

# 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

June 8, 2011.

James V. Furicchia, M.D.  
Woodley Medical Arts Plaza  
3840 Woodley Road  
Toledo, OH 43606

RE: Case No. 10-CRF-143

Dear Doctor Furicchia:

Please find enclosed a certified copy of the Findings, Order and Journal Entry approved and confirmed by the State Medical Board meeting in regular session on June 8, 2011.

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 must be commenced by the filing of a Notice of Appeal with the State Medical Board and the Franklin County Court of Common Pleas. The Notice of Appeal must set forth the Order appealed from and state that the State Medical Board's Order is not supported by reliable, probative, and substantive evidence and is not in accordance with law. The Notice of Appeal may, but is not required to, set forth the specific grounds of the appeal. 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.

Very truly yours,



Lance A. Talmage, M.D.  
Secretary

LAT:jam  
Enclosures

CERTIFIED MAIL RECEIPT NO. 91 7108 2133 3938 3019 7761  
RETURN RECEIPT REQUESTED

*Mailed 6-9-11*

CERTIFICATION

I hereby certify that the attached copy of the Findings, Order and Journal Entry approved by the State Medical Board, meeting in regular session on June 8, 2011, constitutes a true and complete copy of the Findings, Order and Journal Entry in the Matter of James V. Furicchia, M.D., Case Number 10-CRF-143, as it appears in the Journal of the State Medical Board of Ohio.

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



Lance A. Talmage, M.D.  
Secretary

(SEAL)

June 8, 2011

\_\_\_\_\_  
Date

**BEFORE THE STATE MEDICAL BOARD OF OHIO**

IN THE MATTER OF :  
 : Case No. 10-CRF-143  
JAMES V. FURICCHIA, M.D. :

**FINDINGS, ORDER AND JOURNAL ENTRY**

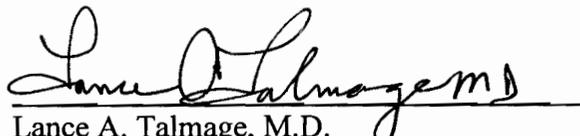
This matter came on for consideration before the State Medical Board of Ohio on June 8, 2011, pursuant to a Notice of Opportunity for Hearing issued to James V. Furicchia, M.D., on December 8, 2010. No request for hearing having been received within the statutorily mandated time period, Hearing Examiner Patricia A. Davidson, Esq., on behalf of the Board, reviewed and summarized evidence supporting the Notice, and prepared Proposed Findings and a Proposed Order.

WHEREFORE, having reviewed Ms. Davidson's Proposed Findings and Proposed Order, which is attached hereto and incorporated herein, the Board hereby adopts the Proposed Findings and Proposed Order.

Accordingly, it is hereby ORDERED that:

The certificate of James V. Furicchia, M.D., to practice allopathic medicine and surgery in the State of Ohio is hereby REVOKED.

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

  
Lance A. Talmage, M.D.  
Secretary

(SEAL)

June 8, 2011  
Date

2011 MAY 16 PM 3:04

## BEFORE THE STATE MEDICAL BOARD OF OHIO

In the Matter of \* Case No. 10-CRF-143  
James V. Furicchia, M.D., \* Hearing Examiner Davidson  
Respondent. \*

## PROPOSED FINDINGS AND PROPOSED ORDER

Basis for the Review

*Notice of Opportunity for Hearing:* In a notice of opportunity for hearing dated December 8, 2010 [Notice], the State Medical Board of Ohio notified James V. Furicchia, M.D., that it intended to determine whether to take disciplinary action against his certificate to practice allopathic medicine and surgery in Ohio based on his alleged violations of a 2007 consent agreement with the Board. (Ex. 1C)

The Board alleged, among other things, that Dr. Furicchia failed to submit quarterly declarations or make the personal appearances as required, failed to submit the required controlled substances prescription log, failed to submit urine-screen reports and monitoring-physician reports, and failed to document his participation in an alcohol and drug rehabilitation program. The Board further alleged that Dr. Furicchia had moved to Saudi Arabia without providing written notice of his change of address. (Ex. 1C)

The Board charged that the alleged acts, omissions, and/or conduct constitute violations of Ohio Revised Code Sections [R.C.] 4731.22(B)(15) and 4731.281(B)(2)(h). Further, the Board notified Dr. Furicchia of his right to request a hearing. (Ex. 1C)

*No Request for Hearing:* On December 9, 2010, the Board mailed the Notice to Dr. Furicchia by certified mail, return receipt requested, to his address of record in Toledo, Ohio. (Exs. 1, 3, 3A) The U.S. Postal Service returned the Notice with a statement that the certified mail was not delivered because Dr. Furicchia had moved and left no forwarding address. (Exs. 1C, 2, 3, 3A)

The Board then published a legal notice in *The Toledo Blade*, a newspaper of general circulation in the area of Dr. Furicchia's last known address. This legal notice was published on March 9, March 16, and March 23, 2011, setting forth information regarding the Board's Notice to Dr. Furicchia. (Exs. 2, 3, 3A, 3B) According to the affidavit of Barbara A. Jacobs, the Board's Senior Executive Staff Attorney who is responsible for seeing that all procedural requirements of R.C. Chapter 119 are met, service of the Notice was completed as of March 23, 2011, the last date that the legal notice was published in *The Toledo Blade*. Ms. Jacobs further stated that, on April 28, 2011, she sent to Dr. Furicchia, at his last known address of record, a copy of the newspaper's affidavit of publication. Further she informed Dr. Furicchia that the Board's Notice was deemed served as of March 23, 2011. (Ex. 3, 3B)

Last, Ms. Jacobs stated that, as of April 29, 2011, the Board had not received a request for hearing from Dr. Furicchia. (Ex. 3)

*Request for Proposed Findings and Proposed Order:* In a memorandum dated April 29, 2011, Ms. Jacobs requested that a hearing examiner review the evidence as provided and prepare a report of Proposed Findings and Proposed Order (“PFPO”). (Ex. 5)

### Evidence Examined

Exhibit 1: Affidavit of Ms. Jacobs, signed April 29, 2011, authenticating documents maintained by the Board:

Exhibit 1A: Step I Consent Agreement between Dr. Furicchia and the Board, effective as of May 9, 2007.

