. At the close of the State's case, the Respondent moved for dismissal of the Board's allegations against him. The State objected. The Hearing Examiner denied the Respondent's request, noting that she did not have authority to dismiss allegations made by the Board. She further noted, however, that, if appropriate, she could recommend dismissal in the Report and Recommendation, but would not do so in this matter because the State had met its burden. (See the Hearing Transcript at 309-311)
4. During the course of the hearing, the Respondent moved for admission of a report of an assessment of Dr. Ridgeway performed by Timothy E. Davis, M.D., of the Elkhart Clinic in Elkhart, Indiana. The State objected to admission of the report because the State had not had an opportunity to cross-examine Dr. Davis. The Hearing Examiner ruled that the report would not be admitted for the purpose of determining Dr. Ridgeway's chemical dependency related diagnosis. However, the report was admitted for the limited purpose of demonstrating evidence that the Board had had in its possession when determining whether to issue the Order of Summary Suspension. (See the Hearing Transcript at 658-668; Respondent's Exhibit L) (Note: This exhibit is sealed to protect patient confidentiality.)
5. The hearing record in this matter was held open to allow the State to determine whether it would be appropriate to present rebuttal evidence in response to particular testimony elicited during the fifth day of hearing. In post-hearing discussions, however, the parties agreed to strike that testimony in order to forgo additional days of hearing. That testimony, which appears on hearing transcript pages 686-689 and 693-706, was stricken from the full and condensed version of Volume V of the hearing transcripts. Unredacted copies of the full and condensed versions of Volume V of the hearing transcript were sealed and proffered as Respondent's Exhibits Q-1 and Q-2, respectively. Moreover,

Respondent's Exhibit P, a related document, was also sealed and proffered on behalf of the Respondent. (Note: These exhibits are sealed to protect patient confidentiality.)

6. On the fifth and last day of hearing, the Respondent had additional witnesses prepared to testify on his behalf. At the close of the hearing, it was anticipated that there would be additional days of hearing during which the Respondent's witnesses would be permitted to testify. Nevertheless, by agreeing to forego additional days of hearing in post-hearing negotiations, the Respondent specifically consented to forego presentation of the testimony of those witnesses.
7. Because anticipated additional days of hearing did not occur, the Respondent's exhibits were not admitted during the course of the hearing. In a post-hearing telephone conference among Counsel for the parties and the Hearing Examiner, the Respondent moved for admission of his exhibits and the State noted their objections, when appropriate. Specifically, the State objected to admission of the following exhibits:
 - a. Respondent's Exhibit D: A Step I Consent Agreement proposed to Dr. Ridgeway during pre-hearing settlement negotiations. The State argued that settlement negotiations are not relevant to this hearing. The Respondent replied that the exhibit is relevant because the allegations set forth in the Consent Agreement differ from those set forth in the Notice of Summary Suspension and Opportunity for Hearing. The Hearing Examiner sustained the objection, reasoning that, even if allegations in the two documents are different, it is not relevant to this hearing. Nevertheless, Respondent's Exhibit D will be sealed proffered on behalf of the Respondent for purposes of appeal.
 - b. Respondent's Exhibits F and Substitute-F: Two slightly different sets certified copies of medical records for Dr. Ridgeway maintained by The Woods at Parkside. At hearing, the parties agreed to rely on a third copy of records from Parkside, Respondent's Exhibit J. Nevertheless, because some testimony had been elicited based on the previously identified exhibits, Respondent's Exhibits F and Substitute-F will be proffered on behalf of the Respondent for purposes of appeal. (Note: These exhibits are sealed to protect patient confidentiality.)
 - c. Respondent's Exhibit H: A copy of an article entitled "Alcohol Alert," obtained on November 23, 2005, from the website of National Institute on Alcohol Abuse and Alcoholism. The State argued that it was not relevant, and the Hearing Examiner overruled the objection.
 - d. Respondent's Exhibit K: Affidavits written on behalf of Dr. Ridgeway. The State objected to their admission because the State had not had an opportunity to cross-examine the authors of the affidavits. The Hearing Examiner sustained the

- objection. Nevertheless, Respondent's Exhibit K will be proffered on behalf of the Respondent for purposes of appeal.
- e. Respondent's Exhibit K-1: An affidavit written on behalf of Dr. Ridgeway by a witness who testified on his behalf during the hearing. The State objected to its admission, arguing that the witness' testimony was the best evidence of the statements contained in the affidavit. The Hearing Examiner overruled the objection.
 8. By agreement of the parties post-hearing, additional procedural exhibits were identified and admitted to the record as State's Exhibits 1Z through 1HH.
 9. After the close of the hearing, the parties agreed to submit written closing arguments. Pursuant to a schedule set forth by the Hearing Examiner, the written arguments were filed on January 17, 2006.

On January 19, 2006, however, the State filed a Motion to Strike portions of the Respondent's Closing Argument. The State argued that the Respondent had included discussion of topics that had been stricken from the record by the Hearing Examiner. Upon review of the Respondent's Closing Argument, the Hearing Examiner agreed with the State and struck the offending language from the Respondent's Closing Argument. Accordingly, a redacted copy of the Respondent's Closing Argument was admitted to the record as Respondent's Exhibit R-1. The unredacted exhibit, Respondent's Exhibit R, and the State's Motion to Strike, State's Exhibit 7, will be proffered for purposes of appeal. (Note: State's Exhibit 7 and Respondent's Exhibit R are sealed to protect patient confidentiality.)

The State's Closing Argument was admitted to the record as State's Exhibit 6. The hearing record closed on January 19, 2006.

11. In an effort to have this Report and Recommendation heard by the Board in February 2006, the Respondent agreed to file his objections to the Report and Recommendation, if any, in less time than would normally be allowed.

SUMMARY OF THE EVIDENCE

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

1. Joseph Aloysius Ridgeway, IV, M.D., testified that he had obtained his medical degree from The Ohio State University College of Medicine in 1989. Dr. Ridgeway completed a

one-year internship at Mount Carmel Medical Center in Columbus, Ohio, followed by a four-year residency in diagnostic radiology at the Ohio State University Medical Centers. In 1995, Dr. Ridgeway completed a one-year fellowship in body imaging, also at the Ohio State University Medical Centers. (Hearing Transcript [Tr.] at 35-36)

Dr. Ridgeway remained at The Ohio State University for one year and also worked at Grant Medical Center in Columbus and the Neurodiagnostic Institute. In 1996, he joined a private practice radiology group and stayed there until 2000. That group formed a new corporate entity in 2000, known as Community Radiology, Inc., and Dr. Ridgeway continued to provide radiologic services through that group. Dr. Ridgeway testified that there are a number of other healthcare facilities to which he has provided radiologic services between the years 2000 and 2005. (Tr. at 36-37)

Dr. Ridgeway testified that he has an inactive license in Indiana. Moreover, his Ohio license is currently summarily suspended. (Tr. at 38-39)

2. Dr. Ridgeway testified that he had started drinking alcohol in high school, but used no drugs other than alcohol. He stated that he probably drank less than other college students since his majors were pre-medicine and economics. He added that, more recently, his pattern of alcohol consumption had been one to two glasses of wine with dinner and occasionally a beer while watching a football game. (Tr. at 41-43)
3. In 1992, Dr. Ridgeway was charged with Driving Under the Influence [DUI] in Worthington, Ohio. Dr. Ridgeway testified that he had been to a few bars with friends, but had drunk only one to two beers. He had refused to take a Breathalyzer test on the advice of a friend who was an attorney, even though he believed he would have passed the test had he taken it. He further testified that he had pleaded guilty to the offense, although he had not been guilty of driving while intoxicated, because an attorney had advised him to do so. Thereafter, Dr. Ridgeway participated in a court-ordered three-day driving intervention course through Worthington Counseling. (Tr. at 45-50, 641-642; State's Exhibit [St. Ex.] 5 at 5, 8)
4. In 1993, Dr. Ridgeway drank wine over dinner in a restaurant with a female friend. After dinner, he and his friend drove to a park in Grandview, Ohio, and engaged in romantic activities. While in the park, the friend accidentally shifted the transmission into neutral and the car rolled into a signpost. Police officers discovered Dr. Ridgeway and his friend, and questioned them about their alcohol intake. Dr. Ridgeway again refused to take a Breathalyzer test, and was charged with DUI. The DUI was dismissed and Dr. Ridgeway entered a plea to reckless operation. Thereafter, as part of the plea agreement, Dr. Ridgeway received treatment for alcohol dependency or abuse through a counselor named Tom Carlisi. Mr. Carlisi also provided Dr. Ridgeway with counseling for career and relationship adjustment issues. (Tr. at 50-56; St. Ex. 5 at 5, 6, 8)

5. In the fall of 2002, Dr. Ridgeway attended a party celebrating his wife's parents' 50th anniversary at the Columbus Country Club. Dr. Ridgeway testified that he had had three or four drinks at the party, but had not been intoxicated. After the party, he drove through Whitehall, Ohio, and was stopped for weaving. Dr. Ridgeway refused to take a Breathalyzer test, and was arrested for operating a motor vehicle while intoxicated [OMVI]. Dr. Ridgeway testified that he had later pleaded guilty to reckless operation on the advice of his attorney. As part of the plea agreement, Dr. Ridgeway agreed to obtain treatment for alcohol abuse. (Tr. at 56-61)
6. On September 19, 2002, Dr. Ridgeway signed an Outpatient Program Participation Agreement through Talbot Hall, The Ohio State University, University Hospitals East [Talbot Hall] in Columbus, Ohio. In this agreement, Dr. Ridgeway agreed to remain abstinent from alcohol and other mood altering drugs. He also agreed to attend intensive outpatient program meetings three times per week and to attend two to four Alcoholics Anonymous [AA], Cocaine Anonymous [CA], or Narcotics Anonymous [NA] meetings per week in addition to a treatment group. Dr. Ridgeway also agreed to obtain a 12-step sponsor and to maintain regular contact with his sponsor. Dr. Ridgeway testified that he had agreed to these terms despite the fact that neither he nor any counselor had believed that Dr. Ridgeway was alcohol dependent at that time. (Tr. at 50-62; St. Ex. 4 at 12)

Dr. Ridgeway was discharged from the program on November 4, 2002, and transferred to continuing care. Although, upon admission, the chief complaint had been alcohol dependency, Dr. Ridgeway's discharge diagnosis was alcohol abuse. Dr. Ridgeway testified, however, that it was debatable that even "alcohol abuse" would have been an appropriate diagnosis for him at that time. (Tr. at 50-62; St. Ex. 4 at 11, 15-16)

Upon discharge, Dr. Ridgeway's case manager sent him a copy of the Continuing Care Plan. The plan included participating in the continuing care group meeting, attending 12-step meetings two times per week, and maintaining weekly contact with his sponsor. Moreover, he was to abstain from all mood-altering chemicals, develop and implement a realistic recovery plan, and identify potentials for relapse. Dr. Ridgeway's case manager wrote as follows:

Client has self-diagnosed as a substance abuser rather than dependent. He can identify two of the seven criteria for a diagnosis of dependency. There is a third that he meets; yet he cannot see it. That is the need to control his drinking. If he fails, he has crossed the line to dependency. As they say in AA, client needs to do some more research. He has attended AA meetings with his peers and has phone numbers. Pleasant in group, he eventually overcame his shyness and became an engaging participant.

