

State Medical Board of Ohio

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

(614) 466-3934

med.ohio.gov

September 10, 2014

Case number: 14-CRF- JII

Nilesh B. Jobalia, M.D.
550 Larchmont Drive
Cincinnati, Ohio 45215

Dear Doctor Jobalia:

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

(1) On or about May 13, 2009, you entered into a Consent Agreement with the Board [May 2009 Consent Agreement], which permanently revoked your license to practice medicine and surgery; the permanent revocation was stayed and your license to practice medicine and surgery was suspended for an indefinite period of time, but not less than two years. Your license to practice medicine and surgery was restored in or around August 2011, and you were placed on probation for a period of at least five years. The May 2009 Consent Agreement remains in full force and effect, and you remain subject to its terms and conditions.

(a) The May 2009 Consent Agreement includes the following provision in paragraph 3.a.:

At least thirty days prior to the date of Dr. Jobalia's reinstatement or restoration, and prior to undertaking any medical practice, or as otherwise determined by the Board, Dr. Jobalia shall submit to the Board and receive its approval for a plan of practice in Ohio. The practice plan, unless otherwise determined by the Board, shall be limited to a supervised structured environment in which Dr. Jobalia's activities will be directly supervised and overseen by a monitoring physician approved by the Board. . . .

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* * *

The monitoring physician shall monitor Dr. Jobalia and his medical practice, and shall review Dr. Jobalia'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. Jobalia and his medical practice, and on the review of Dr. Jobalia's patient charts. Dr. Jobalia 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. Jobalia's quarterly declaration.

In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Jobalia must immediately so notify the Board in writing. In addition, Dr. Jobalia 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. Jobalia 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.

Despite the requirements of the May 2009 Consent Agreement, you failed to be supervised by a monitoring physician and/or failed to ensure that the monitoring physician timely submitted reports from on or about July 16, 2013 to on or about May 1, 2014.

- (b) The May 2009 Consent Agreement includes the following provision in paragraph 3.c.:

Dr. Jobalia 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 or before the first day of the third month following the month in which Dr. Jobalia's certificate is restored or reinstated. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

Although you submitted quarterly declarations on or about November 1, 2013, and March 5, 2014, you failed to note on your quarterly declarations that you had failed to be supervised by a monitoring physician, despite the requirements of the May 2009 Consent Agreement.

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

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

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

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

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

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Mark A. Bechtel, M.D.
Secretary

Nilesh B. Jobalia, M.D.

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MAB/CDP/pev

Enclosures

CERTIFIED MAIL #91 7199 9991 7033 2019 3833

RETURN RECEIPT REQUESTED

CC: Douglas E. Graff
Graff & McGovern
604 East Rich Street
Columbus, Ohio 43215

CERTIFIED MAIL #91 7199 9991 7033 2019 3840

RETURN RECEIPT REQUESTED

**CONSENT AGREEMENT
BETWEEN
NILESH B. JOBALIA, M.D.,
AND
THE STATE MEDICAL BOARD OF OHIO
Case No. 08-CRF-042**

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

Dr. Jobalia 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 R.C. 4731.22(B), 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.
- B. The Board and Dr. Jobalia enter into this Consent Agreement in lieu of further formal proceedings based upon the allegations set forth in the Notice of Opportunity for Hearing issued on April 9, 2008, attached hereto as Exhibit A and incorporated herein by this reference. 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. Jobalia is licensed to practice medicine and surgery in the State of Ohio, License #35-062727. Dr. Jobalia is not licensed to practice medicine in any other state.
- D. For the purposes of this agreement, Dr. Jobalia admits to the factual and legal allegations as set forth in the April 9, 2008, Notice of Opportunity for Hearing.

AGREED CONDITIONS

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

PERMANENT REVOCATION, STAYED; SUSPENSION

1. The certificate of Dr. Jobalia to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED. Such permanent revocation is STAYED, and Dr. Jobalia's certificate shall be suspended for an indefinite period of time, but not less than two years.

CONDITIONS FOR REINSTATEMENT

2. The Board shall not consider reinstatement of Dr. Jobalia's certificate to practice medicine and surgery until all of the following conditions are met:
 - a. Dr. Jobalia shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
 - b. **Controlled Substances Prescribing Course:** At the time he submits his application for reinstatement or restoration, Dr. Jobalia shall provide acceptable documentation of successful completion of a course dealing with the prescribing of controlled substances. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.