Exhibit 1B: Step II Consent Agreement between Dr. Furicchia and the Board, effective as of August 9, 2007.

Exhibit 1C: Notice to Dr. Furicchia from the Board dated December 8, 2010.

Exhibit 2: Affidavit of Kay L. Rieve, Administrative Officer in charge of public licensee records maintained by the Board, signed April 29, 2011. Ms. Rieve certified Dr. Furicchia’s last known address of record, stating that Dr. Furicchia had provided it to the Board on December 8, 2008, and that the Board had received no correspondence from Dr. Furicchia to change or update that address.

Exhibit 3: Affidavit of Ms. Jacobs regarding service of the Notice and attesting that, as of April 29, 2011, the Board had not received a request for hearing from Dr. Furicchia, and also authenticating the following documents:

Exhibit 3A: The Notice mailed to Dr. Furicchia in December 2010, as returned by the U.S. Postal Service with a notation that James V. Furicchia had “moved, left no address.”

Exhibit 3B: Ms. Jacob’s April 2011 letter to Dr. Furicchia enclosing a copy of the publication affidavit from the newspaper. Among other things, the newspaper noted that the cost of service by publication was \$1,280.64

Exhibit 4: Affidavit of Danielle C. Bickers, the Board’s Compliance Supervisor, describing Dr. Furicchia’s Step II Consent Agreement and his failure to comply with several terms in that agreement.

First, Ms. Bickers stated in her affidavit that, pursuant to Paragraph 2 of the Step II Consent Agreement, Dr. Furicchia is required to submit quarterly declarations of his compliance with the agreement. Quarterly declarations were due in May 2010, August 2010, and November 2010, but Ms. Bickers stated that Dr. Furicchia failed to submit these declarations. Further, she stated that the last quarterly declaration from Dr. Furicchia was received in February 2010.

Second, with respect to personal appearances before the Board or its representative, Ms. Bickers affirmed that, under Paragraph 3 of the Step II Consent Agreement, Dr. Furicchia was initially required to appear in person on a quarterly basis. However, he requested by email in February 2009 that the frequency of his personal appearances be reduced to one every six months. In March 2009, the Board granted the request, reducing the number of personal appearances to one every six months. Ms. Bickers stated that, pursuant to an adjusted schedule of appearances, Dr. Furicchia made his next scheduled probationary appearance in September 2009.

In her affidavit, Ms. Bickers explained that the next personal appearance would have been in February 2010. However, in January 2010, Dr. Furicchia's attorney advised that Dr. Furicchia was not able to obtain an exit visa from Saudi Arabia in time to attend a probationary appearance in February 2010, and he requested that the appearance be rescheduled for April 2010. The Board rescheduled the probationary conference to April 13, 2010, as set forth in a letter from the Board to Dr. Furicchia dated March 19, 2010. The Board's letter was returned to the Board with a notation from the U.S. Postal Service that Dr. Furicchia had moved and left no forwarding address.

Ms. Bickers further stated that, on April 12, 2010, Dr. Furicchia sent an email message to the Board's Compliance Officer stating that he would not be attending the scheduled probationary conference in April due to circumstances he said were beyond his control. On April 13, 2010, Dr. Furicchia did not appear for his rescheduled probationary conference. However, Ms. Bickers stated that at no time had the Board excused Dr. Furicchia from his required appearance on April 13, 2010.

In a letter dated April 29, 2010, the Board notified Dr. Furicchia, with a copy to his attorney, that Dr. Furicchia was scheduled for a probationary conference on May 11, 2010. The letter was returned by the U.S. Postal Service with a notation that Dr. Furicchia had moved and left no forwarding address. However, on May 10, 2010, Dr. Furicchia sent an email message to the Board advising that he would not attend his probationary conference on May 11, 2010. Dr. Furicchia did not attend the conference as scheduled, but Ms. Bickers stated that the Board had not excused Dr. Furicchia from his required appearance on May 11, 2010.

Third, with respect to Paragraph 6 of the Step II Consent Agreement, which requires that Dr. Furicchia must keep a log of all controlled substances he prescribes, Ms. Bickers explained that Dr. Furicchia was required to submit the log thirty days before each personal appearance. Ms. Bickers stated that Dr. Furicchia submitted a log of prescribed controlled substances in June 2009 but failed to submit the required log in August 2009, November 2009, February 2010, May 2010, August 2010, and November 2010.

Fourth, Ms. Bickers stated that, pursuant to Paragraph 10 of the Step II Consent Agreement, Dr. Furicchia is required to submit to random urine screens for drugs and alcohol on a weekly basis and must ensure that the screening reports are forwarded directly to the Board on a quarterly basis. Paragraph 10 also requires Dr. Furicchia to ensure that his supervising physician provides quarterly reports to the Board.

In her affidavit, Ms. Bickers further stated that, in February 2010, the Board had received a report of a urine screen for a specimen submitted on January 23, 2010, but no other urine screens had

been documented since February 2010. In addition, Ms. Bickers stated that no supervising physician's report has been received since February 2010.

Fifth, Ms. Bickers explained that, pursuant to Paragraph 12 of the Step II Consent Agreement, Dr. Furicchia was required to ensure that a monitoring physician provided the Board with quarterly reports on the monitoring of Dr. Furicchia and his medical practice, and regarding the review of Dr. Furicchia's patient charts. Subsequently, in March 2009, the Board eliminated the requirement of chart reviews at Dr. Furicchia's request.