(St. Ex. 4 at 5) Despite the continuing care plan, Dr. Ridgeway testified that, after completing intensive outpatient treatment, he had not attended any 12-step or continuing

care group meetings. Moreover, Dr. Ridgeway testified that his counselor had told him that he could continue to drink socially, which he did. (Tr. at 63-67)

7. On October 10, 2004, Dr. Ridgeway was charged with DUI and child endangerment in Elkhart County, Indiana. Those charges were still pending at the time of hearing. (St. Ex. 5 at 8, 1)

Dr. Ridgeway testified that, every year, he drives to Indiana to attend at least one Notre Dame football game. He stated that he generally participates in a “tailgater” where he drinks beer with friends before and after the game. In October 2004, Dr. Ridgeway drove to Indiana the Friday night before a game. His wife and his four-year-old daughter were also in the car. The family purchased dinner at Burger King and ate while he drove. While he was driving, Dr. Ridgeway’s wife poured wine for herself and Dr. Ridgeway to drink while eating their Burger King meal. Dr. Ridgeway testified that he and his wife had shared a bottle of wine, but that he had had only one glass. Subsequently, Dr. Ridgeway was stopped for speeding near Elkhart, Indiana. (Tr. at 67-73, 643-644)

The officer tested Dr. Ridgeway’s wife for alcohol use, but Dr. Ridgeway declined to be tested because, he stated, the officer would not let him speak to an attorney. Dr. Ridgeway was charged with DUI and child endangerment; his wife was also charged with child endangerment. The family was escorted to a station of the Indiana State Patrol. Both Dr. Ridgeway and his wife spent the night in jail, and their daughter was placed in protective custody. Dr. Ridgeway and his wife were released the next morning but did not attend the game. Dr. Ridgeway flew back to Ohio on Sunday, but his wife remained in Indiana until Monday morning when their daughter was returned to her. (Tr. at 70-76, 644)

8. In April 2005, Dr. Ridgeway was charged with domestic violence. In July 2005, he was assessed for anger management. (St. Ex. 5 at 6, 9)
9. In June 2005, Dr. Ridgeway and his attorney met with an investigator from the Board. The Board investigator asked questions regarding Dr. Ridgeway’s criminal history, including any alcohol related driving incidents. Dr. Ridgeway stated that he had answered the Board investigator’s questions truthfully at that time. He added that he had not previously told the Board about the events in Indiana because, “It hadn’t come up at that point* * * [o]n a renewal or in any other fashion.” (Tr. at 39-40, 645)

The Board investigator suggested that Dr. Ridgeway consider undergoing an evaluation for impairment. Dr. Ridgeway testified that he had discussed the possibility with his counsel and decided to voluntarily undergo an assessment for alcohol impairment. (Tr. at 39-40)

10. In July 2005, Dr. Ridgeway voluntarily underwent a substance abuse evaluation by Timothy E. Davis, M.D., in Elkhart, Indiana. Dr. Davis is certified by the American Society of Addiction Medicine and is a treatment provider approved by the Indiana Medical Licensing Board. Dr. Ridgeway reported that Dr. Davis had told him that his diagnosis was “alcohol abuse.” (Tr. at 76-79, 699-672; Respondent’s Exhibits [Resp. Exs.] M, N)
11. Upon advice of his counsel, Douglas E. Graff, Esq., Dr. Ridgeway entered the Woods at Parkside [Parkside], a Board-approved treatment provider in Gahanna, Ohio, on August 22, 2005, for a 72-hour substance abuse evaluation. That same day, Mr. Graff contacted Rebecca Jean Marshall, Chief Enforcement Attorney for the Board, and advised that Dr. Ridgeway had entered Parkside. Dr. Ridgeway left Parkside on August 25, 2005. (St. Ex. 2; Tr. at 39-40, 153, 324)
12. On October 8, 2005, Edna M. Jones, M.D., Medical Director of Parkside, authored a letter to Mr. Graff in which Dr. Jones set forth her medical opinion related to Dr. Ridgeway’s chemical dependency assessment at Parkside. (St. Ex. 2)

Dr. Jones testified at hearing that she had received her medical degree from The Ohio State University College of Medicine in 1981. In 1984, she completed a family practice residency at Riverside Methodist Hospital in Columbus, Ohio. Thereafter, Dr. Jones opened a solo family practice in Northeastern Ohio. At some point thereafter, Dr. Jones became impaired and entered Shepherd Hill for residential treatment. (Tr. at 92-93)

In 1988, Dr. Jones started working with Tom Pepper, M.D., at the Riverside Hospital Drug and Alcohol Unit. At that time, Dr. Jones was practicing both family and addiction medicine. She was certified in addiction medicine in 1990, and has worked in the field for 17 years. She has been associated with Parkside from 1993 through 1996, and 2001 through the present. (Tr. at 93-95)

Dr. Jones further testified that she is currently employed by OSU Physicians, Incorporated. In that capacity, she serves as the medical director of the addiction program and the professionals program at Parkside. Dr. Jones explained that Parkside is a free-standing drug and alcohol rehabilitation center that offers chemical dependency evaluations, detoxification, inpatient and outpatient treatment, and continuing care. Parkside also offers return to practice assessments for professionals. Dr. Jones also serves at Amethyst, another treatment center in Columbus, Ohio. (Tr. at 91-92, 314, 324)

13. In October 8, 2005 letter, Dr. Jones explained that, at the end of the 72-hour evaluation, John A. Johnson, M.D., and counseling staff at Parkside had determined that Dr. Ridgeway was not impaired. Nevertheless, Dr. Jones further advised that the evaluation had not been completed until after he had also been seen and evaluated by Dr. Jones. (St. Ex. 2)

In addition, Dr. Jones summarized Dr. Ridgeway's history, noting that, since 1992, he has been arrested four times for OMVI, three times for Domestic Violence, and once for Child Endangerment. She further noted that, as a result of those arrests, Dr. Ridgeway had pleaded guilty to one OMVI and two Reckless Operation charges, and currently had OMVI and Child Endangerment charges pending in Indiana. Dr. Jones further noted that Dr. Ridgeway had been treated for alcohol abuse at Talbot Hall in 2002, that Dr. Ridgeway had not followed the terms of his Outpatient Program Participation Agreement, and that after discharge from Talbot Hall Dr. Ridgeway had resumed drinking alcohol. (St. Ex. 2)

Moreover, Dr. Jones stated:

Dr. Ridgeway concerns me greatly due to his ongoing drinking of alcohol despite serious adverse consequences, which repeatedly occurred to him. He rationalizes how all of these things have happened to him; however, he minimizes the role alcohol has played in them. When I discussed the potential for monitoring for one year, as [Mr. Graff] conveyed might be an option in Indiana, his first response was that he would not drink for that time but implied he could resume drinking again when it was over. He meets the diagnostic criteria for alcoholism by tolerance, repeated unpredictable loss of control, and repeated use despite consequences.

At the time he presented, he did not seem impaired. However, that is a relatively brief time and patients often present their best appearance. Though I can say that I agree that he did not seem impaired by alcohol on his job at any time that I have evidence of, I believe he meets criteria for statutory impairment based on my understanding of the State Medical Board rules and the Ohio Revised Code. I believe he is in denial of his alcoholism and warrants treatment and monitoring. As per my understanding of the above-mentioned rules, etc., he would therefore warrant treatment in a Board-approved center for a minimum of 28 days of inpatient/residential treatment followed by outpatient treatment if indicated and 104 sessions of continuing care. He also needs monitoring and I would recommend OPEP for that.

This evaluation has required numerous hours of phone calls, record review and consideration. Though this is not the recommendation that Dr. Ridgeway desires, I believe it is the one that could save his life.

(St. Ex. 2)

14. Dr. Jones spoke with Ms. Marshall on October 19, 2005, after which Ms. Marshall wrote a summary of the telephone discussion. Ms. Marshall sent the summary to Dr. Jones and asked that Dr. Jones review the summary to confirm the accuracy of the information contained therein. Ms. Marshall wrote: “please note that the Board seeks only to clarify questions related to the letter you authored to Mr. Graff on October 8, 2005, and in no way intends to influence your medical opinion concerning your assessment of Dr. Ridgeway.” (Tr. at 132-142, 187-193; St. Ex. 3)

In the facsimile returned to Ms. Marshall by Dr. Jones, Dr. Jones agreed that the following statements, among others, accurately reflected her opinion regarding Dr. Ridgeway:

- Dr. Johnson’s written report, which reflected a discharge diagnosis of alcohol abuse, was but an interim step in the Parkside assessment. It was not an independent final medical opinion, since Dr. Johnson provides only the psychiatric component of the Parkside evaluation for chemical dependency assessments.
- Dr. Ridgeway’s current diagnosis is alcoholism.
- Dr. Ridgeway did not follow the terms of his Outpatient Program Participation Agreement at Talbot Hall because he did not get a sponsor or participate in AA meetings.
- Dr. Ridgeway needs treatment and monitoring in order to practice according to acceptable and prevailing standards of care. Despite the fact that she did not have evidence that Dr. Ridgeway had used alcohol at work, his alcoholism poses a risk of patient harm. She stated that when she diagnoses someone with the disease of alcoholism, she has no way to know when or how the symptoms will next reappear.

(St. Ex. 3)

15. Dr. Jones testified that, when the Board orders a 72-hour evaluation of a licensee, the licensee is evaluated by Dr. Jones. In addition, the licensee is required to participate in group therapy for three days, which allows other staff members to become familiar with that person. The licensee also sees a psychiatrist. In addition, staff members talk with the licensee’s associates, family members, and others who may be able to provide appropriate information. Toward the end of the three-day evaluation, the staff meets with Dr. Jones to discuss the case. At that time, the diagnosis and recommendations are formed. Thereafter, Dr. Jones prepares a report for the Board documenting the findings and recommendations. (Tr. at 314-316)
16. Dr. Jones testified that Dr. Ridgeway’s evaluation had proceeded in a slightly different manner. Dr. Jones testified that she had been on vacation when Dr. Ridgeway presented

for evaluation, and that the administrative director had contacted her on vacation. Moreover, Dr. Ridgeway had been discharged from Parkside prior to Dr. Jones' return. Therefore, Dr. Jones explained, the diagnosis made at Dr. Ridgeway's discharge had been only tentative, pending Dr. Jones' approval. (Tr. at 316, 321-324, 325-326)

Dr. Jones testified that, at the end of Dr. Ridgeway's evaluation, Dr. Johnson had given him a diagnosis of alcohol abuse. Moreover, Charles Bass, Dr. Ridgeway's counselor, had had a similar impression. Therefore, Dr. Jones concluded that, based on the information available at that time, Dr. Ridgeway's tentative diagnosis at the time of discharge had been alcohol abuse. (Tr. at 325-326, 350-351)

Nevertheless, Dr. Jones testified that her diagnosis for Dr. Ridgeway is alcoholism/alcohol dependency. Dr. Jones testified that, in forming her opinion, she had interviewed Dr. Ridgeway, meeting with him on two occasions. Moreover, she had reviewed the records from Talbot Hall and psychological testing results and interview done by James Reardon in July 2005. (Tr. at 352, 595-596)

17. Dr. Jones testified that the criteria for determining alcoholism or alcohol dependency are found in the Diagnostic Statistical Manual, Fourth Edition, Text Revision [DSM-IV-TR]. She further testified that Dr. Ridgeway had met sufficient criteria for making a diagnosis of alcoholism or alcohol dependency as set forth in the DSM-IV TR. (Tr. at 359-360, 364, 373, 377)

Dr. Jones explained that one of the criteria for diagnosing alcohol dependency is increased tolerance of alcohol. She stated that tolerance means "an increased capacity to drink higher amounts than in the past with the same effect or the need to use higher amounts over time to achieve the same effect." Dr. Jones testified that she believes Dr. Ridgeway had exhibited tolerance because he had expressed to her that, in times of stress, especially during his divorce, he had been consuming more alcohol than in the past. (Tr. at 359-360, 364, 373, 377)

Dr. Jones testified that Dr. Ridgeway had met another criterion for evaluating alcoholism or alcohol dependency: "unpredictable loss of control." Dr. Jones explained that this criterion is met when the patient drinks more alcohol than he or she had intended to drink on more than one occasion. Dr. Jones testified that the multiple arrests for OMVI would suggest that Dr. Ridgeway had consumed more alcohol than he had intended on more than one occasion. Dr. Jones acknowledged, however, that these incidents had occurred over a period of several years. (Tr. at 364-366)

In addition, Dr. Jones testified that Dr. Ridgeway had met a third diagnostic criterion for alcoholism or alcohol dependency: "repeated use despite consequences." Dr. Jones noted that Dr. Ridgeway had voluntarily sought treatment at Talbot Hall in 2002, after which abstinence was recommended. Nevertheless, he had resumed consumption of alcohol

after discharge. Thereafter, he was arrested yet again for OMVI and child endangerment, causing significant trauma for his family. Despite that, Dr. Ridgeway continued to drink. Dr. Jones concluded that alcohol is extremely important to Dr. Ridgeway. (Tr. at 366-367)

