

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



May 13, 2009

Randall Jay Bolar, M.D.
313 Longwood Court
Clarksville, TN 37043

RE: Case No. 08-CRF-037

Dear Doctor Bolar:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of R. Gregory Porter, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on May 13, 2009, 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. 91 7108 2133 3936 3071 0832
RETURN RECEIPT REQUESTED

Cc: Eric J. Plinke, Esq.
CERTIFIED MAIL NO. 91 7108 2133 3936 3071 0849
RETURN RECEIPT REQUESTED

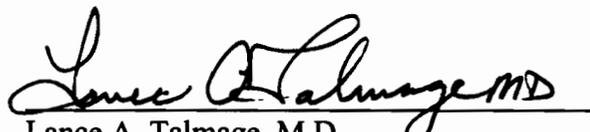
Mailed 5-26-09



CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of R. Gregory Porter, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on May 13, 2009, 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 Randall Jay Bolar, M.D., Case No. 08-CRF-037, 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)

May 13, 2009
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

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CASE NO. 08-CRF-037

RANDALL JAY BOLAR, M.D.

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ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on May 13, 2009.

Upon the Report and Recommendation of R. Gregory Porter, State Medical Board Attorney Hearing Examiner, designated in this Matter pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the 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. **REPRIMAND:** Randall Jay Bolar, M.D., is REPRIMANDED.
- B. **PROBATION:** The certificate of Dr. Bolar to practice medicine and surgery in Ohio shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least one year:
 1. **Obey the Law:** Dr. Bolar shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in the state in which he is practicing.
 2. **Declarations of Compliance:** Dr. Bolar 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 Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which Dr. Bolar's certificate is restored or reinstated. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

3. **Personal Appearances**: Dr. Bolar 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. Bolar's certificate is restored or reinstated, or as otherwise directed by the Board. Dr. Bolar shall also appear upon his request for termination of the probationary period, and/or as otherwise requested by the Board.
4. **Personal and Professional Ethics Course(s)**: Before the end of the first six months of probation, or as otherwise approved by the Board, Dr. Bolar shall provide acceptable documentation of successful completion of a course or courses dealing with personal and professional ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any course(s) taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education acquisition period(s) in which they are completed.

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

- C. **TERMINATION OF PROBATION**: Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Bolar's certificate will be fully restored.
- D. **VIOLATION OF THE TERMS OF THIS ORDER**: If Dr. Bolar 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.
- E. **REQUIRED REPORTING WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS ORDER**:
 1. **Required Reporting to Employers and Others**: Within 30 days of the effective date of this Order, Dr. Bolar shall provide a copy of this Order 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 or health-care center where he has privileges or appointments. Further, Dr. Bolar shall promptly provide a copy of this Order to all employers or entities with which he contracts to provide health care services (including but not limited to third-party payors), or entities to which Dr. Bolar applies for or receives training, and the Chief of Staff at each hospital or health-care center where he applies for or obtains privileges or appointments. This requirement shall continue until Dr. Bolar receives from the Board written notification of the successful completion of the probation.

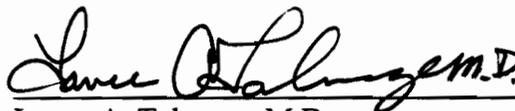
In the event that Dr. Bolar provides any health-care services or health-care direction or medical oversight to any emergency medical services organization or emergency medical services provider in Ohio, within 30 days of the effective date of this Order, he shall provide a copy of this Order to the Ohio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

2. **Required Reporting to Other State Licensing Authorities:** Within 30 days of the effective date of this Order, Dr. Bolar shall provide a copy of this Order to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which he currently holds any license or certificate. Also, Dr. Bolar shall provide a copy of this Order at the time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement/restoration of any professional license. This requirement shall continue until Dr. Bolar receives from the Board written notification of the successful completion of the probation.

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

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

(SEAL)



Lance A. Talmage, M.D.
Secretary

May 13, 2009

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO 2009 MAR 27 A 9 19

In the Matter of

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Case No. 08-CRF-037

Randall Jay Bolar, M.D.,

*

Hearing Examiner Porter

Respondent.

*

REPORT AND RECOMMENDATION

Basis for Hearing

By letter dated April 9, 2008, the State Medical Board of Ohio [Board] notified Randall Jay Bolar, M.D., that it intended to determine whether to impose discipline against his certificate to practice medicine and surgery in Ohio. The Board based its proposed action on allegations that Dr. Bolar had provided false, fraudulent, deceptive, or misleading statements on his 2003 and 2007 applications for renewal of his Ohio certificate to practice medicine and surgery, in violation of Section 4731.22(B)(5), Ohio Revised Code. The Board advised Dr. Bolar of his right to request a hearing in this matter, and received his written request on April 21, 2008. (State Exhibits 1-A, 1-B)

Appearances

Richard Cordray, Attorney General, and Karen A. Unver, Assistant Attorney General, for the State of Ohio.

Eric J. Plinke, Esq., for Dr. Bolar.