In addition, at the time Dr. Jobalia submits the documentation of successful completion of the course dealing with the prescribing of controlled substances, he shall also submit to the Board a written report describing the course, setting forth what he learned from the course, and identifying with specificity how he will apply what he has learned to his practice of medicine in the future.

- c. **Ethics Course:** At the time he submits his application for reinstatement or restoration, Dr. Jobalia shall provide documentation of successful completion of a professional ethics course or courses dealing specifically with the ethical principles Dr. Jobalia violated in this matter, focusing on boundary issues with patients and staff members. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in

compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education acquisition period(s) in which they are completed.

In addition, at the time Dr. Jobalia submits the documentation of successful completion of the course or courses dealing with professional ethics, he shall also submit to the Board a written report describing the course, setting forth what he learned from the course, and identifying with specificity how he will apply what he has learned to his practice of medicine in the future.

- d. **Additional Evidence of Fitness To Resume Practice:** Prior to submitting his application for reinstatement or restoration, Dr. Jobalia shall take and pass the SPEX examination or any similar written examination which the Board may deem appropriate to assess Dr. Jobalia's clinical competency.

PROBATION

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

- a. **Practice Plan and Monitoring Physician:** At least thirty days prior to the date of Dr. Jobalia's reinstatement or restoration, and prior to undertaking any medical practice, or as otherwise determined by the Board, Dr. Jobalia shall submit to the Board and receive its approval for a plan of practice in Ohio. The practice plan, unless otherwise determined by the Board, shall be limited to a supervised structured environment in which Dr. Jobalia's activities will be directly supervised and overseen by a monitoring physician approved by the Board. Dr. Jobalia shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

At the time Dr. Jobalia submits his practice plan, he shall also 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 or Supervising Member will give preference to a physician who practices in the same locale as Dr. Jobalia and who is engaged in the same or similar practice specialty.

The monitoring physician shall monitor Dr. Jobalia and his medical practice, and shall review Dr. Jobalia'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. Jobalia and his medical practice, and on the review of Dr. Jobalia's patient charts. Dr. Jobalia 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. Jobalia's quarterly declaration.

In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Jobalia must immediately so notify the Board in writing. In addition, Dr. Jobalia 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. Jobalia 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.

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

- b. **Obey the law:** Dr. Jobalia shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.
- c. **Declarations of Compliance:** Dr. Jobalia shall submit quarterly declarations under penalty of Board disciplinary action 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 or before the first day of the third month following the month in which Dr. Jobalia's certificate is restored or reinstated. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
- d. **Personal Appearances:** Dr. Jobalia shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which Dr. Jobalia's certificate is restored or reinstated, or as otherwise directed by 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.

- e. **Tolling of Probationary Period While Out of State:** Dr. Jobalia shall obtain permission from the Board for departure 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 and 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.
- f. **Noncompliance Will Not Reduce Probationary Period:** In the event Dr. Jobalia 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.

REQUIRED REPORTING BY LICENSEE

4. Within thirty days of the effective date of this Consent Agreement, Dr. Jobalia shall provide a copy of this Consent Agreement to all employers or entities with which he is under contract to provide health care services (including but not limited to third party payors) or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Jobalia shall promptly 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. In the event that Dr. Jobalia provides any health care services or health care direction or medical oversight to any emergency medical services organization or emergency medical services provider, within thirty days of the effective date of this Consent Agreement Dr. Jobalia shall provide a copy of this Consent Agreement to the Ohio Department of Public Safety, Division of Emergency Medical Services. Further, Dr. Jobalia shall provide the Board with one of the following documents as proof of each required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.
5. Within thirty days of the effective date of this Consent Agreement, Dr. Jobalia shall provide a copy of this Consent Agreement to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which he currently holds any license or certificate.

Dr. Jobalia further agrees to provide a copy of this Consent Agreement 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. Jobalia shall provide the Board with one of the following documents as proof of each required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.

6. Dr. Jobalia shall notify the Board in writing of any change of principal practice address or residence address within thirty days of such change.