18. Mr. Graff challenged Dr. Jones, noting that the DSM-IV TR does not contain a category for alcoholism. Dr. Jones acknowledged that, although she had used the term alcoholism in her diagnosis of Dr. Ridgeway, the DSM-IV-TR addresses only categories for alcohol dependency and alcohol abuse, not alcoholism. She acknowledged that alcoholism has not been a diagnostic category since 1985. Nevertheless, Dr. Jones testified that she uses the term alcoholism interchangeably with alcohol dependency and that many in the substance abuse field continue to do so. (Tr. at 375-383, 593-594)

Mr. Graff also referred Dr. Jones to the listing of diagnostic criteria in the DSM-IV TR. He noted that the diagnostic criteria were listed as: tolerance; withdrawal; consumption of larger amounts over a longer period; persistent desire; and unsuccessful efforts to cut down; time spent in obtaining the substance; giving up of social, occupational and recreational activities; and substance use despite knowledge of having a persistent or recurrent physical or psychological problem. When asked if she noted that there was no listing for repeated unpredictable loss of control, Dr. Jones testified that that was her “phrasing of the criteria.” (Tr. at 384-386; Resp. Ex. I)

19. Dr. Jones testified that, with the disease of alcoholism, it is difficult to determine when the effects of the disease will manifest in harm to patients. Dr. Jones testified that “impairment” is a general statement indicating that a person has had significant problems related either to a medical or substance abuse problem such that the person cannot properly function. Dr. Jones testified that impairment is found when, after assessment, the person is found to need ongoing monitoring or treatment in order to protect the public. In that case, the person is considered impaired and unable to practice according to acceptable and prevailing standards of care. Dr. Jones stated that the criteria for determining impairment differ from the criteria for diagnosing alcoholism or alcohol dependency. Dr. Jones testified that she believes the standard for impairment can be found in the statutes and rules of the Board. (Tr. at 350-351, 368-370, 405-406)

Dr. Jones testified that she cannot assess the specific harm an impaired physician poses to patients since she has no means of knowing when the physician will drink or whether the physician’s disease has progressed to a point where it will affect his ability to function. Dr. Jones acknowledged that she had no information that Dr. Ridgeway had been drinking on the job. Nevertheless, Dr. Jones testified that his diagnosis alone was sufficient for her to determine that, left untreated, his practice presents a risk of harm to his patients. (Tr. at 406-410, 588-589, 612)

20. Dr. Jones testified that a finding that a physician is impaired in his ability to practice does not require a showing that the physician had practiced while under the influence. (Tr. at 589-592) Dr. Jones explained:

[I]n everyone, but especially in physicians, what we see is the disease progresses in other areas of their life before it ever affects their job. The job is usually the last thing affected, and it's also the first thing that is restored when someone gets into recovery. So a person can have serious consequences in many areas of their life, social, * * * community-wise, relationship, marriage, children, their own health, things of that nature, before they ever have an episode at work that would lead someone to think that they are impaired. Again, people protect their job often above everything else because, again, that's their economic survival, that's their -- that's what they need. So I see patients that no one has ever—I see doctors and other people who no one has claimed any problems on the job, yet, because they're in active addiction, they certainly pose a risk to patients if they would carry the work on under these conditions. I would expect the disease to progress, and it would eventually lead to harming the patient or harming themselves.

(Tr. at 590)

21. Dr. Jones testified that, in her evaluation of Dr. Ridgeway, she had asked him to complete and Addiction Severity Index [ASI]. Dr. Jones explained that the ASI presents standardized questions regarding the patient's history, drug and alcohol use, and its consequences. A staff member interprets the answers and enters that information into a computer. A software program compiles a computer-generated score. Nevertheless, Dr. Jones acknowledged that the ASI in this case contains numerous errors and cannot be relied upon in making a diagnosis. She also stated, however, that the ASI is not very important in the overall determination of an assessment. (Tr. at 329, 336-346, 601-605)
22. Dr. Jones testified that she had had two conversations with Ms. Marshall regarding Dr. Ridgeway. (Tr. at 372-373) Dr. Jones explained that, after one conversation with Ms. Marshall, Ms. Marshall had sent her a summary of that conversation. Ms. Marshall asked Dr. Jones if the answers recorded by Ms. Marshall accurately reflected the answers Dr. Jones had given during the conversation. Dr. Jones testified that each paragraph was an accurate reflection of her statements to Ms. Marshall and that she had indicated so by the statement, "Reviewed 10-20-05. All of the above is correct. Edna Jones, M.D." (Tr. at 397-405, 587-588)
23. Dr. Jones testified regarding her opinion that Dr. Ridgeway had failed to complete the Outpatient Program Participation Agreement he had signed while at Talbot Hall. Dr. Jones explained that the terms of the Outpatient Program Participation Agreement

required that Dr. Ridgeway attend two to four 12-step meetings per week, although the Talbot Hall records indicate that he had not done so. Dr. Ridgeway was also required to obtain a sponsor, which he did not do. In addition, Dr. Ridgeway was required to attend continuing care group meetings following completion of treatment but he did not do so. Moreover, there is no indication that Dr. Thomas Pepper, the medical director of that program, ever saw Dr. Ridgeway. Dr. Jones noted that the Talbot Hall counselor documented that Dr. Ridgeway had completed treatment despite noting instances of Dr. Ridgeway's noncompliance throughout the record. Dr. Jones concluded that Dr. Ridgeway had been "clearly noncompliant" with his Outpatient Program Participation Agreement. She added that, had he behaved in such a manner at Parkside, he would have been discharged with treatment incomplete. (Tr. at 615-622)

24. Dr. Jones testified that Dr. Ridgeway is "in high-level denial" of his alcoholism and "warrants treatment and monitoring." In support of that opinion, Dr. Jones noted the following:

- Dr. Ridgeway was charged with multiple DUIs/OMVIs.
- Dr. Ridgeway did not make any significant changes after treatment for substance abuse at Talbot Hall. She added: "He didn't take it very seriously. He just basically did it to get people off his back."
- Despite having outpatient treatment, he subsequently consumed alcohol while driving and received another OMVI.
- When it was suggested that the Board monitor him for only one year, Dr. Ridgeway responded that he could maintain his sobriety "for a year."
- Dr. Jones was "very alarmed" that, despite all of the problems he had faced related to alcohol, it was clear Dr. Ridgeway did not recognize that he had a problem. She added:

And that was a big sticking point to me in my memory, of thinking this guy is a risk. This patient clearly doesn't believe he has a problem with any type of alcohol, and that he'll pacify people once again, as he did before, to get them off his back, and then he'll do what he pleases. Meaning that I don't believe he's learned anything from these consequences.

(Tr. at 576-579)

25. Dr. Jones testified that, when she met with Dr. Ridgeway, he had not advised her that he had been charged with child endangerment. Moreover, he had not told her that his wife had also been arrested in October 2004. (Tr. at 569-571)
26. Dr. Jones testified that a physician might be impaired even though the diagnosis is alcohol abuse rather than alcohol dependency. (Tr. at 592)
27. Dr. Jones noted that Dr. Ridgeway had reported that his last use of alcohol had occurred on August 16, 2005, and that he had consumed only one or two glasses of wine. (Tr. at 364)
28. John A. Johnson, M.D. [formerly known as Arunapurathu Johnson, M.D.] testified at hearing on behalf of Dr. Ridgeway. Dr. Johnson testified that he had completed medical school in India, and trained as a psychiatrist at a Royal College of Psychiatry-London approved training program in Ireland. Thereafter, Dr. Johnson completed a residency program in psychiatry at the Allegheny General Hospital in Pittsburgh, Pennsylvania. Subsequently, Dr. Johnson served as the Medical Director at Southeast Community Mental Health Center, which he described as the largest community mental health center in Columbus. In August 2005, he accepted a position at Parkside. Dr. Johnson concluded that he has worked in the area of substance abuse and psychiatry for 17 years. Nevertheless, Dr. Johnson is not certified in addiction medicine. (Tr. at 420-422, 441)

Dr. Johnson testified that he had met Dr. Ridgeway only once, on August 24, 2005, during Dr. Ridgeway's three-day evaluation at Parkside. Dr. Johnson testified that he had spent a little over an hour with Dr. Ridgeway. At that time, Dr. Johnson had not had access to Dr. Ridgeway's records, but was given only a consult sheet that stated the reason why Dr. Johnson was to see Dr. Ridgeway. (Tr. at 424-426; Resp. Ex. F at 30030 to 30032)

Dr. Johnson testified that Dr. Ridgeway had been forthcoming and contemplative during that session. Dr. Johnson stated that, at that time, he had not felt that Dr. Ridgeway was being evasive or misleading. (Tr. at 426)

Dr. Johnson testified that, at the end of the session, he had made a diagnosis of alcohol abuse. He stated that, with the information he had had at that time, he did not believe that Dr. Ridgeway met the DSM-IV criteria for alcohol dependence. Nevertheless, Dr. Johnson testified that he had made the diagnosis based only on the information provided by Dr. Ridgeway. Moreover, Dr. Johnson testified that Dr. Jones had been Dr. Ridgeway's admitting physician, and Dr. Johnson had served only as a consultant. Finally, Dr. Johnson testified that Dr. Jones is responsible for completing evaluative reports for the Board. (Tr. at 426-441)

29. Terri Lynn Williams, CCDC I, [formerly known as Terri Lynn Stefan] testified at hearing on behalf of Dr. Ridgeway. Ms. Williams testified that she is a level I certified chemical dependency counselor. Ms. Williams explained that, being a level I chemical dependency counselor, she is not licensed to diagnose. Therefore, her work is supervised by an independently-licensed counselor. She stated that she has been practicing in the field of chemical dependency since 1995, and has been working at Parkside for a little more than one year. (Tr. at 444-446; 494-495)

Ms. Williams testified that, in August 1995, when Dr. Ridgeway was at Parkside, her position had been Assessment Counselor. Ms. Williams testified that an Assessment Counselor gathers information when a new patient is admitted to Parkside. She stated that a new patient completes a bio-psychosocial questionnaire and the Assessment Counselor reviews it with the patient. The Assessment Counselor clarifies any unclear answers and completes any unanswered questions. Ms. Williams testified that this process generally takes a half-hour to 45 minutes. (Tr. at 446-447)

Ms. Williams reviewed the bio-psychosocial questionnaire completed by Dr. Ridgeway. She stated that Dr. Ridgeway had completed most of the pages himself, with a few notes added by Ms. Williams for clarification. Nevertheless, Dr. Ridgeway did not complete any of the questions in the “Legal History” section and the “Emotional/Psychiatric” section. Ms. Williams stated that Dr. Ridgeway had questioned the relevance of those sections and why he had to complete them. Ms. Williams noted that the sections included questions regarding driving while intoxicated and other criminal matters. Therefore, Ms. Williams had had to ask Dr. Ridgeway each question specifically and record the answers herself. Ms. Williams further testified that, even when she questioned him on each question individually, Dr. Ridgeway had failed to tell her that he had been charged with child endangerment as a result of drinking and driving with his four-year-old daughter in the car. She added that he had been “very vague” in answering these questions. (Tr. at 447-454, 487-491; Resp. Ex. J at 47-56)

Ms. Williams testified that, after meeting with Dr. Ridgeway, she consulted with Dorothy Lerum, the Clinical Program Director. (Tr. at 483-484)

30. Ms. Williams further testified that she had completed one part of a document entitled “For Assessment Staff Only.” In that document, Ms. Williams checked the substance dependence criteria that she believed could be applied to Dr. Ridgeway. These included:
- “Tolerance” due to a “[d]iminished effect from the same amount of substance”;
 - “Substance is taken in larger amounts over longer period than intended”;
 - “Persistent desire or unsuccessful efforts to cut down or control substance use”;

- “Important social, occupational, or recreational activities are given up or reduced because of substance use”; and
- “Substance use is continued * * * [d]espite knowledge of persistent/recurrent psychological problem caused by use.”