Hearing Date: December 1, 2008

PROCEDURAL MATTER

State's Exhibits 4 and 5 were neither admitted to the hearing record nor considered by the Hearing Examiner in preparing this Report and Recommendation, but were sealed to protect patient confidentiality and held as proffered material for the State. (Hearing Transcript at 43-50, 77-79)

SUMMARY OF THE EVIDENCE

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

Background Information

1. Randall Jay Bolar, M.D., obtained his medical degree in 1983 from the Wright State University School of Medicine in Dayton, Ohio. In 1990, Dr. Bolar completed a residency in general surgery at Dwight David Eisenhower Medical Center in Augusta, Georgia. Dr. Bolar testified that he specializes in general surgery and bariatric surgery. Since 2006, Dr. Bolar has practiced at Gateway Medical Center in Clarksville, Tennessee. (Respondent's Exhibit [Resp. Ex.] A; Hearing Transcript [Tr.] at 13-14, 24)
2. Dr. Bolar testified that he had originally obtained an Ohio certificate in 1993 in anticipation of taking a position in Ohio, but ultimately took another position outside of Ohio. He renewed his certificate once, in 1994, and afterward let his Ohio certificate lapse. (State's Exhibit [St. Ex.] 3 at 2; Tr. at 15-18)

Subsequently, in December 2000, Dr. Bolar submitted an application for restoration of his Ohio certificate, which was granted by the Board in or around 2001. Dr. Bolar testified that he had applied for restoration of his Ohio certificate because he had again been considering employment in Ohio, although he ultimately accepted a different job outside of Ohio. (St. Ex. 2; Tr. at 26)

Dr. Bolar's 2003 Renewal Application and his Explanation

3. On October 17, 2003, Dr. Bolar signed an application for the renewal of his Ohio certificate. By signing that application, Dr. Bolar certified that the information provided on that application was true and correct in every respect. (St. Ex. 3 at 1; Tr. at 27-28) Dr. Bolar responded "No" to each question asked on the renewal application, including question number 3, which asked:

[At any time since signing your last]¹ application for renewal of your certificate:
* * *

3.) Have any malpractice awards been paid by you or on your behalf for acts occurring in any state other than Ohio?

(St. Ex. 3 at 1)

4. At hearing, Dr. Bolar acknowledged that, between the time his Ohio license was restored in 2001 and the time he signed his renewal application on October 17, 2003, his insurance company had settled a medical malpractice lawsuit in the amount of one million dollars. Dr. Bolar testified that he had agreed to the settlement in July or August 2002 and, in February 2003, the settlement was recorded in the Scott County, Kentucky, Circuit Court. Dr. Bolar further testified that he had disclosed that settlement to the Kentucky Board on

¹ The first part of this question was missing on the certified copy of Dr. Bolar's 2003 renewal application. The Hearing Examiner derived the bracketed language from a certified copy of Dr. Bolar's 1994 renewal application. (St. Ex. 3 at 1-2)

his renewal application in that state, which must be completed annually. Dr. Bolar further testified that other medical licenses he has held are also subject to annual renewal.²

Dr. Bolar acknowledged that his response to question number 3 had been wrong; however, he testified that he had mistakenly believed that his Ohio certificate was also subject to annual renewal and that he had already reported the settlement on a previous Ohio renewal application. (Tr. at 28-31, 58-59, 81-84)

5. Dr. Bolar testified that he subsequently provided information about the settlement in response to interrogatories he had received from the Board. (Tr. at 82)

Dr. Bolar's 2005 Renewal Application

6. Dr. Bolar next submitted an application for renewal of his Ohio certificate via the Internet on February 8, 2005. (St. Ex. 3 at 3-5)

Summary Suspension of Clinical Privileges in 2006

7. Dr. Bolar practiced at Georgetown Community Hospital in Georgetown, Kentucky, from 1999 to 2003, and moved his practice to Samaritan Hospital [Samaritan] in nearby Lexington, Kentucky, in 2003. Dr. Bolar further testified that, from 1999 through June 2005, he had been the only surgeon covering bariatric surgery patients at the hospital, he did eight to ten bariatric operations per week, and he was on-call for those patients all day, every day. He testified that he could never venture farther than a 30-minute drive from the hospital. (Resp. Ex. A; Tr. at 21-24)

In June 2005, Samaritan brought in another surgeon [hereinafter referred to as "the other surgeon"] to assist him and become his associate. Later that summer, he received an overture from Gateway Medical Center [Gateway] in Clarksville, Tennessee, to take a position working with a surgeon who Dr. Bolar knew and respected. Dr. Bolar testified that he was not interested at first because Samaritan had just hired the other surgeon to assist him. However, by around October 2005, it had become clear to him that the other surgeon "wasn't going to make it." Dr. Bolar testified, "[T]here's no way in the world that I wanted to go back to being by myself again and on call all the time." Dr. Bolar testified that, in November 2005, he agreed to take the position at Gateway: "[T]he opportunity to join Bill Steely in practice, * * * somebody who I know is a good surgeon, I can count on, I can actually take a vacation, was pretty appealing to me." Dr. Bolar further testified that, in November 2005, he advised the chief operating officer at Samaritan of his intention to leave. In late April 2006, Dr. Bolar entered into a contract with Gateway. (Resp. Ex. I; Tr. at 91-94)

Dr. Bolar testified that, in mid-May 2006, he had notified his patients in writing of his move and referred them to "three board-certified surgeons with extensive experience in bariatric surgery." However, those surgeons practiced at a competing hospital. Dr. Bolar testified that Samaritan and the other surgeon had been unhappy that he had not referred his

² Dr. Bolar holds active medical licenses in North Carolina, Ohio, Minnesota, Kentucky, and Tennessee, and an inactive license in Michigan. (Resp. Ex. A)

patients to the other surgeon at Samaritan, but Dr. Bolar testified that he had not believed that the other surgeon could have adequately served his patients' needs. Dr. Bolar testified that Samaritan then had pressured him to "sign off" on the other surgeon and credential him to do bariatric surgery, but that he had refused because he did not believe the other surgeon was qualified. Dr. Bolar's testimony makes clear that he had a very low opinion of the other surgeon's abilities. (Resp. Ex. C; Tr. at 87-88, 99-104)