Ms. Bickers stated that, in October 2009, she received an email message from Dr. Furicchia requesting approval of a physician in Saudi Arabia to serve as his monitor. In November 2009, the Board approved that physician to serve as Dr. Furicchia's monitoring physician in Saudi Arabia. Ms. Bicker advised that, in February 2010, the Board had received a report from Dr. Furicchia's monitoring physician, but no other reports from the monitoring physician had been received since February 2010.

Sixth, Ms. Bickers explained that, as set forth in Paragraph 13 of the Step II Consent Agreement, Dr. Furicchia was required to participate in an alcohol/drug rehabilitation program no less than three times per week and to provide the Board with acceptable documentation on a quarterly basis regarding his participation in such a program. Subsequently, in March 2009, the Board granted Dr. Furicchia's request to reduce the required attendance to twice per week with a minimum of ten per month.

Ms. Bickers affirmed that, in February 2010, the Board received from Dr. Furicchia a log of his attendance at the required alcohol/drug rehabilitation program through January 25, 2010. However, she stated that, since February 2010, Dr. Furicchia had not submitted any documentary evidence of his attendance at any alcohol/drug rehabilitation program meetings.

Seventh, under the heading of "Duration/Modification of Terms" in the Step II Consent Agreement, Dr. Furicchia agreed that he shall not request termination of the Consent Agreement for a minimum of five years. However, on May 10, 2010, Ms. Bickers received an email from Dr. Furicchia in which he stated that he had made the decision to terminate his consent agreement, and to remain in Saudi Arabia and continue practicing medicine there.

Ms. Bickers noted that at no time has the Board agreed to terminate the Step II Consent Agreement and that Dr. Furicchia continues to be subject to the terms and conditions as set forth in that agreement.

Last, Ms. Bickers authenticated the following documents:

Exhibit 4A: Copy of email correspondence from Dr. Furicchia to Ms. Bickers dated February 25, 2009, as follows (capitalization and punctuation as in original):

Subject: Re: Modification Requests

Dear Ms. Bickers, thank you so much for emailing me and being concerned about my situation by reminding me of certain deadlines. I really appreciate it. That would be OK. I am willing (of course if ok with you) to reduce my appearance to

every 6 months instead of the every three I am doing now, and reducing my 12 steps [meetings] to 10 a month and eliminating my chart review. I really appreciate that you and the board are willing to “reduce the burden” of my “process” and I consider it an honor to be given such recognition. I hope this email serves as my official notification to you and the board that I would like these requirements changed. thank you and let me know when this becomes “official”. Jim.

Exhibit 4B: Excerpt of the Board’s Minutes of its March 2009 meeting.<sup>1</sup>

Exhibit 4C: March 19, 2010 letter from the Board to Dr. Furicchia at his address of record, with a copy to his attorney, informing Dr. Furicchia that his probationary conference was scheduled for April 13, 2010, and reminding him that the required documentation must be submitted by April 1, 2010. A copy of the envelope shows that the letter was returned by the U.S. Postal Service for this reason: “Furicchia, James V - Moved Left No Address.”

Exhibit 4D: An email message dated April 12, 2010, from Dr. Furicchia to the Compliance Officer, stating as follows (paraphrasing and punctuation as in original):

Due to circumstances beyond my control, I will be unable to attend my meeting for Tuesday, April 12, 2010. I will need to reschedule my meeting. However, would like to make the following proposition. Since I have no intention of ever practicing medicine in Ohio, I would like to temporarily “suspend” my requirements for maintaining my licensure requirements. Thus far, I have been in full compliance with all of the mandates including urine drops, weekly meetings, physician reports etc etc. . . . . however because of the fact that I am in Saudi Arabia it is very difficult for me to fly all the way to the United States just for a 5 minute meeting. Also, the expense is something that I can not afford. It is difficult for me to leave my job here and come there whenever the medical board wants me to. Also, because of the circumstances today (due to having the flu) I am unable to fly or get onto an airplane. So because of these constant difficulties, I

have come to the conclusion that it is no longer worth the effort. I will submit all of my urine drops up to today and I will submit all the other requirements. Thank you for your time.

Dr. James Furicchia, MD

Exhibit 4E: April 2010 letter from the Board to Dr. Furicchia at his address of record, with a copy to his attorney, informing Dr. Furicchia that he was scheduled for a probationary conference on May 11, 2010, and reminding him that the required documentation must be

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<sup>1</sup>Although the Board’s minutes are silent regarding the request to reduce Dr. Furicchia’s personal appearances, the Board stated at the Ohio eLicense Center that it had reduced the number of personal appearances: “Doctor’s request to reduce required personal appearances to every six months \*\*\* granted by 3/12/09 Board vote.” (State of Ohio, <[https:// license.ohio.gov/look up/default.asp?division=78](https://license.ohio.gov/look up/default.asp?division=78)>, query on May 9, 2011). Moreover, Ms. Bickers stated that, after March 2009, the appearances were no longer scheduled at three-month intervals. (Ex. 4)

submitted by May 1, 2010. A copy of the envelope shows that the letter was returned by the U.S. Postal Service because Dr. Furicchia had moved and left no address.

Exhibit 4F: An email message from Dr. Furicchia dated May 10, 2010, stating as follows (with punctuation, spacing, spelling, and emphasis as in original):

I regret to inform the State Medical Board that I will be UNABLE to attend the probationary meeting scheduled for Tuesday, May 11, 2010 for reasons that are beyond my control. I am here in Riyadh, Saudi Arabia working a new job and I am unable to obtain exit visa nor am I able to leave my job and travel to the “opposite ends of the world.” Traveling to the United States for a 5 to 10 minute meeting would create undue hardship and difficulty for me at this time. I realize the importance of this meeting but my situation is a little different from the doctor, say, living in Cleveland who would only have to travel 3 hours. Flying to the USA creates great financial difficulty including cost of ticket, exit visa expense, time lost from work etc. In addition, my mother left the USA and now lives with me and she is very ill. I do not want to leave her alone here in Riyadh, Saudi Arabia. So because of these many hardships being placed upon me by attending this meeting, I have decided to give up my Ohio license.