(Tr. at 457; Resp. Ex. J at 59)

Ms. Williams explained that she had checked tolerance because Dr. Ridgeway had told her that “after a couple of drinks, * * * he felt okay to drive.” She testified that she also asked Dr. Ridgeway if he had been able to consume more alcohol at the time of the interview than he had previously and he had answered “yeah, sometimes.”

(Tr. at 458-461, 479-482)

Ms. Williams further explained that she had checked “Substance is taken in larger amounts over longer periods than intended” because Dr. Ridgeway had told her “he drinks all the time.” (Tr. at 461)

Moreover, in a rather confusing explanation, Ms. Williams testified that she had checked “Persistent desire or unsuccessful efforts to cut down or control substance use” because Dr. Ridgeway had had periods of abstinence during swimming season in high school while on certain diets, yet had resumed the consumption of alcohol. Ms. Williams testified that she had been taught that, “if there is not an alcohol problem present, there is no reason to stop using.” Ms. Williams added that she had also considered the fact that Dr. Ridgeway had been through treatment for alcohol abuse but had resumed drinking alcohol after discharge. Ms. Williams acknowledged that she had not reviewed the Talbot Hall records and did not know if Dr. Ridgeway had been required to maintain abstinence after discharge. (Tr. at 461-469)

In addition, Ms. Williams stated that she had checked “Important social, occupational or recreational activities are given up or are given up because of substance use or abuse.” Ms. Williams explained that Dr. Ridgeway had reported having had problems with his wife and profession related to the use of alcohol. He also stated that he had made changes in his social life. Ms. Williams testified that she believed these problems and changes were related to the use of alcohol, despite the fact that Dr. Ridgeway had denied any relation to the use of alcohol. Ms. Williams added that, at the time she reviewed this form with Dr. Ridgeway, Dr. Ridgeway had failed to advise her that, as a result of his consuming alcohol in the car with his family, the State of Indiana had assumed temporary custody of his four-year-old daughter. She stated that, had she been aware of this, she certainly would have considered it an important social activity that had been given up because of substance use or abuse. (Tr. at 469-474, 491-492)

Finally, Ms. Williams testified that she had checked “Substance use is continued despite knowledge of persistent and recurrent psychological problem caused by use” due to the stress caused by four DUI arrests, unresolved legal problems, and financial demands. (Tr. at 476-477)

Ms. Williams testified that when she evaluates for chemical dependency, she considers each criterion in relation to the patient’s behavior over the past two years and over the patient’s lifetime. (Tr. at 458-461, 479-482)

31. Dorothy Lerum, LICDC, testified at hearing on behalf of Dr. Ridgeway. Ms. Lerum testified that she is the Clinical Director at Parkside and supervises the counselors, therapists, and assistants. She stated she has a degree in social work and is an independently-licensed counselor. As an independently-licensed counselor, Ms. Lerum is qualified to make diagnoses relating to substance abuse. She has been working in the field of substance abuse since 1977. (Tr. at 496-499)

Ms. Lerum testified that she had first met Dr. Ridgeway in August 2005 when he presented to Parkside for an assessment. Ms. Lerum testified that she had triaged or supervised Ms. Williams in her evaluation of Dr. Ridgeway. (Tr. at 499-501)

Ms. Lerum further testified that, at the end of the evaluation, she had diagnosed Dr. Ridgeway as being alcohol dependent. Moreover, Ms. Lerum testified that she had a suspicion that he had consumed more than he acknowledged due to her experience in dealing with impaired people. Factors that raised her suspicion included the multiple alcohol related incidents, and the failed intensive outpatient treatment in 2002. Ms. Lerum testified that a patient is not sent to intensive outpatient treatment unless alcohol has been identified as a significant problem. Moreover, she noted that Dr. Ridgeway had continued consuming alcohol despite these problems. (Tr. at 501-506)

Ms. Lerum testified that, after supervising Ms. Williams in the biopsychosocial evaluation, Ms. Lerum had gathered the information necessary to complete the ASI pertaining to Dr. Ridgeway. Nevertheless, after much discussion, it was determined that the ASI created in Dr. Ridgeway’s case was so flawed that it could not be relied on. Ms. Lerum testified, however, that she had diagnosed Dr. Ridgeway with alcohol dependence before the ASI had been completed. (Tr. at 507-538, 543-544)

32. Ms. Lerum testified that alcoholism and alcohol dependence are often used interchangeably in the field of substance abuse treatment. She added that alcohol abuse is neither alcoholism nor alcohol dependence. (Tr. at 538-543)
33. Charles Bass, CCDC-I, testified at hearing on behalf of Dr. Ridgeway. Mr. Bass testified that he is a Level 1 Certified Chemical Dependency Counselor in the State of Ohio. He stated that he has practiced in the field of chemical dependency for twenty-one years.

Currently, he is employed at Parkside as a Relapse Program Coordinator. He also serves as a primary counselor for individual patients. (Tr. at 545-547)

Mr. Bass testified that he had served as Dr. Ridgeway's primary counselor during Dr. Ridgeway's three-day evaluation at Parkside. Nevertheless, Mr. Bass testified that he had not diagnosed Dr. Ridgeway because he is not certified to diagnose. He stated that the diagnosis had been made either by the admissions counselor, who has a license to diagnose, or by the physician. Nevertheless, Mr. Bass testified that it was his impression that Dr. Ridgeway's conduct could appropriately be called alcohol abuse. Mr. Bass concluded that that he had believed that Dr. Ridgeway had a harmful relationship with alcohol, based on his legal problems and the DUI arrests. (Tr. at 548-551, 554-555; Resp. Ex. J at 86)

Mr. Bass testified that he has no reason to believe that Dr. Ridgeway had not been forthcoming during his interview. (Tr. at 550-551)

34. Dr. Ridgeway testified regarding his evaluation at Parkside. He stated that he had decided to have the assessment done voluntarily and had called Parkside himself to arrange it. He explained that he had chosen August 22, 2005, because that date was convenient for him and for Parkside and because he had made arrangements with a locum tenens physician to cover his practice should he require twenty-eight days of inpatient treatment. Nevertheless, when he arrived at Parkside, he learned that the person with whom he had made the arrangements was no longer at the facility and the Parkside staff had not been aware that he was coming. Therefore, Dr. Ridgeway contacted Mr. Graff who joined Dr. Ridgeway at Parkside for a meeting with Parkside staff. Ms. Marshall was also contacted by telephone. Dr. Ridgeway was admitted despite the complications. (Tr. at 646-647)
35. Dr. Ridgeway testified that he had completed the forms presented to him at Parkside as best as he could. Nevertheless, he had not been able to complete the bio-psychosocial assessment because he had not had enough time. Regarding Ms. Williams' testimony that he had not completed certain portions of the assessment because he had believed they were "not relevant," Dr. Ridgeway stated: "It was the most ridiculous thing I've ever heard." He concluded that Ms. Williams had either been lying or had had "an entirely incorrect recollection." (Tr. at 648-649, 680-681)

Regarding Ms. Williams' conclusion that he had closed his business due to problems with alcohol, Dr. Ridgeway testified that he had closed his office at Community Hospital because it had not been financially sound. He explained that there had been a decrease in patient volume and the number of procedures performed. At the same time, he was making money at five other places where he performed radiological services, so it had not been reasonable to maintain that office. Dr. Ridgeway testified that he had not closed

the practice for any reason related to alcohol use, and had not made such representation to Ms. Williams. (Tr. at 650-651)

Regarding Ms. Williams' conclusion that he had had unsuccessful attempts to cease the consumption of alcohol, Dr. Ridgeway testified that he had stopped drinking in college during swimming season in hopes that he would swim better weighing less. He also stopped drinking while on diets for the same reason. He added that the periods of abstinence had not been an attempt to stop drinking for any reason related to alcohol abuse or dependency. Similarly, Dr. Ridgeway denied that his period of abstinence while at Talbot Hall had been an unsuccessful attempt to stop drinking. (Tr. at 651-652)

Finally, regarding Ms. Williams' conclusion that recent changes in his social life had been caused by alcohol problems, he stated that those changes were "not specifically" related to his use of alcohol. Dr. Ridgeway testified that, when married to his wife, he had often gone to restaurants with bars that served alcohol. However, since separating from his wife in April 2005, he no longer does so. In addition, Dr. Ridgeway testified that he rarely drank when he was alone. (Tr. at 652-653)

36. Dr. Ridgeway testified that, at the end of the evaluation, his counselor, Charles Bass, had told him that he was not alcohol dependent and was not impaired. (Tr. at 40-41)
37. Dr. Ridgeway testified that he could not recall whether he had advised Parkside staff that he had also been charged with child endangerment in conjunction with the DUI, or that the State of Indiana had assumed temporary custody of his daughter for the weekend. (Tr. 681-682)
38. Dr. Ridgeway testified Dr. Jones' first recommendation for treatment was that he complete one week of residential treatment. He added, however, that Dr. Jones had further advised that the Board would require twenty-eight days of inpatient or residential treatment. (Tr. at 674-675)
39. Dr. Ridgeway testified that he would "probably agree" that his diagnosis is alcohol abuse. Nevertheless, he stated it is "a little difficult" to make that determination since he had consistently refused the Breathalyzer tests. He maintained that, if he had taken the tests, they would have revealed an alcohol level within the legal limit for driving. Dr. Ridgeway further testified that he does not believe he was intoxicated on any of the occasions during which he was arrested for DUI. Finally, Dr. Ridgeway adamantly stated that the diagnosis of chemical dependency is inappropriate for him. (Tr. at 682-686)
40. Dr. Ridgeway testified that he has since changed his mind regarding Breathalyzer tests, in that, even with an attorney's advice, he would not refuse to take the test. He stated that he has changed his opinion because he now realizes that "the Medical Board, and

possibly even courts anymore these days might treat an arrest in very similar fashion to a conviction.” Therefore, Dr. Ridgeway noted that, in October 2005, he had been returning from a Notre Dame football game. When he was stopped for speeding and asked to take a Breathalyzer test, he took the test. He stated that it registered 0.00, and he was charged only with speeding. (Tr. at 82, 684)

41. Rebecca Jean Marshall, Esq., testified at hearing on behalf of the State and Dr. Ridgeway. Ms. Marshall testified that she is employed as the Chief Enforcement Attorney for the Board. Moreover, during the course of her employment, she had been involved in the investigation of Dr. Ridgeway. (Tr. at 126-127)

Ms. Marshall explained that, when a Board Enforcement Attorney oversees an investigation in which the evidence suggests that a summary suspension may be appropriate, the Enforcement Attorney presents the information to the Board’s Secretary and Supervising Member. The Secretary and Supervising Member consider the information and, if they determine that a summary suspension is appropriate, the Secretary and Supervising Member instruct the Enforcement Attorney to draft a proposed Notice of Summary Suspension and Opportunity for Hearing. Thereafter, the draft Notice of Summary Suspension and Opportunity for Hearing is presented to the Board for its review and consideration, and the Board decides whether to issue it or not. Ms. Marshall testified that this is the procedure that was followed in the present matter. (Tr. at 208-215)

Ms. Marshall further testified that, during the investigation of Dr. Ridgeway, she had presented to the Secretary and Supervising Member with the report of Dr. Jones’ evaluation of Dr. Ridgeway, and the summary Ms. Marshall had prepared regarding her discussion with Dr. Jones including Dr. Jones’ hand-written comments. Moreover, Ms. Marshall reviewed with the Secretary and Supervising Member the information contained in Dr. Ridgeway’s interrogatories, information from the prior treatment record at Talbot Hall, and information from Dr. Davis’ evaluation of Dr. Ridgeway. In addition, she noted that, most likely, they would have relied on their general knowledge of the case as it had evolved over the prior months. (Tr. at 143-168, 173-183, 193, 208-215, 248-254) Thereafter, the Secretary and Supervising Member instructed Ms. Marshall to draft a proposed Notice of Summary Suspension and Opportunity for Hearing, which she did. When it was presented to the Board on November 9, 2005, the Board voted to issue the Notice of Summary Suspension and Opportunity for Hearing. (Tr. at 143-168, 173-183, 193, 215-216)

42. Charlotte Anne Michael testified at hearing on behalf of Dr. Ridgeway. Ms. Michael testified that she is employed as a Senior Radiology Technologist in the Student Health Services Department at The Ohio State University. She has held this position for twenty years. Ms. Michael testified that Dr. Ridgeway had never appeared at work smelling of

alcohol or exhibiting behavior that would indicate that he had been drinking.
(Tr. at 630-639; Resp. Ex. K)

43. Dr. Ridgeway testified that he does not believe he is an alcoholic. Regarding the multiple arrests related to alcohol use, Dr. Ridgeway testified that, prior to the summary suspension, the impact on his life had been minimal. Dr. Ridgeway insisted that the impact on his life had been minimal despite the money he had paid to attorneys, the counseling he had undergone, the treatment he had received at Talbot Hall, and the removal of his daughter from his custody for a weekend. (Tr. at 83-86, 645)

Dr. Ridgeway explained that the loss of his daughter for a weekend had not been a major event, as follows:

We knew that she was in very good hands. She actually had fun during those two days. It was a very nice lady by the name of Rose, whom we never met. But once we had her -- and we never were worried. I won't speak for my wife. I was never worried that she was going to be traumatized in any way, only, we wanted her back immediately and felt their system should have allowed for that. And my daughter had a nice weekend with this lady named Rose and was not worried about it; so I would say the consequences were not overwhelming.