On May 31, 2006, Dr. Bolar hand-delivered his resignation letter to the medical staff office of Samaritan advising that he was relocating his practice to Gateway in July 2006. He further advised that he was resigning his privileges effective June 21, 2006, and that he would continue to "see follow up patients * * * until June 20, 2006." Dr. Bolar testified that an acknowledgement of receipt dated May 31, 2006, appears at the bottom of the letter. (Resp. Ex. B; Tr. at 89-91)

Dr. Bolar further testified that he had performed his last elective surgery at Samaritan on May 26, prior to the submission of his resignation of privileges, and had not had any patients in Samaritan after June 7. However, on June 14 or 15, he learned that the other surgeon had been telling people that Dr. Bolar's privileges at Samaritan were summarily suspended. Dr. Bolar testified that, on June 16, he received a certified letter from Samaritan advising him of the summary suspension of his privileges at Samaritan, and notifying him that a hearing would take place on June 28. Dr. Bolar testified that the notice did not divulge the location of the hearing or identify the bases of the complaints,³ and that he "was specifically not invited to be there." The hearing was later rescheduled to June 29, the day that Dr. Bolar had to leave for San Diego to attend his son's wedding on June 30. Consequently, Dr. Bolar did not attend the hearing. (Tr. at 51-55)

Dr. Bolar testified that Samaritan eventually terminated the suspension effective June 21, the effective date of his resignation of privileges. Dr. Bolar testified that, overall, his privileges at Samaritan had been suspended for about six days. (Tr. at 52-54)

8. Dr. Bolar testified that Samaritan's action had been based on two complaints, both of which involved the other surgeon. Dr. Bolar testified that one complaint was based on an incident that occurred on May 23, 2006, when Dr. Bolar was asked by the other surgeon to examine one of the other surgeon's patients. Dr. Bolar testified that he examined the patient, determined that the patient had a bleeding ulcer in the gastrointestinal tract, and advised the other surgeon that the patient needed immediate surgery. However, about five hours later, Dr. Bolar was contacted by his nurse who indicated that: (a) the patient was still bleeding, (b) the patient had not yet had surgery, (c) the other surgeon did not plan to operate until the following morning, and (d) the patient's daughter wanted his opinion. (Tr. at 100-106)

Dr. Bolar testified that he had known that the other surgeon would be upset if he talked to the patient's daughter; however, Dr. Bolar did not believe that the patient would be alive the following morning without surgery. Further, Dr. Bolar testified that the Intensive Care Unit [ICU] at Samaritan had been closed at that time. He testified that the patient should have been in an ICU at that moment and would definitely need to be in an ICU following surgery.

³ Dr. Bolar testified that Samaritan did not inform him of the bases for the complaints until June 23. (Tr. at 58)

Accordingly, prior to speaking to the patient's daughter, Dr. Bolar arranged to have the patient transported to a nearby facility, the University of Kentucky Medical Center [UK], if that comported with the family's wishes. Dr. Bolar then contacted the patient's daughter and told her that the patient needed surgery immediately. The patient's family agreed and signed an order transferring the patient to UK. (Tr. at 105-108)

Dr. Bolar noted that the other surgeon had indeed been very upset that Dr. Bolar intervened in the care of his patient, and accused Dr. Bolar of interfering in the physician/patient relationship. However, Dr. Bolar testified that the daughter had asked for his opinion, and that the receiving surgeons at UK, as well as the chief of surgery at Samaritan, all agreed with Dr. Bolar's assessment that the patient had needed surgery immediately and needed to be transferred to UK. (Tr. at 108-111, 118)

Dr. Bolar testified:

[I]t took some courage to be involved in this case. This patient was bleeding to death. If I'd have climbed in my car and left town,⁴ it was [the other surgeon's] patient. He had already not followed my recommendations. I don't—I don't know if they could have still found something to fault me for, but what they faulted me for was being involved in the patient's care. And I was consulted by [the other surgeon]. That's my duty and obligation, to be involved.

(Tr. at 117-118)

9. Dr. Bolar testified that the other incident that formed the basis for a complaint occurred the following day, on May 24. Dr. Bolar testified that, on that day, he had gone to Clarksville with his family to look for a house. Prior to leaving, he had made arrangements for the other surgeon to "round" on Dr. Bolar's patient that day. Dr. Bolar testified that the other surgeon failed to do that. Dr. Bolar testified that he learned of that when he received a call at his hotel early in the morning on May 25 and was told the patient was upset that no surgeon had seen her the previous day. Dr. Bolar rushed back to Lexington with his family. Dr. Bolar testified that, upon seeing the patient, she told him that the other surgeon had called her and told her that Dr. Bolar had abandoned her and was going to leave her there to bleed to death. (Tr. at 111-114)

Dr. Bolar testified that he did not abandon his patient. Dr. Bolar testified that "if anybody abandoned anybody," it had been the other surgeon who had failed to see the patient during Dr. Bolar's one-day absence. (Tr. at 114)

Dr. Bolar's Post-Suspension Actions

10. Dr. Bolar testified that he and his counsel in Kentucky have made an effort to get Samaritan to reverse the summary suspension order. He further testified that, in January 2007, around the time he had completed his 2007 renewal application (which is