DURATION/MODIFICATION OF TERMS

Dr. Jobalia shall not request termination of this Consent Agreement for a minimum of five (5) years following the reinstatement or restoration of his certificate. In addition, Dr. Jobalia shall not request modification of the terms, conditions, or limitations of probation for at least one year after imposition of these probationary terms, conditions, and limitations. In the event that the Board initiates future formal proceedings against Dr. Jobalia, including but not limited to issuance of a Notice of Opportunity for Hearing, this Consent Agreement shall continue in full force and effect until such time that it is superseded by ratification by the Board of a subsequent Consent Agreement or issuance by the Board of a final Board Order.

FAILURE TO COMPLY

If, in the discretion of the Secretary and Supervising Member of the Board, Dr. Jobalia 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.

ACKNOWLEDGMENTS/LIABILITY RELEASE

Dr. Jobalia 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.

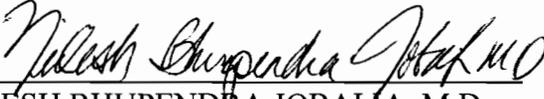
Any action initiated by the Board based on alleged violations of this Consent Agreement shall comply with the Administrative Procedure Act, Chapter 119., Ohio Revised Code.

Dr. Jobalia 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. Jobalia 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 on the date of the last signature below.



NILESH BHUPENDRA JOBALIA, M.D.



LANCE A. TALMAGE, M.D.
Secretary

4-28-09

DATE

5-13-09

DATE



JOHN R. IRWIN, M.D., ESO
Attorney for Dr. Jobalia *By Douglas G. Miller*



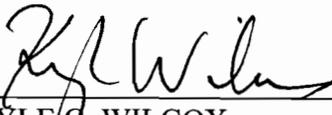
RAYMOND J. ALBERT
Supervising Member

4/29/09

DATE

5/13/09

DATE



KYLE C. WILCOX.
Assistant Attorney General

4-29-09

DATE

State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
med.ohio.gov

April 9, 2008

Case number: 08-CRF-042

Nilesh Bhupendra Jobalia, M.D.
550 Larchmont Dr.
Cincinnati, Ohio 45215

Dear Doctor Jobalia:

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

- (1) During or about December 2005 to in or about December 2007, you and others in your private medical practice undertook the care of Patients 1 – 3 (as identified in the attached Patient Key – Key is confidential and not subject to public disclosure). Despite your ongoing physician-patient relationship, you admitted in your sworn responses to the Board's interrogatories that you had sexual contact with said Patients as follows:
 - (a) In December 2006, you had sexual intercourse with Patient 1 on two occasions. You were also treating Patient 1's then-husband, who, after you discharged him as a patient, contacted you offering you assistance with arranging to have sex with Patient 1 if you reconsidered discharging him as a patient.
 - (b) During the course of your treatment of Patient 2 for chronic daily headaches, you had sexual intercourse with Patient 2 beginning in October 2006, and continuing four or five times total until the last sexual contact in June 2007. Further, each occurrence of sexual contact with Patient 2 involved intercourse.
 - (c) During the course of your pain management treatment of Patient 3, you first had sexual contact with Patient 3 in December 2006, and your

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sexual contact with Patient 3 continued up until late summer or early fall 2007.

- (2) In your sworn responses to the Board's First Set of Interrogatories Directed to Nilesh Bhupendra Jobalia, M.D., you admitted that you had pre-signed otherwise blank controlled substance prescriptions prior to their issuance. You further explained that you "had done this in the course of [your] practice in pain management for quite some time," and only recently stopped doing so after an incident where your office was notified by law enforcement that one of your medical assistants was printing out copies of prescriptions for Oxycontin and then deleting the electronic record of these prescriptions.

Your acts, conduct, and/or omissions that occurred on or after November 30, 2006, as alleged in paragraph (1) above, individually and/or collectively, constitute "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board," as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-26-02, Ohio Administrative Code. Pursuant to Rule 4731-26-03(A)(1), Ohio Administrative Code, a violation of Rule 4731-26-02, Ohio Administrative Code, also violates Section 4731.22(B)(6), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute "[c]ommission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed," as that clause is used in Section 4731.22(B)(12), Ohio Revised Code, to wit: Section 3719.06(C), Ohio Revised Code, Authority of Licensed Health Professional. Pursuant to Section 3719.99(E), Ohio Revised Code, whoever violates Section 3719.06, Ohio Revised Code, is guilty of a misdemeanor of the third degree.