(Tr. at 86-87)

Finally, Dr. Ridgeway testified that he had only stopped consuming alcohol because he thought it was the better choice in light of the Board's involvement. (Tr. at 88-89)

FINDINGS OF FACT

1. On August 22, 2005, Joseph Aloysius Ridgeway, IV, M.D., was admitted to the Woods at Parkside, a Board-approved treatment provider, for the purpose of determining whether he was impaired in his ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of alcohol.
2. On October 8, 2005, Edna M. Jones, M.D., Medical Director of The Woods at Parkside, authored a letter to Dr. Ridgeway's attorney in which Dr. Jones set forth her medical opinion related to Dr. Ridgeway's chemical dependency assessment. In the letter, Dr. Jones opined that Dr. Ridgeway had met criteria for impairment as it applies to physicians practicing in Ohio, and that Dr. Ridgeway was in denial of his alcoholism. Moreover, Dr. Jones recommended that Dr. Ridgeway undergo a minimum of twenty-eight days of residential treatment at a Board-approved treatment provider, followed by a period of monitoring.

Dr. Jones summarized Dr. Ridgeway's history, noting that since 1992 Dr. Ridgeway had been arrested four times for Driving Under the Influence [DUI] or Operating a Vehicle Under the Influence [OMVI], three times for Domestic Violence, and once for Child Endangerment. Moreover, Dr. Ridgeway pled guilty to one OMVI and two Reckless Operation charges, and had OMVI and Child Endangerment charges pending in Indiana. Dr. Jones further stated that Dr. Ridgeway had been treated for alcohol abuse at Talbot Hall in 2002, that he had not followed the terms of his Outpatient Program Participation Agreement, and that he had resumed drinking alcohol after discharge from Talbot Hall. Additionally, Dr. Jones stated that Dr. Ridgeway had continued to drink alcohol despite serious adverse consequences, and that Dr. Ridgeway minimized the role alcohol had played in these events. Finally, Dr. Jones advised that Dr. Ridgeway meets "the diagnostic criteria for alcoholism by tolerance, repeated unpredictable loss of control, and repeated use despite consequences."

3. By correspondence dated October 20, 2005, Dr. Jones provided additional information to the Board documenting that she had determined that Dr. Ridgeway was impaired in his ability to practice according to acceptable and prevailing standards of care; therefore, he would require residential treatment. Dr. Jones further stated that Dr. Ridgeway needed treatment, monitoring, and supervision in order to be able to practice according to acceptable and prevailing standards of care. In addition, Dr. Jones opined that, although it had not been reported that anyone had smelled alcohol on Dr. Ridgeway's breath at work, Dr. Ridgeway's alcoholism itself poses a risk of patient harm.
4. At the time of the Board issued its Notice of Summary Suspension and Opportunity for Hearing, the Board had not received information indicating that Dr. Ridgeway had entered treatment. In addition, the Board had not received information that Dr. Ridgeway had been determined to be capable of practicing in accordance with acceptable and prevailing standards of care.
5. 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. Moreover, before being eligible to apply for reinstatement, that individual must 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.

6. Rule 4731-16-02(B)(3), 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.

CONCLUSIONS OF LAW

The conduct of Joseph Aloysius Ridgeway, IV, M.D., as set forth in Findings of Fact 1 through 4, constitutes “[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.

* * * * *

As noted by the State in its closing argument, “the Board cannot be put into the position, as Dr. Ridgeway seems to argue, that patient harm has to occur before a summary suspension can issue. The Board has to be proactive with impaired physicians to prevent harm from occurring to patients.” Similarly, it would be unreasonable to suggest, as does Dr. Ridgeway, that a physician must appear at work under the influence of a mood-altering substance before that physician can be deemed to be impaired. As noted by Dr. Jones, a physician with a diagnosis of alcohol dependence, if untreated, presents a significant risk of harm to his or her patients.

Moreover, there was sufficient evidence presented at hearing to support a conclusion that Dr. Ridgeway was appropriately diagnosed with alcohol dependence. First, Dr. Jones presented convincing testimony that the diagnosis of alcohol dependence is proper. Although Dr. Johnson diagnosed only alcohol abuse, Dr. Jones’ testimony was more convincing, in part, because she is certified in addiction medicine while Dr. Johnson is not; because she spent more time with Dr. Ridgeway than did Dr. Johnson; and because Dr. Jones had more information available to her at the time she formed her opinion than did Dr. Johnson. Similarly, Mr. Bass’ impression that alcohol abuse is the appropriate label is simply that, an impression, as Mr. Bass is not qualified to make a diagnosis. Finally, Dr. Jones provided thoughtful and persuasive rationale to support her opinion.

Furthermore, Dr. Ridgeway was not convincing when he argued that, based on the Talbot Hall records, his diagnosis, if anything, should be alcohol abuse. In fact, a review of the Talbot Hall records supports a current diagnosis of alcohol dependence. More specifically, Dr. Ridgeway’s Talbot Hall counselor clearly stated that, if Dr. Ridgeway could not control his consumption of alcohol, he would “cross[] the line to dependency.” Dr. Ridgeway’s

blatant failure to control his consumption of alcohol in October 2004 was clearly an indication that he had crossed that line.

PROPOSED ORDER

It is hereby ORDERED that:

- A. **SUSPENSION:** The certificate of Joseph Aloysius Ridgeway, IV, M.D., to practice medicine and surgery in the State of Ohio shall be SUSPENDED for an indefinite period of time, but not less than thirty days from the effective date of this Order.
- B. **INTERIM MONITORING:** During the period that Dr. Ridgeway's license is suspended, he shall comply with the following terms, conditions, and limitations:
 1. **Obey the Law:** Dr. Ridgeway shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.
 2. **Personal Appearances:** Dr. Ridgeway shall appear in person for an interview before the full Board or its designated representative during the third month following the effective date of this Order. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
 3. **Quarterly Declarations:** Dr. Ridgeway 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.
 4. **Abstention from Drugs:** Dr. Ridgeway shall abstain completely from the personal use or possession of drugs, except those prescribed, administered, or dispensed to him by another so authorized by law who has full knowledge of Dr. Ridgeway's history of chemical dependency.
 5. **Abstention from Alcohol:** Dr. Ridgeway shall abstain completely from the use of alcohol.
 6. **Initiate Drug/Alcohol Treatment:** Within thirty days of the effective date of this Order, or as otherwise approved by the Board, Dr. Ridgeway shall submit to

appropriate drug/alcohol treatment, as determined by an informed assessment of his current needs. Such assessment and treatment shall be provided by a treatment provider approved under Section 4731.25 of the Revised Code for treatment of drug and alcohol dependency.

Unless otherwise determined by the Board, prior to the initial assessment, Dr. Ridgeway shall furnish the approved treatment provider copies of the Board's Summary of the Evidence, Findings of Fact, and Conclusions, and any other documentation from the hearing record that the Board may deem appropriate or helpful to the treatment provider. Within ten days after the completion of the initial assessment, or as otherwise determined by the Board, Dr. Ridgeway shall cause a written report to be submitted to the Board from the treatment provider, which report shall include:

- a. A detailed plan of recommended treatment based upon the treatment provider's informed assessment of Dr. Ridgeway's current needs;
 - b. A statement indicating that Dr. Ridgeway entered into or commenced the recommended treatment program within forty-eight hours of its determination;
 - c. A copy of a treatment contract signed by Dr. Ridgeway establishing the terms of treatment and aftercare, including any required supervision or restrictions on practice during treatment or aftercare; and
 - d. A statement indicating that the treatment provider will immediately report to the Board any failure by Dr. Ridgeway to comply with the terms of the treatment contract during inpatient or outpatient treatment or aftercare.
7. **Comply with the Terms of Treatment and Aftercare Contract:** Dr. Ridgeway shall maintain continued compliance with the terms of the treatment and aftercare contracts entered into with his treatment provider, provided that, where terms of the treatment and aftercare contract conflict with terms of this Order, the terms of this Order shall control.
8. **Drug & Alcohol Screens; Supervising Physician:** Dr. Ridgeway shall submit to random urine screenings for drugs and/or alcohol on a weekly basis or as otherwise directed by the Board. Dr. Ridgeway shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis. The drug-testing panel utilized must be acceptable to the Secretary of the Board.

Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Ridgeway shall submit to the Board for its prior approval the name

and curriculum vitae of a supervising physician to whom Dr. Ridgeway shall submit the required specimens. In approving an individual to serve in this capacity, the Board will give preference to a physician who practices in the same locale as Dr. Ridgeway. Dr. Ridgeway and the supervising physician shall ensure that the urine specimens are obtained on a random basis and that the giving of the specimen is witnessed by a reliable person. In addition, the supervising physician shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

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

In the event that the designated supervising physician becomes unable or unwilling to so serve, Dr. Ridgeway must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Dr. Ridgeway shall further ensure that the previously designated supervising physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

All screening reports and supervising physician reports required under this paragraph must be received in the Board's offices no later than the due date for Dr. Ridgeway's quarterly declaration. It is Dr. Ridgeway's responsibility to ensure that reports are timely submitted.

9. **Submission of Blood or Urine Specimens upon Request:** Dr. Ridgeway shall submit blood and urine specimens for analysis without prior notice at such times as the Board may request, at Dr. Ridgeway's expense.
10. **Comply with the Terms of Treatment and Aftercare Contract:** Dr. Ridgeway shall maintain continued compliance with the terms of the aftercare contract entered into with his treatment provider, provided that, where terms of the aftercare contract conflicts with terms of this Order, the terms of this Order shall control.
11. **Rehabilitation Program:** Dr. Ridgeway shall maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., C.A., or Caduceus, no less than three times per week, unless otherwise determined by the Board. Substitution of any other specific program must receive prior Board approval. Dr. Ridgeway shall submit acceptable documentary evidence of continuing compliance with this

program, which must be received in the Board's offices no later than the due date for Dr. Ridgeway's quarterly declarations.

12. **Contact Impaired Physicians Committee**: Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Ridgeway shall contact an impaired physicians committee, approved by the Board, to arrange for assistance in recovery and/or aftercare.
13. **Continued Compliance with a Contract with an Impaired Physicians Committee**: Dr. Ridgeway shall maintain continued compliance with the terms of the contract entered into with an impaired physicians committee, approved by the Board, to assure continuous assistance in recovery and/or aftercare.