I want to make it very very clear to the State Medical Board that as of today, I have been in full compliance with all the other terms of the agreement including urine drops, weekly AA meetings, sponsor reports, etc. and I can provide proof of such compliancy.

What I find hard to believe is that in this day of Internet and video conferencing, the Medical Board is unable to have a meeting via Skype or some other video conferencing modality. I communicate on a daily basis with my daughters in Miami, Florida and also with my sister in Italy and with my brother in the Phillipines. Many companies conduct their business via video conferencing. The State Medical Boards refusal to do so clearly indicates to me that their only purpose for this meeting is to impose undue and unjust hardship upon me.

Well, I have finally made the decision to terminate this unjust, unfair and unforgiving agreement and pursue a more just, fair and forgiving path in my life. And that life path is to remain and practice in Saudi Arabia and give my talents and hardwork to them.

I am thankful to the board for everything they have done and I wish all the members well. Thank you.

Dr. James Vincent Furicchia  
Consultant Ophthalmologist  
Al Habib Medical Hospital<sup>2</sup>  
Riyadh, Saudi Arabia

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<sup>2</sup>The Hearing Examiner takes notice that Al Habib Medical Center has two separate addresses in Riyadh, as published on its website. See “Dr Sulaiman Al Habib Medical Center” at <<http://www.drsulaiman.alhabib.com/doctor/>>, accessed May 10, 2011. Therefore, this information at the end of the May 2010 email message does not constitute notice of a principal practice address, and, in any event, that information was provided more than 30 days after Dr. Furicchia moved from the Toledo address.

Exhibit 4G: Copy of email message from Dr. Furicchia to Ms. Bickers in October 2009 regarding his proposed monitoring physician.

Exhibit 4H: Excerpt from Board minutes on November 12, 2009, granting the request for approval of monitoring physician in Saudi Arabia.

Exhibit 5: Memorandum from Ms. Jacobs to the Chief Hearing Examiner requesting the preparation of a PFPO report and providing a list of the attached evidence for consideration.

Information from the Ohio eLicense Center: The Board has stated that Dr. Furicchia did not renew his Ohio certificate, number 35.065087, on January 1, 2011. See State of Ohio, <<https://license.ohio.gov/lookup/default.asp?division=78>>, query on May 16, 2011.

### **Proposed Findings**

1. On May 9, 2007, James V. Furicchia, M.D., entered into a Step I Consent Agreement with the Board in lieu of formal proceedings based on his violation of R.C. 4731.22(B)(26). Pursuant to the terms of the Step I Consent Agreement, Dr. Furicchia's certificate to practice medicine and surgery in Ohio was suspended for an indefinite period of time.

On August 9, 2007, having fulfilled the conditions for reinstatement of his certificate as set forth in the Step I Consent Agreement, Dr. Furicchia entered into a Step II Consent Agreement with the Board in lieu of formal proceedings based on his violation of R.C. 4731.22(B)(26). Pursuant to the Step II Consent Agreement, Dr. Furicchia's certificate to practice medicine and surgery in Ohio was reinstated, and he became subject to probationary terms and conditions for a minimum of five years. The Step II Consent Agreement remains in effect.

*This proposed finding is based on the Step I Consent Agreement, the Step II Consent Agreement, and the affidavit of Danielle Bickers.*

2. In 2009, Dr. Furicchia moved to Saudi Arabia. However, Dr. Furicchia failed to give written notice to the Board of his change of residence address or principal practice address within thirty days of the change.

*This proposed finding is based on the affidavits of Kay Rieve and Danielle Bickers, the second affidavit of Barbara Jacobs (Ex. 3), the statements by the U.S. Postal Service regarding the reason for returning letters addressed to Dr. Furicchia at his address of record, Dr. Furicchia's email messages regarding his relocation to Saudi Arabia, and the Board's minutes of its meeting in November 2009.*

3. Paragraph 2 of the Step II Consent Agreement provides that Dr. Furicchia "shall submit quarterly declarations under penalty of Board disciplinary action \*\*\* stating whether there has been compliance with all the conditions of this Consent Agreement." Despite this provision,

Dr. Furicchia failed to submit the required quarterly declarations after February 2010, and this failure continued to the time the Notice was issued in December 2010.<sup>3</sup>

*This proposed finding is based on the Step II Consent Agreement and the affidavit of Danielle Bickers.*

4. Paragraph 3 of the Step II Consent Agreement requires:

Dr. Furicchia shall appear in person for an interview before the full Board or its designated representative. The first such appearance shall take place on the date his appearance would have been scheduled pursuant to his May 9, 2007 Step I Consent Agreement with the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

This term was modified on March 12, 2009, when the Board granted Dr. Furicchia's request to reduce the rate of required personal appearances to one every six months. Subsequently, Dr. Furicchia failed to appear in person for his scheduled appearance in February 2010 and for the rescheduled appearance in April 2010.<sup>4</sup>

*This proposed finding is based on the Step II Consent Agreement, the affidavit of Danielle Bickers, the letters from the Compliance Officer to Dr. Furicchia, and Dr. Furicchia's responses to those letters.*

5. Paragraph 6 of the Step II Consent Agreement requires that Dr. Furicchia "shall keep a log of all controlled substances prescribed. Such log shall be submitted \*\*\* thirty days prior to his personal appearance before the Board or its designated representative." Despite this provision, Dr. Furicchia failed to submit the required log of all controlled substances he prescribed, beginning after June 2009 and continuing to the time the Notice was issued in December 2010.