Further, your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board," as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: 4731-11-02(E), Ohio Administrative Code. Pursuant to Rule 4731-11-02(F), Ohio Administrative Code, a violation of Rule 4731-11-02(E), Ohio Administrative Code, also violates Sections 4731.22(B)(2) and (6), Ohio Revised Code.

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

Nilesh Bhupendra Jobalia, M.D.

Page 3

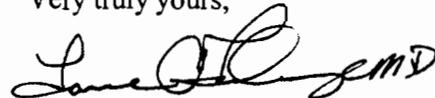
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In the event that there is no request for such hearing received within thirty days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke,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

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

Copies of the applicable sections are enclosed for your information.

Very truly yours,

A handwritten signature in black ink, appearing to read "Lance A. Talmage M.D.", written in a cursive style.

Lance A. Talmage, M.D.
Secretary

LAT/DSZ/flb

Enclosures

CERTIFIED MAIL #91 7108 2133 3934 3686 8317
RETURN RECEIPT REQUESTED

State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
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April 9, 2008

Case number: 08-CRF-042

Nilesh Bhupendra Jobalia, M.D.
550 Larchmont Dr.
Cincinnati, Ohio 45215

Dear Doctor Jobalia:

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

- (1) During or about December 2005 to in or about December 2007, you and others in your private medical practice undertook the care of Patients 1 – 3 (as identified in the attached Patient Key – Key is confidential and not subject to public disclosure). Despite your ongoing physician-patient relationship, you admitted in your sworn responses to the Board's interrogatories that you had sexual contact with said Patients as follows:
 - (a) In December 2006, you had sexual intercourse with Patient 1 on two occasions. You were also treating Patient 1's then-husband, who, after you discharged him as a patient, contacted you offering you assistance with arranging to have sex with Patient 1 if you reconsidered discharging him as a patient.
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Your acts, conduct, and/or omissions that occurred on or after November 30, 2006, as alleged in paragraph (1) above, individually and/or collectively, constitute "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board," as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-26-02, Ohio Administrative Code. Pursuant to Rule 4731-26-03(A)(1), Ohio Administrative Code, a violation of Rule 4731-26-02, Ohio Administrative Code, also violates Section 4731.22(B)(6), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute "[c]ommission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed," as that clause is used in Section 4731.22(B)(12), Ohio Revised Code, to wit: Section 3719.06(C), Ohio Revised Code, Authority of Licensed Health Professional. Pursuant to Section 3719.99(E), Ohio Revised Code, whoever violates Section 3719.06, Ohio Revised Code, is guilty of a misdemeanor of the third degree.

Further, your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board," as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: 4731-11-02(E), Ohio Administrative Code. Pursuant to Rule 4731-11-02(F), Ohio Administrative Code, a violation of Rule 4731-11-02(E), Ohio Administrative Code, also violates Sections 4731.22(B)(2) and (6), Ohio Revised Code.

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

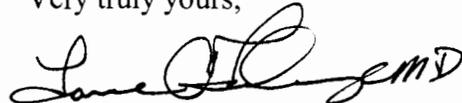
You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at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

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

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

Copies of the applicable sections are enclosed for your information.

Very truly yours,

A handwritten signature in black ink, appearing to read "Lance A. Talmage M.D.", written in a cursive style.

Lance A. Talmage, M.D.
Secretary

LAT/DSZ/flb
Enclosures

CERTIFIED MAIL #91 7108 2133 3934 3686 8317
RETURN RECEIPT REQUESTED

**IN THE MATTER OF
NILESH BHUPENDRA
JOBALIA, M.D.**

08-CRF-042

**APRIL 9, 2008 NOTICE OF
OPPORTUNITY FOR HEARING
PATIENT KEY**

**SEALED TO
PROTECT PATIENT
CONFIDENTIALITY AND
MAINTAINED IN CASE
RECORD FILE.**