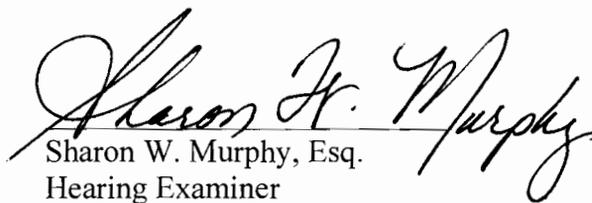
C. **CONDITIONS FOR REINSTATEMENT OR RESTORATION**: The Board shall not consider reinstatement or restoration of Dr. Ridgeway's certificate to practice medicine and surgery until all of the following conditions have been met:

1. **Application for Reinstatement or Restoration**: Dr. Ridgeway shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
2. **Compliance with Interim Conditions**: Dr. Ridgeway shall have maintained compliance with all the terms and conditions set forth in Paragraph B of this Order, unless otherwise determined by the Board.
3. **Demonstration of Ability to Resume Practice**: Dr. Ridgeway shall demonstrate to the satisfaction of the Board that he can resume practice in compliance with acceptable and prevailing standards of care under the provisions of his certificate. Such demonstration shall include but shall not be limited to the following:
 - a. Certification from a treatment provider approved under Section 4731.25 of the Revised Code that Dr. Ridgeway has successfully completed any required inpatient treatment.
 - b. Evidence of continuing full compliance with a post-discharge aftercare contract with a treatment provider approved under Section 4731.25 of the Revised Code. Such evidence shall include, but not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with rule 4731-16-10 of the Administrative Code.
 - c. Evidence of continuing full compliance with this Order.

- d. Two written reports indicating that Dr. Ridgeway's ability to practice has been evaluated for chemical dependency and/or impairment and that he has been found capable of practicing according to acceptable and prevailing standards of care. The evaluations shall have been performed by individuals or providers approved by the Board for making such evaluations. Moreover, the evaluations shall have been performed within sixty days prior to Dr. Ridgeway's application for reinstatement or restoration. The reports of evaluation shall describe with particularity the bases for the determination that Dr. Ridgeway has been found capable of practicing according to acceptable and prevailing standards of care and shall include any recommended limitations upon his practice.
4. **Absence from Practice:** In the event that Dr. Ridgeway has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to the submission of his application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of Dr. Ridgeway's fitness to resume practice.
- D. **PROBATIONARY CONDITIONS:** Upon reinstatement or restoration, Dr. Ridgeway's 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. Ridgeway shall continue to be subject to the terms, conditions, and limitations specified in Paragraph B of this Order.
 2. **Tolling of Probationary Period While Out of State:** Dr. Ridgeway shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed.
- E. **VIOLATION OF THE TERMS OF THIS ORDER:** If Dr. Ridgeway violates the terms of this Order in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.
- F. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Ridgeway's certificate will be fully restored.

- G. **RELEASES:** Dr. Ridgeway shall provide continuing authorization, through appropriate written consent forms, for disclosure by his treatment providers of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Dr. Ridgeway's chemical dependency, psychiatric condition and/or related conditions, or for purposes of complying with this Order, whether such treatment or evaluations occurred before or after the effective date of this Order. The above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute.
- H. **REQUIRED REPORTING BY LICENSEE TO EMPLOYERS AND HOSPITALS:** Within thirty days of the effective date of this Order, Dr. Ridgeway shall provide a copy of this Order to all employers or entities with which he is under contract to provide health care services or is receiving training, and to the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Ridgeway shall provide a copy of this Order to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and to the Chief of Staff at each hospital where he applies for or obtains privileges or appointments. Further, Dr. Ridgeway shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt. This requirement shall continue until Dr. Ridgeway receives from the Board written notification of his successful completion of probation.
- I. **REQUIRED REPORTING BY LICENSEE TO OTHER STATE LICENSING AUTHORITIES:** Within thirty days of the effective date of this Order, Dr. Ridgeway shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Dr. Ridgeway shall also provide a copy of this Order by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement or restoration of any professional license. Further, Dr. Ridgeway shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt. This requirement shall continue until Dr. Ridgeway receives from the Board written notification of his successful completion of probation.

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


Sharon W. Murphy, Esq.
Hearing Examiner



State Medical Board of Ohio

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EXCERPT FROM THE DRAFT MINUTES OF FEBRUARY 8, 2006

REPORTS AND RECOMMENDATIONS

Dr. Robbins announced that the Board would now consider the findings and orders appearing on the Board's agenda. He noted that the case of Jabir Kamal Akhtar, M.D., which was scheduled for this meeting, would be considered at a later time due to the inability to achieve service of the Report and Recommendation on Dr. Akhtar.

Dr. Robbins asked whether each member of the Board had received, read, and considered the hearing records, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Mark A Campano, M.D.; Philip L. Creps, D.O.; Ruth Ann Holzhauser, M.D.; John Bruce Payne, D.O.; Alberto Pena, M.D.; and Joseph Aloysius Ridgeway IV, M.D. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Steinbergh	- aye
	Dr. Robbins	- aye

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

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye

Ms. Sloan - aye
Dr. Davidson - aye
Dr. Steinbergh - aye
Dr. Robbins - aye

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

Dr. Robbins stated that, if there were no objections, the Chair would dispense with the reading of the proposed findings of fact, conclusions and orders in the above matters. No objections were voiced by Board members present.

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

.....
JOSEPH ALOYSIUS RIDGEWAY, IV, M.D.

Dr. Robbins directed the Board's attention to the matter of Joseph Aloysius Ridgeway, IV, M.D. He advised that objections were filed to Hearing Examiner Murphy's Report and Recommendation and were previously distributed to Board members.

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

Dr. Ridgeway was accompanied by his attorney, Douglas E. Graff.

Mr. Graff stated that they do not object to the Proposed Order in this case. He stated that this was a case of the evidence necessary for a summary suspension. There was disputed evidence about Dr. Ridgeway's condition. There were three different assessments; they came to different conclusions. The Board was provided these assessments by Dr. Ridgeway. They were all voluntarily done. Dr. Ridgeway met with the staff; he talked and discussed his condition with the staff. None of this was done under Board order. Unfortunately, the Board decided that Dr. Ridgeway should be summarily suspended. Mr. Graff stated that he and Dr. Ridgeway disagreed and have, in fact, fought that summary suspension.

Mr. Graff stated that Dr. Ridgeway has been suspended for 90 days. Two days after being served with the Board's Order, he voluntarily entered into a 28-day treatment program. He completed that program and continued with the hearing. The Board, in its closing arguments, saw that as his being deceitful with the Board. He and Dr. Ridgeway see it as Dr. Ridgeway trying to be perfectly willing to complete what the

Board wanted him to do. He and Dr. Ridgeway disagreed merely with the standard of the evidence on the summary suspension. Mr. Graff again stated that they believe that the Proposed Order is appropriate, and Dr. Ridgeway should be quickly returned to the practice of medicine.

Dr. Ridgeway thanked the Board for the opportunity to speak. He apologized for the time and attention this matter has drawn away from the Board. He understands the concerns that his alcohol misuse while off duty has raised, and they are justifiable. Dr. Ridgeway apologized and took full responsibility.

Dr. Ridgeway stated that he did enter treatment for 28 days at the Cleveland Clinic. He found that experience to be very positive. He found Dr. Collins and his program to be excellent. They were very professional, respectful and thorough. He completed treatment and has complied with all recommendations. He signed an agreement with OPHP, has since undergone weekly monitoring, has maintained complete abstinence from alcohol, and has attended several A.A. and Caduceus meetings each week, as he agreed to do since completing treatment at the Cleveland Clinic. Dr. Ridgeway stated that he has been in complete compliance in every way.

Dr. Ridgeway stated that he has been an excellent physician in this community for over ten years. He doesn't believe that he's ever put any patient at risk. Having complied completely, he hopes that the Board will allow him to resume his practice as soon as possible.

Dr. Robbins asked whether the Assistant Attorney General wished to respond.

Mr. Clifford stated that, although Mr. Graff did raise issues in his oral presentation, there were numerous additional issues raised in his objections. Some of the key issues raised by Mr. Graff are the following:

- The Secretary and Supervising Member lacked clear and convincing evidence of Dr. Ridgeway's impairment that prevented Dr. Ridgeway from practicing within the acceptable and prevailing standard of care; and that Dr. Ridgeway's continued practice represents a danger of immediate and serious harm to the public.
- Dr. Ridgeway was entitled to two hearings in this matter: One on the summary suspension, i.e., whether there was clear and convincing evidence that Dr. Ridgeway was unable to practice within the acceptable and prevailing standard of care; and his continued practice presented a danger of immediate and serious harm to the public. Two, was Dr. Ridgeway impaired, as that term is defined in 4731.22(B)(26).
- Dr. Jones' use of the term, "alcoholism." Mr. Graff contends that the term, "alcoholism," was improper, and therefore there was no basis for the Hearing Examiner to deem that Dr. Ridgeway was impaired.
- Finally, Mr. Graff raised issue with the Board staff, claiming that Ms. Marshall, Chief Enforcement Attorney for the Board, had withheld crucial information from the Secretary and Supervising Member

prior to them making the determination to summarily suspend Dr. Ridgeway's license.

Mr. Clifford stated that he will address each issue separately and quickly, and demonstrate the Hearing Examiner's Report and Recommendation was correct in finding that Dr. Ridgeway was impaired.

Mr. Clifford first addressed the issue regarding clear and convincing evidence of Dr. Ridgeway's impairment. He stated that impairment, according to Rule 4731-16-01(A), Ohio Administrative Code, "means impairment 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. Impairment includes inability to practice in accordance with such standards, and inability to practice in accordance with such standards without appropriate treatment, monitoring or supervision." Mr. Clifford stated that Dr. Edna Jones opined that Dr. Ridgeway needs treatment and monitoring in order to practice at acceptable and prevailing standards of care. This opinion by Dr. Jones is clear and convincing evidence of Dr. Ridgeway's impairment.

Concerning the second issue, Mr. Clifford stated that Dr. Jones also stated that, although Dr. Ridgeway had not reported incidents of being impaired at work, his continued practice without treatment and monitoring represented a danger of serious and immediate harm to patients. According to Dr. Jones, the physician's workplace is typically the last place where evidence of a physician's impairment presents itself. As will be shown, Dr. Ridgeway has had alcohol-related incidents affect each and every other aspect of his life, and his work is next. Dr. Ridgeway is an impaired physician, who, without treatment and monitoring, may appear at work on any given day, impaired, and thereby harm patients. Mr. Clifford commented that Mr. Graff would wait until patients are harmed by an impaired physician before the Board may act on the statute. This would be an absurd result. Therefore, the Secretary and Supervising Member had clear and convincing evidence of Dr. Ridgeway's impairment and properly concluded that his continued practice presented a danger of immediate and serious harm to the public.

Mr. Clifford stated that, in her Report and Recommendation, the Hearing Examiner did not address the issue of whether there was clear and convincing evidence of Dr. Ridgeway's impairment, and whether Dr. Ridgeway's continued practice represented danger of immediate and serious harm to the public. Because of this, the Board must make a determination as to whether there was clear and convincing evidence of Dr. Ridgeway's impairment, and whether Dr. Ridgeway's continued practice represented a danger of immediate and serious harm to the public.

Mr. Clifford stated that the next issue raised by Mr. Graff is that Dr. Ridgeway is entitled to separate hearings: 1. On the summary suspension; and 2. On the underlying issue of impairment. Mr. Clifford stated that the Hearing Examiner correctly addressed these concerns in her Report and Recommendation, stating that Dr. Ridgeway is entitled to one hearing addressing each issue. The Notice of Opportunity for Hearing put Dr. Ridgeway and Mr. Graff on notice when it stated that Dr. Ridgeway was entitled to a hearing on "these matters." Moreover, were Mr. Graff correct in his assertions, the State, once it had proven that there was clear and convincing evidence of Dr. Ridgeway's impairment, would automatically satisfy its burden under Section 4731.22(B)(26), Ohio Revised Code,

due to the lesser burden of proof in underlying action, i.e., preponderance, which would make a second hearing a farce and a waste of this Board's time and resources.