*This proposed finding is based on the Step II Consent Agreement and the affidavit of Danielle Bickers.*

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<sup>3</sup>The Hearing Examiner notes that Ms. Bickers' 2011 affidavit provides evidence of continuing failure to comply with the Step II Consent Agreement beyond the time the Notice was issued in December 2010. However, because post-2010 violations were not stated in the Notice (and could not be), the Hearing Examiner considers and finds only the violations set forth in the Notice.

<sup>4</sup>Although the evidence indicates that Dr. Furicchia also failed to appear as scheduled in May 2010, the Hearing Examiner does not rely on or consider that evidence because the notice of opportunity for hearing does not include an allegation regarding a scheduled appearance in May 2010.

6. Paragraph 10 of the Step II Consent Agreement provides that Dr. Furicchia “shall submit to random urine screens for drugs and alcohol on a weekly basis or as otherwise directed by the Board. Dr. Furicchia shall ensure that all screen reports are forwarded directly to the Board on a quarterly basis.” Further, Paragraph 10 requires that he “shall ensure that the supervising physician provides quarterly reports to the Board.”

Despite these provisions, Dr. Furicchia failed to submit urine-screen reports after January 2010, and this failure continued to the time the Notice was issued in December 2010. Further, Dr. Furicchia failed to ensure that the supervising physician provided quarterly reports after February 2010, and this failure also continued to the time the Notice was issued.

*This proposed finding is based on the Step II Consent Agreement and the affidavit of Danielle Bickers.*

7. Paragraph 12 of the Step II Consent Agreement provides that Dr. Furicchia’s “monitoring physician shall provide the Board with reports on the monitoring of Dr. Furicchia and his medical practice, and on the review of Dr. Furicchia’s patient charts.” It further provides that “Dr. Furicchia 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. Furicchia’s quarterly declaration.” The Board eliminated the chart-review requirement in March 2009, but the other requirements for monitoring reports remain in effect.

Despite the requirements in Paragraph 12, Dr. Furicchia failed after February 2010, and continuing to the time the Notice was issued in December 2010, to ensure that the monitoring reports were forwarded to the Board.

*This proposed finding is based on the Step II Consent Agreement and the affidavit of Danielle Bickers.*

8. Paragraph 13 of the Step II Consent Agreement, as modified by the Board on March 12, 2009, provides that “Dr. Furicchia shall maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., C.A., or Caduceus,” no less than two times per week with a minimum of ten meetings per month, and that Dr. Furicchia “shall submit acceptable documentary evidence of continuing compliance with this program, which must be received in the Board’s offices no later than the due date for his quarterly declarations.”

Despite this provision, Dr. Furicchia failed to submit any documentary evidence of his attendance at an alcohol and drug rehabilitation program after February 2010, and continuing to the time the Notice was issued in December 2010.

*This proposed finding is based on the Step II Consent Agreement, and the affidavit of Danielle Bickers.*

9. In the Step II Consent Agreement, the paragraph headed “Duration/Modification of Terms” states that Dr. Furicchia “shall not request termination of this Consent Agreement for a minimum of five years.” Despite this provision, on May 10, 2010, in an email message to

the Board, Dr. Furicchia announced his “decision to terminate” his Step II Consent Agreement. He stated his intention to remain in Saudi Arabia and practice medicine there.

*This proposed finding is based on the Step II Consent Agreement, the affidavit of Danielle Bickers, and the email from Dr. Furicchia to the Board dated May 10, 2010.*

10. Based on Proposed Finding 1 and Proposed Findings 3 through 9, it is determined that Dr. Furicchia’s acts, conduct, and/or omissions, individually and/or collectively, constitute a “[v]iolation of the conditions of limitation placed by the board upon a certificate to practice,” as that language is used in R.C. 4731.22(B)(15).
11. Based on Proposed Finding 2, it is determined that Dr. Furicchia’s acts, conduct, and/or omissions, 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 language is used in R.C. 4731.22(B)(20), with respect to Dr. Furicchia’s failure to comply with the requirement in R.C. 4731.281(B)(2)(h) that “[e]very person registered under this section shall give written notice to the board of any change of principal practice address or residence address or in the list within thirty days of the change.”

### **Discussion of the Proposed Order**

In 2007, Dr. Furicchia’s license was reinstated subject to probationary requirements as set forth in his Step II Consent Agreement. In 2009, he moved to Saudi Arabia. In August 2009, he began to violate probationary terms in his consent agreement. In May 2010, Dr. Furicchia notified the Board of his decision to terminate the consent agreement and practice in Saudi Arabia. He stated that he had decided to relinquish his Ohio license. Indeed, Dr. Furicchia’s license expired in January 2011, and he has not effected a late renewal to date.

A revocation of the license is warranted, but a permanent revocation is not recommended. As in other impairment cases, there is a potential that the respondent may at some point be willing and able to comply with the Board’s requirements for monitoring and supervision. The evidence indicates that Dr. Furicchia was able to comply with his Step I and Step II consent agreements for more than two years. If his email message in May 2010 can be believed, he had started a new job in Saudi Arabia and had moved his ailing mother to Saudi Arabia. His message in May 2010 suggests an individual under pressure; it is certainly different in tone from his previous cooperative communications regarding compliance with his consent agreement.

With regard to Dr. Furicchia’s accusations that the consent agreement was unjust, the Hearing Examiner notes that the Board granted requests for modifications of the agreement. More importantly, it was Dr. Furicchia’s choice to move to the “opposite end of the world,” as he put it. When his license was reinstated in 2007, Dr. Furicchia could have worked in various places. He chose to move to Saudi Arabia, and the challenges of complying with an existing agreement were part of the choice that he made.