⁴ Dr. Bolar testified that he had planned to leave for Clarksville with his family at noon on May 23 to look for a house. He delayed his trip because of the situation with the other surgeon's patient. (Tr. at 101-102, 105)

addressed later), his attorney had presented him with two options concerning the Samaritan action: “He’d said you can either sue them, which he recommended, or you can have them rescind this. They’re willing to rescind this if you’ll sign a document that says you won’t sue them.” Dr. Bolar testified that he had opted to have them rescind it, and had been under the mistaken belief that the matter would be rescinded within the next few weeks. Dr. Bolar testified: “[W]hat ended up happening was different; that they went from being eager to work this out to not returning phone calls, not responding to things, and finally bankruptcy.” Dr. Bolar stated that he has not communicated further with Samaritan since Samaritan filed for bankruptcy in April 2007, and that he has since filed for an injunction to force them to rescind the summary suspension. The injunction action is pending. (Resp. Ex. G; Tr. at 39-40, 121-122)

11. Furthermore, Dr. Bolar testified that he has filed a lawsuit against the other surgeon with regard to the other surgeon’s role in the Samaritan action. That lawsuit is pending. (Tr. at 60-61)

Dr. Bolar’s 2007 Renewal Application

12. On January 8, 2007, Dr. Bolar submitted an application online for renewal of his Ohio certificate. By electronically signing that application, Dr. Bolar certified that the information provided in the application was complete and correct, and that he had “complied with all criteria for applying on line.” (St. Ex. 3 at 6-8)

In his 2007 renewal application, Dr. Bolar answered “No” to question number 5, which asked, “[At any time since signing your last application for renewal of your certificate:] * * * 5. Have you had any clinical privileges or other similar institutional authority suspended, restricted or revoked for reasons **other than failure to maintain records on a timely basis or to attend staff meetings?**”⁵ (St. Ex. 3 at 7-8) (Emphasis in original)

13. Dr. Bolar acknowledged that he had answered question number 5 on his 2007 renewal application incorrectly because his clinical privileges at Samaritan had been summarily suspended in June 2006. As addressed above, it is clear from Dr. Bolar’s testimony that he vehemently disagreed with Samaritan’s action and the process by which it had occurred and been communicated to him. Further, Dr. Bolar testified that he had been represented by counsel during that time, had asked his then-counsel how to answer questions concerning the Samaritan action, and had been advised that he did not have to report it. However, Dr. Bolar testified that he now realizes that that advice was wrong and that, unless the Samaritan order is reversed by a court, he will have to report that action to hospitals, third-party payors, and licensing Boards for the rest of his career. In addition, Dr. Bolar

⁵ Kay Rieve, Administrative Officer for the Board, testified that Dr. Bolar had submitted his 2005 and 2007 renewal applications using Ohio’s online application system. Ms. Rieve attested that more information appears on-screen when the applicant fills out the renewal application than appears on the printed applications included in State’s Exhibit 3. Specifically, Ms. Rieve noted that, in the questionnaire portion of the renewal application, the questions are preceded by a statement limiting the time period for responses to the period following the applicant’s last application for renewal. (Tr. at 63, 67-69)

testified that he had had nothing to hide concerning Samaritan's action because it had been wholly without merit. (Tr. at 33-41, 85)

14. Dr. Bolar testified that there had been three reasons why he responded "No" to question number 5 on his 2007 renewal application. (Tr. at 39, 127-128) First, Dr. Bolar testified that he had been advised that he could do so by his former counsel. Dr. Bolar stated:

[W]hen I went through this thing at Samaritan Hospital, initially they terminated the suspension. As I understood the bylaws, they couldn't have it both ways. They couldn't not find me guilty of anything that warranted a suspension and still say I'm suspended for something that did warrant a suspension.

(Tr. at 35; see also Resp. Ex. E)

Second, Dr. Bolar testified that he had not received due process. Third, he testified that, at the time he completed his 2007 renewal application, he had been under the mistaken impression that Samaritan was going to rescind the summary suspension within a couple weeks. (Tr. at 39-41, 127-128)

15. Dr. Bolar testified:

I'm a doctor who's doing the best he can to do the right thing. But I'm fallible. I made mistakes. And I accept the responsibility for any mistakes that I made here. I should have answered yes to that [question], but I couldn't get past the [way things were handled at Samaritan.] * * * You know, in spite of all that, I should have answered yes to it and I didn't, and that's my fault.

(Tr. at 56-58; see also Tr. at 40-41)

Additional Information

16. Dr. Bolar presented several letters from physicians commending him for the training he had provided them and their staffs in performing laparoscopic gastric bypass surgery.⁶ Dr. Bolar further presented two articles concerning gastric bypass surgery that he had co-authored. (Resp. Ex. H)

FINDINGS OF FACT

1. On October 17, 2003, Randall Jay Bolar, M.D., caused to be submitted to the Board an application for renewal of his certificate to practice medicine and surgery in Ohio. By signing the October 17, 2003, renewal application, he certified that the information provided therein was true and correct in every respect.

⁶ The State did not have an opportunity to cross-examine the authors of these letters.

In his 2003 renewal application, Dr. Bolar answered “No” in response to question number 3, which asked:

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

* * *

3.) Have any malpractice awards been paid by you or on your behalf for acts occurring in any state other than Ohio?

In fact, Dr. Bolar’s insurance company paid a one million dollar medical malpractice settlement, and the settlement was recorded in February 2003, in the Scott County, Kentucky, Circuit Court.⁷

2. Further, on January 8, 2007, Dr. Bolar caused to be submitted to the Board an electronic application for renewal of his certificate to practice medicine and surgery in Ohio. By electronically signing the renewal application, Dr. Bolar affirmed that the information provided therein was complete and correct, and that he had complied with all criteria for applying online.