Mr. Clifford stated that another issue raised by Mr. Graff is the use of the term "alcoholism" by Dr. Jones. Mr. Graff asserts that the term, "alcoholism," is not in the DSM-IV, and any diagnosis using the term is improper. However, Mr. Graff ignores Dr. Jones' statement that she uses the term "alcoholism" interchangeably with the term "alcohol dependence," as do other experts in the field of addictionology. Mr. Graff presented no expert testimony to contradict Dr. Jones' assertion that the terms are used interchangeably within the field. Instead, Mr. Graff purely rested on the contention that, because the word "alcoholism" was no longer included in the DSM-IV, Dr. Jones' diagnosis was improper. Mr. Clifford stated that this is baseless. He commented that Mr. Graff is requiring addictionologists to use verbatim language to the DSM-IV to properly diagnose. Mr. Clifford commented that this is just another example of Mr. Graff's smoke and mirrors demonstration. The Hearing Examiner saw through Mr. Graff's circus and correctly held that Dr. Jones' diagnosis was proper.

Mr. Clifford noted that Mr. Graff contends that Dr. Jones is the only physician that diagnosed Dr. Ridgeway as being alcohol-dependent. Mr. Graff points to the diagnoses of Dr. Johnson and Dr. Davis for his contention that Dr. Jones' diagnosis of alcohol dependency was improper. Again, Mr. Graff ignores the structure of evaluation at Parkside. Dr. Johnson was a psychiatrist who is a consultant under Dr. Jones at Parkside. Dr. Johnson at hearing stated that Dr. Jones is the final authority on the diagnosis of physicians admitted under her care for Medical Board evaluation. Therefore, Dr. Johnson's diagnosis was not a separate diagnosis contrary to Dr. Jones' opinion, but was a step in the process used by Dr. Jones to reach her ultimate conclusion. Mr. Clifford stated that Mr. Graff also ignores the plain language of the statute, which includes the use of the term, "alcohol abuse," as a criteria for impairment.

Mr. Clifford continued that Mr. Graff ignores Dr. Ridgeway's 2002 evaluation at Talbot Hall, in which Mr. Hastings, a CCDCIII-E employee, opined that Dr. Ridgeway is an alcohol abuser, and that, if he continues to be unable to control his drinking, he would cross the line to dependency. Mr. Hastings' diagnosis forewarns of future instances which, if they should occur, would make Dr. Ridgeway alcohol dependent. Thereafter, Dr. Ridgeway was arrested along with his wife, when they decided to consume an entire bottle of wine on a road trip to a Notre Dame football game in the Fall of 2004. The most disturbing fact in this incident was that Dr. Ridgeway and his wife consumed the bottle of wine while their four-year-old child was in the backseat of the vehicle. As a result of Dr. Ridgeway's arrest, his child was placed in foster care by the State of Indiana for the weekend; yet, Dr. Ridgeway, at hearing, stated that his child had enjoyed the time she spent with "a woman named Rose" in Indiana.

Mr. Clifford stated that Dr. Ridgeway is an individual who's in denial about his alcohol-related problems. He's had four incidents regarding alcohol in the past. The 2004 incident in Indiana is still pending. Therefore, Dr. Jones is not alone in her diagnosis of alcohol dependency for Dr. Ridgeway.

Mr. Clifford noted that Mr. Graff claims that Ms. Marshall concealed information from the Secretary and Supervising Member prior to the issuance of their Order of Summary Suspension. Mr. Graff, at hearing, pointed to the fact that the Secretary and Supervising Member did not receive all the information pertinent to Dr. Ridgeway in writing prior to their making a determination. Ms. Marshall stated that the Secretary and Supervising Member were provided some information in writing, while other information was presented orally. Mr. Graff would have the Board require the Secretary and Supervising Member to have all the information presented to them in writing only. Mr. Clifford stated that this is an absurd result. There is no requirement that every bit of information be presented solely in writing for it to be considered by the Secretary and Supervising Member.

Mr. Clifford stated that Mr. Graff has cast a wide net in an attempt to find some error in the hearing regarding Dr. Ridgeway; however, this Board is intelligent enough to see through the demonstration presented by Mr. Graff, and to find that there is clear and convincing evidence of Dr. Ridgeway's impairment, and that his continued practice presented a danger of serious and immediate harm to the public. Further, the State sustained its burden that Dr. Ridgeway is impaired, as that term is used in Revised Code 4731.22(B)(22)(B)(26).

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. MURPHY'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF JOSEPH ALOYSIUS RIDGEWAY, IV, M.D. DR. KUMAR SECONDED THE MOTION.

Dr. Robbins advised that Assistant Attorney General Clifford has filed a motion for an order ratifying the determination of the Secretary and Supervising Member that there was clear and convincing evidence that Dr. Ridgeway had violated section 4731.22(b)(26), Ohio Revised Code, and, therefore, his continued practice of medicine constituted a danger of immediate and serious harm to the public.

DR. STEINBERGH MOVED TO AMEND THE FINDINGS OF FACT BY ADDING FINDINGS THAT: 1. THE SECRETARY AND SUPERVISING MEMBER, AT THE TIME THEY MADE THE RECOMMENDATION TO SUMMARILY SUSPEND THE LICENSE OF DR. RIDGEWAY, HAD CLEAR AND CONVINCING EVIDENCE THAT DR. RIDGEWAY HAD VIOLATED SECTION 4731.22(B)(26), OHIO REVISED CODE, AND, 2. THEREFORE, HIS CONTINUED PRACTICE OF MEDICINE CONSTITUTED A DANGER OF IMMEDIATE AND SERIOUS HARM TO THE PUBLIC. DR. BUCHAN SECONDED THE MOTION.

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

Dr. Steinbergh stated that, with respect to her motion, having served on this Board as many years as she has, she knows that Board members come to the understanding of what it takes to make the decision to take a physician out of practice. This is not something the Board members take lightly. She stated that, with respect to the Secretary and Supervising Member, they are the members of the Board responsible for making this decision and then directing the citation. All Board members then have the opportunity to read that letter and make a decision. There are enough red flags in this physician's case to clearly

indicate the potential for putting patients at risk. She stated that the Board's purpose is to protect the public.

Dr. Steinbergh continued, noting that Dr. Ridgeway still continues to use the term, "inappropriate use or abuse of alcohol." She again stated that there are so many red flags in this case that it's clear to Board members that this gentleman is impaired. He is chemically dependent on alcohol, or he has used it and abused it to the point where the Board believes he's impaired. She stated that she believes that Dr. Jones gave a very appropriate opinion in this case. Dr. Steinbergh commented that Dr. Jones is someone whom she believes is appropriate to diagnose this case.

Dr. Steinbergh commented on the incident where Dr. Ridgeway and his wife went to a football game, stopped to get some fast food, and shared wine with their child in the car. Dr. Ridgeway got arrested that weekend and the child was taken into custody. Dr. Steinbergh stated that the concept that the child would have enjoyed that weekend is absolutely preposterous. Dr. Steinbergh stated that this doctor is in denial. He put his child at risk; his wife put his child at risk. It's just so inappropriate for anyone to do this, but especially a physician. That's the issue before the Board. Dr. Ridgeway is a physician, entrusted with patient care, and at this time the Board doesn't feel he meets the necessary criteria. Dr. Steinbergh stated that the Board does believe in trying to rehabilitate impaired physicians, and that is the goal of this Report and Recommendation. Dr. Ridgeway must go through the steps outlined in the Report and Recommendation, which are consistent with other Board Orders as well as consent agreements of this nature.

Dr. Steinbergh stated that Dr. Ridgeway has abused alcohol for a long time. The number of incidents is consistent with someone who is impaired. Until Dr. Ridgeway accepts that, she doesn't see how he can get well. Dr. Steinbergh stated that Dr. Ridgeway somehow has to learn to accept that and put himself into his programs in earnest. Some day he'll realize, if he follows these guidelines, that the Board probably did save his life. She stated that other physicians have come before the Board and told the Board that they didn't like its decision in the beginning, but they now appreciate the decision the Board made for them at that time.

Dr. Egner agreed with Dr. Steinbergh's statements. She stated that she won't go into the clear and convincing evidence because she believes that that's been addressed enough. She noted that Mr. Graff tried to make a distinction between alcohol abuse and alcohol dependency. Even today, Dr. Ridgeway talked about his "alcohol misuse." She doesn't think that Dr. Ridgeway takes ownership of his impairment. Dr. Egner noted that an article from *Alcohol Alert* was put into evidence at the hearing by Mr. Graff that made these distinctions. Dr. Egner commented that that article was eleven years old, from 1995, and relied a lot on the DSM-III, when now the DSM-IV and the ICD-IX are used. Dr. Egner stated that the ICD-IX was never meant to be a reference to physicians to make a diagnosis. It relates to dependency being associated with other health problems. Dr. Egner stated that she believes that since 1995 the knowledge and view of impairment has evolved. Today, one would see Dr. Ridgeway, easily, as an impaired physician. An impaired individual is someone who drinks despite the serious adverse consequences, and minimizes the role alcohol played in events. She stated that that fits Dr. Ridgeway to

a tee.

Dr. Egner stated that individuals who didn't find him to be alcoholic were individuals who were not licensed or certified to make that diagnosis. She stated that she doesn't think that their diagnoses are to be considered.

Dr. Egner continued that nothing speaks to Dr. Ridgeway's minimizing the role of alcohol in his life more than the drinking wine while driving, after having been arrested for three DUIs in the past. He placed his wife and his daughter at risk. After the daughter was taken into protective custody, Dr. Ridgeway states that that was not a major event. Dr. Ridgeway stated that, since his daughter had a nice weekend, he did not feel that the consequences were overwhelming. Dr. Egner stated that that is so disturbing to her.

Dr. Egner stated that, as far as the Proposed Order goes, she believes that Dr. Ridgeway should have more time out of practice. She stated that she can live with the Proposed Order, but she thinks that Dr. Ridgeway has terribly serious impairment issues, and she's not sure that he'll really have come to grips with them with another 30 days out of practice. Dr. Egner stated that she thinks that Dr. Ridgeway's likelihood for failure will be great. She suggested that more time out of practice might give him more time to come to terms with his illness. Other than that, she has no objections to the Proposed Order.

Dr. Buchan stated that he believes that Dr. Ridgeway is a bright and talented physician, but he also believes that Dr. Ridgeway is out of control. The Board has a responsibility to try to put him back on course. It is interesting how the Board members were all drawn to a certain portion of this Report and Recommendation. He indicated that it made him sick to imagine Dr. Ridgeway's words reflecting on his daughter's experience. Dr. Buchan stated that it made him sick that Dr. Ridgeway did not think that this was a major event. Dr. Buchan stated that missing the football game was not a major event, but his daughter's absence for two days is a huge event. Dr. Buchan stated that he's speaking on her behalf at this moment.

Dr. Buchan stated that the Board needs to step up and take this physician out of practice. He added that he thinks it is a lenient order. He thinks Dr. Ridgeway is out of control, and he would be in favor of a more lengthy time to reflect. Dr. Buchan stated that what he heard today and what he read in the record were not sufficient. Dr. Buchan stated that Dr. Ridgeway is a bright guy and is talented. Dr. Buchan stated that he doesn't think that Dr. Ridgeway is catching on. He needs to work the program that this Board has seen work well for people. A little more time, meaning three to six months out of practice, is more appropriate.

Dr. Steinbergh stated that she doesn't disagree with Dr. Buchan. She stated that the question is whether or not Dr. Ridgeway really understands the importance of this alcoholism or the disease process. She stated that, if he doesn't really honestly take to it, he will drink again. Dr. Ridgeway said that in the hearing record. Somewhere in the record he indicated that he would stop drinking when told he couldn't

drink for a period of time, but after that period of time he would resume the drinking. He doesn't get it. Someone offered at hearing that Dr. Ridgeway might be able to drink socially, but he won't be able to drink socially. Unless he gets it, he'll ruin his medical career. She agreed that Dr. Ridgeway is a young physician with good potential, but this will do him in if he doesn't understand that the DUIs and OMVIs are red flags that tell the truth. He's abusing alcohol, and he can call it what he wants, but he's impaired.

Dr. Kumar stated that in a way he agrees that the 30-day suspension is too short a period of suspension. On the other hand, meeting the requirements for reinstatement will take him more than 30 days. Dr. Kumar reviewed the terms Dr. Ridgeway must meet before his license can be returned to him under the Proposed Order. Dr. Kumar feels that this will take longer than 30 days to complete. Dr. Kumar agreed that a three-month suspension would be appropriate.