Last, the Hearing Examiner notes that a licensee's failure to notify the Board of a change of address may seem like a small matter, given that the Board in this case was able to communicate with Dr. Furicchia by email and through his attorney. However, Dr. Furicchia's failure to give the Board his new address caused a large expenditure of funds by the Board. Because Dr. Furicchia failed to provide a current mailing address, the Board could not obtain service of the Notice by U.S. mail, and it was obliged to serve the Notice by publication, at great expense. Nonetheless, the Hearing Examiner notes that the statutory violation with regard to Dr. Furicchia's change of address did not worsen the recommended sanction in this matter. His violations of the consent agreement independently justify the proposed revocation.

**PROPOSED ORDER**

It is ORDERED that:

The certificate of James V. Furicchia, M.D., to practice allopathic medicine and surgery in the State of Ohio is hereby REVOKED.

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



Patricia A. Davidson  
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

## Memorandum

TO: BOARD MEMBERS  
FROM: Patricia A. Davidson, Chief Hearing Examiner  
RE: James V. Furicchia, M.D.   
Case No. 10-CRF-143  
DATE: May 16, 2011

Please find enclosed copies of the exhibits and the Proposed Findings and Proposed Order concerning the review of the above-referenced matter by Chief Hearing Examiner Davidson.

This matter is scheduled for consideration at the June 8, 2011, Board meeting.

The allegations contained in the Board's notice of opportunity for hearing concern the following issues: Violation of CA.

The following sections of the Disciplinary Guidelines were considered in drafting the Proposed Order in this matter. Please note, however, that the Disciplinary Guidelines do not limit any sanction that the Board may impose, and that the range of sanctions available in this matter extends from dismissal to permanent revocation.

- VII.B: VIOLATION OF CONDITIONS OF LIMITATION, OTHER THAN PRACTICE PROHIBITIONS, PLACED BY THE BOARD.
- The minimum penalty for section VII.B is: Stayed revocation; indefinite suspension, min. as appropriate, with conditions for reinstatement; subsequent probation, min. 5 years.
  - The maximum penalty for section VII.B is: Permanent revocation of certificate or permanent denial of application.
- XI.A: VIOLATING, OR ATTEMPTING TO VIOLATE, DIRECTLY OR INDIRECTLY, OR ASSISTING IN OR ABETTING VIOLATION OF, OR CONSPIRING TO VIOLATE, THE MEDICAL PRACTICES ACT OR ANY RULE PROMULGATED BY THE BOARD.
- The minimum penalty for section XI.A corresponds to the minimum penalty for the actual offense.
  - The maximum penalty for section XI.A corresponds to the maximum penalty for the actual offense.

The Proposed Order is within the penalties delineated for each of the Disciplinary Guidelines noted above.

enclosures

# 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

December 8, 2010

Case number: 10-CRF- 143

James V. Furicchia, M.D.  
Woodley Medical Arts Plaza  
3840 Woodley Road  
Toledo, Ohio 43606

Dear Doctor Furicchia:

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)(a) On or about May 9, 2007, you entered into a Step I Consent Agreement [May 2007 Step I Consent Agreement] with the Board in lieu of formal proceedings based upon your violation of Section 4731.22(B)(26), Ohio Revised Code. Pursuant to the terms of the May 2007 Step I Consent Agreement, your certificate to practice medicine and surgery in the State of Ohio was suspended for an indefinite period of time.
- (b) On or about August 9, 2007, after you fulfilled the conditions for reinstatement of your certificate to practice medicine and surgery in the State of Ohio, as established in the May 2007 Step I Consent Agreement, you entered into a Step II Consent Agreement [August 2007 Step II Consent Agreement] with the Board in lieu of formal proceedings based upon your violation of Section 4731.22(B)(26), Ohio Revised Code.

The August 2007 Step II Consent Agreement reinstated your certificate to practice medicine and surgery in the State of Ohio effective August 9, 2007, and made your certificate subject to probationary terms and conditions, which are to remain in force for a minimum of five years.

- (2) At the Board meeting on or about November 12, 2009, the Board granted your request to have your monitoring as required by the 2007 Step II Consent Agreement conducted in Saudi Arabia. In or about November 2009, you moved to Saudi Arabia. However, to date, you have failed to give written notice to the Board of any change of principal practice address or residence address within thirty days of the change.

*Mailed 12-9-10*

To protect and enhance the health and safety of the public through effective medical regulation

- (3) Paragraph 2 of the August 2007 Step II Consent Agreement requires that you “shall submit quarterly declarations under penalty of Board disciplinary action . . . stating whether there has been compliance with all the conditions of this Consent Agreement.”

Despite this provision, you have failed to submit a quarterly declaration since in or around February 2010.

- (4) Paragraph 3 of the August 2007 Step II Consent Agreement requires that you:

shall appear in person for an interview before the full Board or its designated representative. The first such appearance shall take place on the date his appearance would have been scheduled pursuant to his May 9, 2007 Step I Consent Agreement with the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or as rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

On or about March 12, 2009, the Board granted your request to reduce required personal appearances to every six months.

Despite this provision, you failed to appear in person for an interview scheduled for in or around February 2010 and rescheduled April 2010, before the designated representative.

- (5) Paragraph 6 of the August 2007 Step II Consent Agreement requires that you “shall keep a log of all controlled substances prescribed. Such log shall be submitted . . . thirty days prior to [your] personal appearance before the Board or its designated representative.”

Despite this provision, you have failed to submit a log of all controlled substances prescribed since on or about June 3, 2009.

- (6) Paragraph 10 of the August 2007 Step II Consent Agreement requires that you “shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board. [You] shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis.” Further, paragraph 10 requires that you “shall ensure that the supervising physician provides quarterly reports to the Board.”

Despite these provisions, you have failed to submit urine screening reports since on or about January 24, 2010. Further, you have failed to ensure that the

supervising physician provide a quarterly report since in or around February 2010.

- (7) Paragraph 12 of the August 2007 Step II Consent Agreement requires that your “monitoring physician shall provide the Board with reports on the monitoring of [you] and [your] medical practice, and on the review of [your] patient charts. [You] 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 [your] quarterly declaration.”