In his 2007 renewal application, Dr. Bolar answered “No” to question number 5, which asked, “[At any time since signing your last application for renewal of your certificate:] * * * 5. Have you had any clinical privileges or other similar institutional authority suspended, restricted or revoked for reasons **other than failure to maintain records on a timely basis or to attend staff meetings?**”

In fact, on or about June 14, 2006, Samaritan Hospital in Lexington, Kentucky, suspended his clinical privileges.

CONCLUSIONS OF LAW

1. Randall Jay Bolar, M.D., indicated that he had failed to report a malpractice settlement based upon a mistaken belief that his Ohio certificate was subject to annual renewal and that he had already reported it. However, the Hearing Examiner does not find this explanation persuasive. Even though Dr. Bolar might have agreed to the settlement several months earlier, he had been aware that the settlement was recorded in court in February 2003, less than one year prior to signing his October 17, 2003 Ohio renewal application. Accordingly, the conduct of Dr. Bolar as set forth in Finding of Fact 1, above, constitutes “[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or

⁷ The April 9, 2008, notice of opportunity for hearing alleged among other things that Dr. Bolar’s insurance company *paid* the settlement on February 25, 2003. Although there is no evidence concerning when the insurance company actually paid the settlement, that allegation was sufficient to put Dr. Bolar on notice that he had incorrectly answered question number 3 on his 2003 renewal application. Further, although he denied that he had intended to deceive the Board, Dr. Bolar admitted that the answer he had given was wrong.

certificate of registration issued by the board,” as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

2. The evidence is clear that, although Dr. Bolar felt that Samaritan Hospital’s action against his privileges was unjustified, his conduct, as set forth in Finding of Fact 2, above, constitutes “[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board,” as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

RATIONALE FOR THE PROPOSED ORDER

Dr. Bolar failed to disclose two adverse events on two different renewal applications. His conduct is unfortunate, because had he reported those events as required, it seems likely that the Board would have taken no action against him. The failure of a licensee to honestly and completely answer questions on renewal applications impedes the Board’s ability to protect the public, and merits sanction.

PROPOSED ORDER

It is hereby ORDERED that:

- A. **SUSPENSION OF CERTIFICATE:** The certificate of Randall Jay Bolar, M.D., to practice medicine and surgery in the State of Ohio shall be **SUSPENDED** for a period of 60 days.
- C. **PROBATION:** Upon reinstatement, Dr. Bolar’s certificate shall be subject to the following **PROBATIONARY** terms, conditions, and limitations for a period of at least one year:
 1. **Obey the Law:** Dr. Bolar shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in the state in which he is practicing.
 2. **Declarations of Compliance:** Dr. Bolar 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 Order. The first quarterly declaration must be received in the Board’s offices on or before the first day of the third month following the month in which Dr. Bolar’s certificate is restored or reinstated. Subsequent quarterly declarations must be received in the Board’s offices on or before the first day of every third month.
 3. **Personal Appearances:** Dr. Bolar 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. Bolar’s certificate is restored or reinstated, or as otherwise directed by

the Board. Dr. Bolar shall also appear upon his request for termination of the probationary period, and/or as otherwise requested by the Board.

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

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

- D. **TERMINATION OF PROBATION**: Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Bolar's certificate will be fully restored.
- E. **VIOLATION OF THE TERMS OF THIS ORDER**: If Dr. Bolar violates the terms of this Order in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.
- F. **REQUIRED REPORTING WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS ORDER**:

1. **Required Reporting to Employers and Others**: Within 30 days of the effective date of this Order, Dr. Bolar shall provide a copy of this Order 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 or health-care center where he has privileges or appointments. Further, Dr. Bolar shall promptly provide a copy of this Order to all employers or entities with which he contracts to provide health care services (including but not limited to third-party payors), or entities to which Dr. Bolar applies for or receives training, and the Chief of Staff at each hospital or health-care center where he applies for or obtains privileges or appointments. This requirement shall continue until Dr. Bolar receives from the Board written notification of the successful completion of the probation.

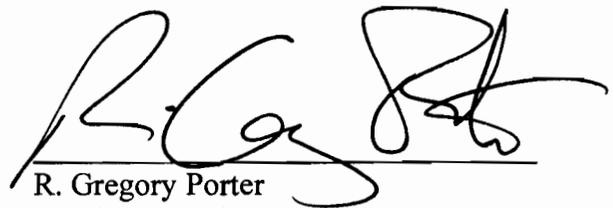
In the event that Dr. Bolar provides any health-care services or health-care direction or medical oversight to any emergency medical services organization or emergency medical services provider in Ohio, within 30 days of the effective date of this Order, he shall provide a copy of this Order to the Ohio Department of Public Safety, Division of

Emergency Medical Services. This requirement shall continue until Dr. Bolar receives from the Board written notification of the successful completion of the probation.

2. **Required Reporting to Other State Licensing Authorities:** Within 30 days of the effective date of this Order, Dr. Bolar shall provide a copy of this Order to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which he currently holds any license or certificate. Also, Dr. Bolar shall provide a copy of this Order at the time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement/restoration of any professional license. This requirement shall continue until Dr. Bolar receives from the Board written notification of the successful completion of the probation.