Dr. Kumar stated that Dr. Ridgeway may be looking at this time out as being harsh. Dr. Kumar stated that he doesn't believe that Dr. Ridgeway has been helped by his family or friends either, because he was advised by his attorney friends not to take a blood alcohol test or breathalyzer test. Dr. Kumar stated that that hasn't helped him in recognizing his problem either.

DR. KUMAR MOVED TO AMEND THE PROPOSED ORDER TO INCREASE THE MINIMUM SUSPENSION PERIOD TO THREE MONTHS. MR. BROWNING SECONDED THE MOTION.

Ms. Sloan spoke in favor of suspending the license for six months. She asked why three months was being chosen for someone who the Board already knows has an issue and will probably go back to drinking as long as no one is looking.

Dr. Kumar stated that he believes that Dr. Ridgeway has already been out of practice for three months. this will bring him up to a total of six months out of practice.

Dr. Buchan stated that he's fine with the three-month suspension. He added that Dr. Ridgeway will also have five years of probation to work through this program. Dr. Buchan stated that he wants to encourage Dr. Ridgeway, he thinks Dr. Ridgeway has a lot to offer.

Dr. Robbins commented that Dr. Ridgeway is very lucky to be here without a death in the family or a problem in the practice. Someone is looking out for him, because he's here at an early stage. Board members have already commented on how horrific it is to have a child gone for two days. He suggested that Dr. Ridgeway think about how horrific it would be if there was a death or serious injury from this.

A vote was taken on Dr. Steinbergh's motion to amend the Proposed Findings and Dr. Kumar's motion to amend the Proposed Order:

Vote: Mr. Albert - abstain

Dr. Egner	- aye
Dr. Talmage	- abstain
Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Ms. Sloan	- nay
Dr. Davidson	- aye
Dr. Steinbergh	- aye
Dr. Robbins	- aye

The motion carried.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. MURPHY'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF JOSEPH ALOYSIUS RIDGEWAY, IV, M.D. MR. BROWNING SECONDED THE MOTION.

Dr. Steinbergh stated that she would like to make one more comment. She noted that there was no evidence in this case in terms of patient care. The Board does believe that physicians who practice impaired unquestionably affect patient care. The result may not be seen today, but something could arise in subsequent years. The patient expects his or her physician to be clear minded and free of disease that would affect the physician's ability to provide appropriate care. It is wrong for any physician who is chemically impaired to believe that it's not affecting his or her practice. It has to affect the person's life. Dr. Steinbergh warned Dr. Ridgeway that he must take care of himself if he wants to continue his medical career.

A vote was taken on Dr. Steinbergh's motion to approve and confirm the amended Findings of Fact, Conclusions and Order:

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

The motion carried.

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

JOSEPH RIDGEWAY, M.D.

777 South Third Street
Columbus, Ohio 43206

Plaintiff,

v.

STATE MEDICAL BOARD OF OHIO

77 South High Street, Seventeenth Floor
Columbus, Ohio 43215

Defendant.

05CVF11 12906

Case No. _____

Judge _____

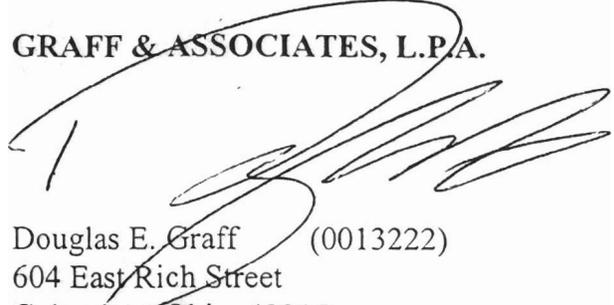
**NOTICE OF APPEAL OF AN ENTRY OF ORDER
OF THE STATE MEDICAL BOARD OF OHIO AND
DETERMINATION OF RIGHTS, PURSUANT TO O.R.C. § 119.12**

Appellant, Joseph Ridgeway, M.D., by and through his attorney hereby gives Notice of Appeal to the Common Pleas Court of Franklin County, Ohio from the Entry of Order ("Final Order") of the State Medical Board of Ohio ("Board") dated November 9, 2005 and Request for a Determination of Right pursuant to R.C. §119.12. A copy of the Final Order is attached hereto as Exhibit A. The Final Order was adopted by the Board on the 9th day of November, 2005. Appellant contends that the Final Order appealed from is not supported by clear and convincing evidence and is not otherwise in accordance with the law.

Further, and without limiting the generality of the foregoing, Appellant contends that the Final Order and the related investigation and conduct by the Board violated the protections afforded to the Appellant pursuant to the Constitution of the State of Ohio and the Constitution of the United States including, without limitation, the due process and equal protection rights thereof.

Respectfully submitted,

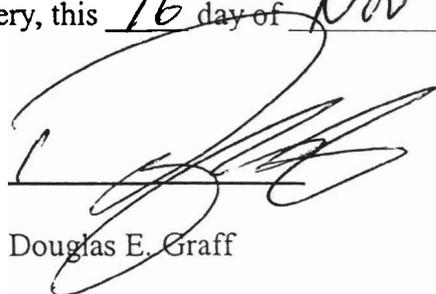
GRAFF & ASSOCIATES, L.P.A.



Douglas E. Graff (0013222)
604 East Rich Street
Columbus, Ohio 43215
(614) 228-5800
Attorney for Appellant

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing Notice of Appeal Pursuant to O.R.C. § 119.12 was delivered to the State Medical Board of Ohio, 77 South High Street, 17th Floor, Columbus, Ohio 43266-0315, by hand delivery, this 16 day of Nov, 2005.



Douglas E. Graff

STATE MEDICAL BOARD
OF OHIO
2005 NOV 29 P 1:21



State Medical Board of Ohio

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

November 9, 2005

Joseph Aloysius Ridgeway, IV, M.D.
30 Ashbourne Rd.
Columbus, Ohio 43209

Dear Doctor Ridgeway:

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 November 9, 2005, including a Motion adopting the Order of Summary Suspension and issuing the Notice of Summary Suspension and Opportunity for Hearing.

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

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

THE STATE MEDICAL BOARD OF OHIO

Lance A. Talmage, M.D., Secretary

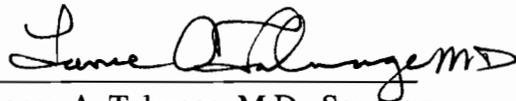
LAT:blt
Enclosures

Mailed 11-10-05

CERTIFICATION

I hereby certify that the attached copies of the Entry of Order of the State Medical Board of Ohio and the Motion by the State Medical Board, meeting in regular session on November 9, 2005, to Adopt the Order of Summary Suspension and to Issue the Notice of Summary Suspension and Opportunity for Hearing, constitute true and complete copies of the Motion and Order in the Matter of Joseph Aloysius Ridgeway, IV, M.D., as they appear in the Journal of the State Medical Board of Ohio.

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


Lance A. Talmage, M.D., Secretary

(SEAL)

November 9, 2005

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF :
 :
JOSEPH ALOYSIUS RIDGEWAY, IV. M.D. :

ENTRY OF ORDER

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

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

Pursuant to their determination, based upon their review of the information supporting the allegations as set forth in the Notice of Summary Suspension and Opportunity for Hearing, that there is clear and convincing evidence that Joseph Aloysius Ridgeway, IV, 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. Ridgeway'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 9th day of November, 2005:

It is hereby ORDERED that the certificate of Joseph Aloysius Ridgeway, IV, M.D., to practice medicine or surgery in the State of Ohio be summarily suspended.

It is hereby ORDERED that Joseph Aloysius Ridgeway, IV, 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

November 9, 2005
Date



State Medical Board of Ohio

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

EXCERPT FROM DRAFT MINUTES OF NOVEMBER 9, 2005

CITATIONS, PROPOSED DENIALS AND ORDERS OF SUMMARY SUSPENSION

.....

JOSEPH ALOYSIUS RIDGEWAY, IV, M.D. – ORDER OF SUMMARY SUSPENSION AND NOTICE OF OPPORTUNITY FOR HEARING

.....

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

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

The motion carried.



State Medical Board of Ohio

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

NOTICE OF SUMMARY SUSPENSION AND OPPORTUNITY FOR HEARING

November 9, 2005

Joseph Aloysius Ridgeway, IV, M.D.
30 Ashbourne Rd.
Columbus, Ohio 43209

Dear Doctor Ridgeway:

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 (5), below.

Therefore, pursuant to Section 4731.22(G), Ohio Revised Code, and upon recommendation of Lance A. Talmage, M.D., Secretary, and Raymond J. Albert, Supervising Member, you are hereby notified that, as set forth in the attached Entry of Order, your certificate to practice medicine or 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) On or about August 3, 2005, your attorney informed a Board enforcement attorney that you were planning to voluntarily undertake a 72-hour chemical dependency evaluation at a Board-approved treatment provider for the purpose of determining whether you are impaired in your ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of alcohol. Previously, on or about July 26, 2005, you had submitted sworn responses to interrogatories served upon you by the Board, in which you indicated that you had a history of traffic offenses related to the use of alcohol, and that you had been treated for "Alcohol Abuse" at Talbot Hall, Ohio State University, in the Fall of 2002. On or about August 22, 2005, your attorney informed a Board enforcement attorney that you had entered The Woods at Parkside, a Board-approved treatment provider, to commence such evaluation.

- (2) On or about October 8, 2005, Edna Jones, M.D., Medical Director of The Woods at Parkside, authored a letter to your attorney in which Dr. Jones set forth her medical opinion related to your chemical dependency assessment that commenced on August 22, 2005, stating that you meet criteria for impairment as it applies to physicians practicing in Ohio, that you are in denial of your alcoholism, and that you warrant treatment and monitoring, with a minimum of 28 days of residential treatment at a Board-approved treatment provider recommended.

Dr. Jones summarized your history, noting that since 1992, you have been arrested four times for Operating a Vehicle Under the Influence [OMVI], three times for Domestic Violence, and once for Child Endangerment; for which you have pled guilty to one OMVI and two Reckless Operation charges, and currently have OMVI and Child Endangerment charges pending in Indiana. Dr. Jones further stated that you were treated for alcohol abuse at Talbot Hall during 2002, that you did not follow the terms of your Outpatient Program Participation Agreement, and that you thereafter resumed drinking. Additionally, Dr. Jones stated that you continue to drink alcohol despite serious adverse consequences, and that you minimize the role alcohol has played in these events.

Dr. Jones additionally documented in the October 8, 2005 assessment letter that you meet “the diagnostic criteria for alcoholism by tolerance, repeated unpredictable loss of control, and repeated use despite consequences.” Further, Dr. Jones opined, “Though this is not the recommendation that Dr. Ridgeway desires, I believe it is the one that could save his life.”

- (3) By correspondence dated on or about October 20, 2005, Dr. Jones provided additional information to the Board documenting that following completion of your evaluation that commenced on August 22, 2005, you were determined to be impaired in your ability to practice according to acceptable and prevailing standards of care and to require residential treatment. Dr. Jones stated that you need treatment, monitoring, or supervision in order to be able to practice according to acceptable and prevailing standards of care, and that although it had not been reported that anyone had smelled alcohol on your breath at work, your alcoholism poses a risk of patient harm.
- (4) The Board has not received information indicating that you have entered treatment. 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.

- (5) 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)(3), 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 paragraph (1) through (4) 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.

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, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand you or place you on probation.

Notice of Summary Suspension
& Opportunity for Hearing
Joseph Aloysius Ridgeway, IV, M.D.
Page 4

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, provides that “[w]hen the board refuses to grant a certificate to an applicant, revokes an individual’s certificate to practice, refuses to register an applicant, or refuses to reinstate an individual’s certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.”

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Lance A. Talmage, M.D.
Secretary

LAT/blt
Enclosures

CERTIFIED MAIL # 7003 0500 0002 4333 3973
RETURN RECEIPT REQUESTED

Douglas Graff, Esq.
Graff & Associates, L.P.A.
604 East Rich Street
Columbus, OH 43215-5341

CERTIFIED MAIL # 7003 0500 0002 4333 3676
RETURN RECEIPT REQUESTED