Despite this provision, you have failed to ensure that a monitoring report has been forwarded to the Board since in or around February 2010.

- (8) Paragraph 13 of the August 2007 Step II Consent Agreement requires that you “shall maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., C.A., or Caduceus, no less than three times per week.” On or about March 12, 2009, the Board granted your request to reduce this requirement to two per week. Further this paragraph requires that you “shall submit acceptable documentary evidence of continuing compliance with this program which must be received in the Board’s offices no later than the due date for [your] quarterly declarations.”

Despite this provision, you have failed to submit documentary evidence of continuing compliance with this program to the Board since in or around February 2010.

- (9) The Duration/Modification of Terms paragraph of the August 2007 Step II Consent Agreement states that you “shall not request termination of this Consent Agreement for a minimum of five years.”

Despite this provision, on or about May 10, 2010, in an electronic communication to the Board, you stated that you made the decision to terminate “this unjust, unfair and unforgiving agreement and pursue a more just, fair and forgiving path in my life. And that life path is to remain and practice in Saudi Arabia and give my talents and hardwork to them.”

Your acts, conduct, and/or omissions as alleged in paragraphs (3) through (9) above, individually and/or collectively, constitute a “[v]iolation of the conditions of limitation placed by the board upon a certificate to practice,” as that clause is used in Section 4731.22(B)(15), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in 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

James V. Furicchia, M.D.

Page 4

in Section 4731.22(B)(20), Ohio Revised Code, to wit: failure of the requirement that “Every person registered under this section shall give written notice to the board of any change of principal practice address or residence address or in the list within thirty days of the change,” as that clause is used in Section 4731.281(B)(2)(h), 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.

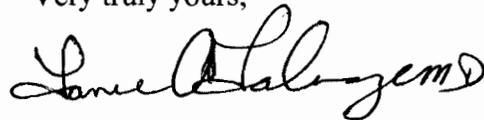
You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at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

CERTIFIED MAIL #91 7108 2133 3938 3021 1818 - RETURN RECEIPT REQUESTED

cc: Douglas Graff, Esq., 604 East Rich Street, Columbus, Ohio 43215

CERTIFIED MAIL #91 7108 2133 3938 3021 1801 - RETURN RECEIPT REQUESTED

**STEP II  
CONSENT AGREEMENT  
BETWEEN  
JAMES V. FURICCHIA, M.D.  
AND  
THE STATE MEDICAL BOARD OF OHIO**

STATE MEDICAL BOARD  
2011 JUL 27 A 10:50

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

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

**BASIS FOR ACTION**

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

- A. The Board is empowered by Section 4731.22(B)(26), Ohio Revised Code, to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for “impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice.”
- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violation of Section 4731.22(B)(26), Ohio Revised Code, as set forth in Paragraph E of the May 9, 2007 Step I Consent Agreement Between James V. Furicchia, M.D., and the State Medical Board of Ohio [May 9, 2007 Step I Consent Agreement], a copy of which is attached hereto and fully incorporated herein, as well as in Paragraphs E through H below. The Board expressly reserves the right to institute formal proceedings based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Consent Agreement.
- C. Dr. Furicchia is applying for reinstatement of his license to practice medicine and surgery in the State of Ohio, license number 35.065087, which was indefinitely suspended pursuant to terms of the above-referenced May 9, 2007 Step I Consent Agreement.

- D. Dr. Furicchia states that he is not licensed to practice medicine and surgery in any other state or jurisdiction.
- E. Dr. Furicchia admits that he entered treatment for chemical dependency at Glenbeigh Hospital [Glenbeigh], a Board-approved treatment provider in Rock Creek, Ohio, on or about April 9, 2007, and that he was discharged treatment complete following completion of a 28-day residential program on or about May 7, 2007.
- F. Dr. Furicchia states and the Board acknowledges receipt of information to support that he has remained compliant with the terms of his aftercare contract with Glenbeigh which is effective from on or about May 6, 2007, to May 6, 2009; and with the terms of his advocacy contract with the Ohio Physician Health Program [OPHP], which is effective from on or about June 19, 2007, to June 19, 2012.
- G. Dr. Furicchia states and the Board acknowledges that Harry Nguyen, M.D., Medical Director of The Woods at Parkside, a Board-approved treatment provider in Columbus, Ohio, and Jess Tarr, M.D., a Medical Director with Glenbeigh, provided written reports indicating that Dr. Furicchia's ability to practice has been assessed and that he has been found capable of practicing medicine and surgery according to acceptable and prevailing standards of care, so long as certain treatment and monitoring requirements are in place.
- H. Dr. Furicchia states and the Board acknowledges receipt of information to support that Dr. Furicchia has fulfilled the conditions for reinstatement of his certificate to practice medicine and surgery in the State of Ohio, as established in the above-referenced May 9, 2007 Step I Consent Agreement between Dr. Furicchia and the Board.

#### **AGREED CONDITIONS**

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

1. Dr. Furicchia shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.
2. Dr. Furicchia shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Consent Agreement. The first quarterly declaration must be received in the Board's offices on the date his quarterly declaration would have been due pursuant to his May 9, 2007 Step I Consent Agreement with the Board.

Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

3. Dr. Furicchia shall appear in person for an interview before the full Board or its designated representative. The first such appearance shall take place on the date his appearance would have been scheduled pursuant to his May 9, 2007 Step I Consent Agreement with the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
4. Dr. Furicchia shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed.
5. In the event Dr. Furicchia is found by the Secretary of the Board to have failed to comply with any provision of this Consent Agreement, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Consent Agreement.