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

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

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

R. Gregory Porter
Hearing Examiner

State Medical Board of Ohio

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



Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
med.ohio.gov

EXCERPT FROM THE DRAFT MINUTES OF MAY 13, 2009

REPORTS AND RECOMMENDATIONS AND PROPOSED FINDINGS AND PROPOSED ORDER

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

Dr. Madia asked whether each member of the Board had received, read and considered the hearing record; the Findings of Fact, Conclusions of Law and Proposed Orders, and any objections filed in the matters of: Emad S. Atalla, M.D.; Menna Berhane, M.D.; Randall Jay Bolar, M.D.; Ralph Arden Hugunin, M.D.; Venkanna Kanna, M.D.; Kathy Lynn Kruger, D.O.; Marietta J. Medel, M.D.; Robert L. Turton, D.O.; and Jeffrey E. White, M.D. A roll call was taken:

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

Dr. Madia 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. Talmage	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye

Dr. Mahajan - aye
Dr. Madia - aye

Dr. Madia noted that, in accordance with the provision in Section 4731.22(F)(2), Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of these matters. They may, however, participate in the matters of Dr. Berhane and Dr. Medel, as those cases are not disciplinary in nature and concern only the doctors' qualifications for licensure. In the matters before the Board today, Dr. Talmage served as Secretary and Mr. Albert served as Supervising Member.

Dr. Madia advised that no oral motions may be made by either party during these proceedings.

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

.....
RANDALL JAY BOLAR, M.D.

Dr. Madia directed the Board's attention to the matter of Randall Jay Bolar, M.D. He advised that objections were filed to Hearing Examiner Porter's Report and Recommendation and were previously distributed to Board members.

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

Dr. Bolar was accompanied by his attorney, Eric J. Plinke, Esq.

Mr. Plinke stated that he did file objections, and has made his request to reduce discipline known to the Board. He stated that Dr. Bolar has prepared a statement for the Board.

Dr. Bolar read the following statement:

I'm Randall Bolar. Thank you for letting me speak to you.

I want to, quickly as I can, summarize the issue in the renewal of my license in October of 2003, as well as in January of 2007. At the time I was practicing in Kentucky, and the summer of 2002 I'd agreed, on advice from counsel, to settle out of a malpractice case. That was late July, early August of 2002. I reported that to the hospital, to my Kentucky license, to third-party payors. At that time I did not realize that the Ohio license was not an annual renewal. When I renewed my Ohio license in October of 2003, I made the

false assumption that I'd already reported that in my (sic) October of 2002. I was wrong. That's nobody's fault but my own. It was not intentional. If I'd realized that, I had a nice summary typed up that I could have quickly attached to the renewal application and I would have been happy to do that. The settlement date recorded in the Courthouse was 25 February of 2003. That's the date that every physician involved settled out of the case. I was one of the first to settle.

The second issue involves my renewal of my license in January of 2007. As you know from the records in front of you, my hospital privileges at Samaritan Hospital were subject to a brief summary suspension in the summer of 2006. This was at a time that I had already closed my practice, resigned my privileges and had accepted a job at another institution in Clarksville, Tennessee. In spite of that, the CEO of the hospital issued an unwarranted summary suspension. The term, "unwarranted," is not just mine, but that was the Medical Executive Committee also. To give you a little bit of background on that, I'd practiced in Kentucky for about six and a half years. All but the last year that I was in practice there I was in solo practice. The hospital had recruited another surgeon, Dr. Galo Grijalva, to join my practice, and he did in June of 2005. After he'd been there for a few months, it was clear to me that he was not going to succeed; and, in fact, I found that my burden of patients really hadn't decreased. If anything, it had increased. I felt obligated to let the hospital know in the fall of 2005 that I planned to relocate to Clarksville, Tennessee.

I had, by April of 2006, had an agreement with Gateway Hospital, had signed my agreement. Also had an agreement to join Bill Steeley, who is a surgeon I'd known for twenty years, in fact, someone I trained with. I began to close my practice May 1 of 2006, had hired an attorney to help me do that to make sure that I'd sent all letters out and notified everybody that I needed to notify.

When I first told the administration that I was going to relocate, I'm not sure whether they believed me or not, but they weren't hostile to me; but as the time of my departure became closer and closer, the administration at the hospital, specifically Frank Beirne, CEO, became significantly hostile to me, and, on occasion, was threatening to me. After I had sent letters out to my patients, informing them of my relocation, and telling them a list of surgeons in the community who would be happy to see them in the future if they desired to continue to get care, in Lexington, both Frank Beirne and Dr. Grijalva came to me, both very upset that I was not referring my patients to Dr. Grijalva. That would have kept those patients also at that hospital.

June 1 I closed my practice, resigned my privileges, I actually was boxing up my office, as well as my home. On the 17th of June 2006, I received a certified letter from Frank Beirne saying that he had summarily suspended my privileges, effective 15 June 2006, based on "serious allegations made by Dr. Grijalva." The Medical Executive Committee

met two weeks later and because they had not issued the suspension, they made an initial investigation to determine whether a formal hearing should occur. They found there was no merit and there was not sufficient basis for the suspension, it was unwarranted, and that it was done in a matter (sic) contrary to the bylaws.

Dr. Madia advised Dr. Bolar that he had one more minute to conclude his statement.

I thought it was a resolved issue at that point. Three weeks later after I was working in Clarksville I got another certified letter from Frank Beirne saying that, in fact, even though it had been terminated, my suspension, I, in fact, was suspended for five days and that I was admonished.

I recontacted my attorney. He, by mid-December, had arranged an agreement with the hospital. They had agreed to rescind the suspension if I would not sue them. I agreed to that. When I renewed my license on January 8 of 2007, I called my attorney to ask him how I should answer that question about suspension, and he said I could answer "no" to it because it's rescinded. That turned out to be not only bad advice but about the worst judgment decision I've made in my life. Since then I've spent almost my entire life's savings dealing with this problem at Samaritan Hospital. I wish this had never happened. This was not intentional. And the hospital did file bankruptcy and decided not to, shortly after they had said they would rescind it, they didn't because they filed bankruptcy.

Dr. Talmage returned to the meeting during the previous statement.

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

Ms. Unver read the following statement into the record:

Dr. Bolar was initially licensed to practice medicine in Ohio in 1993. He renewed that license one time, in 1994, but then allowed his license to lapse in 1996. Dr. Bolar practiced medicine in Minnesota, Kentucky and Tennessee. In 2000, Dr. Bolar filed a restoration application in Ohio which was granted in 2001, but he has been practicing medicine out of state since obtaining his license restoration. With this background in mind, Dr. Bolar was cited by this Board for making false, fraudulent, deceptive or misleading statements in two regards:

1. The first instance is when Dr. Bolar filled out his renewal application in July of 2003. At that time he answered question #3, which asks whether, since the last time he renewed his certificate, which was in 1994, whether he had any malpractice awards paid by him on his behalf for acts occurring in any state other than Ohio. In fact, Dr. Bolar had settled a lawsuit in February of that year, approximately 5 months earlier, for 1 million dollars in the Scott Circuit Court,

Kentucky. Now, Dr. Bolar tries to throw out a red herring here - in his objections filed to the Report and Recommendation he tries to argue that the citation letter incorrectly lists the 1994 renewal application - but a close reading of the citation letter makes it clear that the 1994 renewal application is not at issue here, and it was properly set forth in the citation letter as background information to clarify the renewal language that an applicant must abide by when filling out each renewal application - every renewal application seeks information which may have changed since the last renewal application. Dr. Bolar throws out this red herring in an attempt to downplay his false statement set forth in the 2003 renewal application. The fact of the matter is that he failed to disclose the 2003 malpractice settlement - and he acknowledged this fact at the hearing.

2. The second aspect of this case involves Dr. Bolar's 2007 renewal application. In this renewal application, Dr. Bolar falsely answered "no" to question #5, which asked whether he had ever had his clinical privileges suspended, restricted or revoked. Dr. Bolar acknowledged that he improperly filled out this question in his 2007 renewal application. He sets forth in elaborate detail the circumstances in which his hospital privileges were suspended - and it is worth mentioning here that all the information we have regarding this instance is coming from Dr. Bolar, so his elaborate detail must be taken with a grain of salt. Dr. Bolar is quick to point out that he had previously disclosed on renewal applications adverse information, but one has to wonder why he did not set out this elaborate detail on his 2007 renewal application or why the suspension took place. As pointed out in the Report and Recommendation, if Dr. Bolar had disclosed the two adverse events in his 2003 and 2007 renewal applications, it seems likely that the Board would not have taken any action. But that is not the case here. Dr. Bolar's improper answers on his 2003 and 2007 renewal applications constitute false, fraudulent, deceptive or misleading statements, in violation of O.R.C. 4731.22(B)(5).

DR. SUPPAN MOVED TO APPROVE AND CONFIRM MR. PORTER'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF RANDALL JAY BOLAR, M.D. MR. HAIRSTON SECONDED THE MOTION. A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye

Dr. Mahajan - aye
Dr. Madia - aye

The motion carried.

Dr. Suppan stated that she thinks that it's noteworthy, again, in this case that in the information provided, there's a quote from Dr. Bolar's actual testimony, and he himself says, "I'm a doctor who's doing the best he can to do the right thing. But I'm fallible. I made mistakes. And I accept the responsibility for any mistakes that I made here. I should have answered yes to that" question. Dr. Suppan stated that she thinks that the evidence shows that, whatever the circumstances were, he should have answered yes to the question and, perhaps, attached an explanation.

Dr. Suppan stated that, in terms of the best way to handle this, especially because there were two episodes, she's not sure that the minimum sanction is appropriate in and of itself. On the other hand, she personally works as a senior vice president of medical affairs, and she sees these types of situations in the hospital all the time where there's a difficulty between two surgeons and the same types of antics ensue. She understands the dynamics of that. In this, she did not see any issues with Dr. Bolar's quality of care to the patients. It sounds more to her like a war going on over who owned those patients, and that the suspension resulted as a retaliatory action to that. Dr. Suppan stated that this does take up quite a bit of time for the Medical Board, and it was an administrative misstep at the very least on Dr. Bolar's part in filling out his forms appropriately. Dr. Suppan stated that she would recommend a reprimand, but she would also recommend that in the future the Board have the power to fine in cases such as this in order to recoup the cost that goes to the Board. She stated that she understands that the Board can only impose fines for CME violations, but for administrative missteps like this, it's a perfect situation in which there could be an additional sanction issued.

Dr. Amato agreed with Dr. Suppan. Concerning the case in Kentucky, Dr. Amato stated that he believes under JCAHO requirements, summary suspensions can be implemented, and those requirements go on to spell out for medical staffs who have the authority to summarily suspend. Invariably, they say that the CEO of the institution can summarily suspend. He believes that most hospital and medical staff bylaws take the stand that the Medical Executive Committee has the right to overrule on that suspension. He stated that in his hospital's bylaws, and it's straight out of JCAHO's handbook, if the CEO or medical staff president is overruled, then, in fact, the suspension never existed. He expressed concern that this matter was reported to the Board when, under JCAHO requirements, it should never have existed as a suspension.

Dr. Suppan stated that she's reluctant to draw a conclusion on what Dr. Amato just said. She stated that the Board doesn't even know if the JCAHO is even their accrediting body, what the institution's bylaws say or what the rules of the game are. The most telling part of all of this is Dr. Bolar's own admission that he knows he should have marked that question "yes," and he should have attached an explanation. Going from that point, she asked what the appropriate way is to handle this. In lieu of the fact that the Board can't impose a fine, she would default to a reprimand. However, she would like to offer fining for the Board's future consideration.

Dr. Amato asked whether Dr. Suppan is making a motion.

Dr. Suppan stated that she would like to make a motion to put into effect a reprimand.

Mr. Jacobson stated that he would just like to say that he agrees, wholeheartedly, with what Dr. Suppan is saying concerning being able to impose a fine in cases where the Board doesn't feel that a suspension is appropriate. He stated that it might be a good way to show the Board members' concern and disapproval of what happened without causing consequences that cause the Board to think about whether to impose anything at all.

Dr. Amato asked whether Dr. Suppan's motion would include any probation.

Dr. Suppan stated that, in light of this case, she thinks that the probation should be at least through the next renewal period.

Dr. Varyani agreed with Dr. Suppan, but added that most physicians know that if there's been a suspension of their licenses, they usually have that in their head. He stated that, were he or Dr. Amato suspended from a medical staff, they would not forget it and say that they have never been suspended. He stated that he finds it hard to believe. He stated that he doesn't think that this was an oversight on Dr. Bolar's part, but he will go along with the amendment.

At this time Ms. Debolt advised the Board that it already voted on the motion to approve and confirm the Hearing Examiner's Report and Recommendation. She commented that she believes that that vote may have been taken in error, since there was no discussion of the motion prior to the vote. At this time, however, amendment of this case would require a motion to reconsider the matter and vote.

MR. JACOBSON MOVED TO RECONSIDER THE MOTION TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER IN THE MATTER OF DR. BOLAR. DR. VARYANI SECONDED THE MOTION. A vote was taken:

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

The motion carried.

DR. SUPPAN MOVED TO AMEND THE PROPOSED ORDER BY SUBSTITUTING AN ORDER OF REPRIMAND, WITH ONE YEAR PROBATION THROUGH THE NEXT REGISTRATION. DR. AMATO SECONDED THE MOTION.

Dr. Stephens stated that Dr. Suppan is recommending a reprimand when patient care was impacted by what this physician did.

Dr. Amato disagreed stating that patient care wasn't part of this case.

Dr. Stephens stated that there was a question of who was covering for Dr. Bolar in his absence.

Dr. Amato stated that Dr. Bolar arranged coverage during the period he was suspended.

Dr. Stephens stated that she still thinks that patient care was impacted.

Dr. Amato stated that Dr. Bolar had already taken steps to resign his privileges.

Dr. Stephens stated that the patients, in terms of coverage, were still left in the lurch.

Dr. Varyani stated that Dr. Bolar had gotten an associate to cover for him. He didn't want his patients to go under the care of his associate. He therefore arranged for the patients to have surgery somewhere else.

Dr. Amato stated that that's when he got suspended.

A vote was taken on Dr. Suppan's motion:

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

The motion carried.

DR. AMATO MOVED TO APPROVE AND CONFIRM MR. PORTER'S FINDINGS OF FACT,

**CONCLUSIONS OF LAW, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF
DR. BOLAR. DR. SUPPAN SECONDED THE MOTION. A vote was taken:**

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

The motion carried.

State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
med.ohio.gov

April 9, 2008

Case number: 08-CRF- 037

Randall Jay Bolar, M.D.
1731 Memorial Drive, Suite 105
Clarksville, TN 37043

Dear Doctor Bolar:

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 April 16, 1994, and October 17, 2003, you caused to be submitted to the Board applications for renewal of your certificate to practice medicine and surgery in Ohio. By signing the renewal applications, you certified that the information provided therein was true and correct in every respect.

You answered "No" in response to question number 3 in your renewal applications, which asked:

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

Have any malpractice awards been paid by you or on your behalf for acts occurring in any state other than Ohio?

In fact, your responses to the State Medical Board of Ohio's First Set of Interrogatories Directed to Randall Jay Bolar, M.D. reveal that on or about February 25, 2003, your insurance company paid a \$1,000,000.00 settlement in Scott Circuit Court, Kentucky, stemming from an allegation of improper management of patient care.

- (2) Further, on or about January 8, 2007, you caused to be submitted to the Board an electronic application for renewal of your certificate to practice medicine and

Mailed 04-10-08

surgery in Ohio. By electronically signing the renewal application on or about January 8, 2007, you affirmed that the information provided therein was complete and correct, and that you complied with all criteria for applying online.

You answered "No" in response to question number 5 in your renewal application, which asked:

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

Have you had any clinical privileges or other similar institutional authority suspended, restricted or revoked for reasons **other than failure to maintain records on a timely basis or to attend staff meetings?**

In fact, on or about June 14, 2006, Samaritan Hospital in Lexington, Kentucky, suspended your clinical privileges.

Your acts, conduct, and/or omissions as alleged in paragraph (1) and (2) above, individually and/or collectively, constitute "[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

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

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

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

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

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Lance A. Talmage, M.D.
Secretary

LAT/AMM/flb
Enclosures

CERTIFIED MAIL #91 7108 2133 3934 3686 8157
RETURN RECEIPT REQUESTED

cc: E. Patrick Moores
P.O. Box 910765
Lexington, KY 40591-0765

CERTIFIED MAIL #91 7108 2133 3934 3686 8164
RETURN RECEIPT REQUESTED