## **MONITORING OF REHABILITATION AND TREATMENT**

### **Drug Associated Restrictions**

6. Dr. Furicchia shall keep a log of all controlled substances prescribed. Such log shall be submitted, in the format approved by the Board, thirty days prior to Dr. Furicchia's personal appearance before the Board or its designated representative, or as otherwise directed by the Board. Further, Dr. Furicchia shall make his patient records with regard to such prescribing available for review by an agent of the Board upon request.
7. Dr. Furicchia shall not, without prior Board approval, administer, personally furnish, or possess (except as allowed under Paragraph 8 below) any controlled substances as defined by state or federal law. In the event that the Board agrees at a future date to modify this Consent Agreement to allow Dr. Furicchia to administer or personally furnish controlled substances, Dr. Furicchia shall keep a log of all controlled substances prescribed, administered or personally furnished. Such log shall be submitted in the format approved by the Board thirty days prior to Dr. Furicchia's personal appearance before the Board or its designated representative, or as otherwise directed by the Board. Further, Dr. Furicchia shall make his patient records with regard to such prescribing, administering, or personally furnishing available for review by an agent of the Board upon request.

### **Sobriety**

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

### **Drug and Alcohol Screens/Supervising Physician**

10. Dr. Furicchia shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board. Dr. Furicchia shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis. The drug testing panel utilized must be acceptable to the Secretary of the Board.

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

Dr. Furicchia and the Board agree that the person or entity previously approved by the Board to serve as Dr. Furicchia's supervising physician pursuant to the May 9, 2007 Step I Consent Agreement is hereby approved to continue as Dr. Furicchia's designated supervising physician under this Consent Agreement, unless within thirty days of the effective date of this Consent Agreement, Dr. Furicchia submits to the Board for its prior approval the name and curriculum vitae of an alternative supervising physician to whom Dr. Furicchia shall submit the required urine specimens. In approving an individual to serve in this capacity, the Board will give preference to a physician who practices in the same locale as Dr. Furicchia. Dr. Furicchia and the supervising physician shall ensure that the urine specimens are obtained on a random basis and that the giving of the specimen is witnessed by a reliable person. In addition, the supervising physician shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

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

Dr. Furicchia shall ensure that the supervising physician provides quarterly reports to the Board, in a format acceptable to the Board, as set forth in the materials provided

by the Board to the supervising physician, verifying whether all urine screens have been conducted in compliance with this Consent Agreement, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his or her responsibilities.

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

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

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

### **Monitoring Physician**

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

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

In the event that the designated monitoring physician becomes unable or unwilling to

serve in this capacity, Dr. Furicchia must immediately so notify the Board in writing. In addition, Dr. Furicchia 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. Furicchia shall ensure that the previously designated monitoring physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

### **Rehabilitation Program**

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

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

### **Aftercare**

14. Dr. Furicchia shall maintain continued compliance with the terms of the advocacy contract entered into with the OPHP, or, if approved in advance by the Board, another physician health program, provided that, where terms of the advocacy contract conflict with terms of this Consent Agreement, the terms of this Consent Agreement shall control.
15. Dr. Furicchia shall maintain continued compliance with the terms of the aftercare contract entered into with his treatment provider, provided that, where terms of the aftercare contract conflict with terms of this Consent Agreement, the terms of this Consent Agreement shall control.

### **Releases**

16. Dr. Furicchia shall provide authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Dr. Furicchia's chemical dependency or related conditions, or for purposes of complying with this Consent Agreement, whether such treatment or evaluation occurred before or after the effective date of this Consent Agreement. The above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute. Dr. Furicchia further agrees to provide the Board written consent permitting any treatment provider from whom he obtains treatment to notify the Board in the event he fails to agree to or comply with any treatment contract or aftercare contract. Failure to

provide such consent, or revocation of such consent, shall constitute a violation of this Consent Agreement.

### **Required Reporting by Licensee**

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

### **FAILURE TO COMPLY**

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

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

### **DURATION/MODIFICATION OF TERMS**

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

### **ACKNOWLEDGMENTS/LIABILITY RELEASE**

Dr. Furicchia 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. Furicchia 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. Furicchia acknowledges that his social security number will be used if this information is so reported and agrees to provide his social security number to the Board for such purposes.

**EFFECTIVE DATE**

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

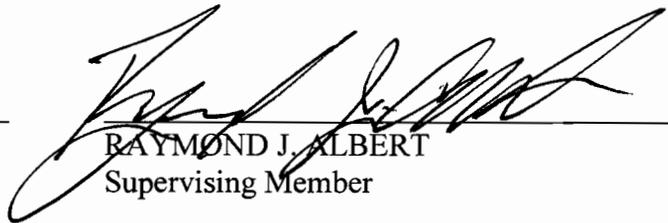
  
\_\_\_\_\_  
JAMES V. FURICCHIA, M.D.

  
\_\_\_\_\_  
LANCE A. TALMAGE, M.D.  
Secretary

7-25-07  
\_\_\_\_\_  
DATE

8-9-07  
\_\_\_\_\_  
DATE

  
\_\_\_\_\_  
ANTHONY J. CALAMUNCI  
Attorney for Dr. Furicchia

  
\_\_\_\_\_  
RAYMOND J. ALBERT  
Supervising Member

7/26/07  
\_\_\_\_\_  
DATE

8/8/07  
\_\_\_\_\_  
DATE

  
\_\_\_\_\_  
MARCIE PASTRICK  
Enforcement Attorney

July 30, 2007  
\_\_\_\_\_  
DATE

2007 JUL 27 A 10:50

STAMPED REVISIONS

STATE MEDICAL BOARD  
OF OHIO  
2007 MAY -9 A 10: 24

**STEP I  
CONSENT AGREEMENT  
BETWEEN  
JAMES V. FURICCHIA, M.D.,  
AND  
THE STATE MEDICAL BOARD OF OHIO**

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

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

**BASIS FOR ACTION**

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

- A. The Board is empowered by Section 4731.22(B)(26), Ohio Revised Code, to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for "impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice."
- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violation of Section 4731.22(B)(26), Ohio Revised Code, as set forth in Paragraph E below, and expressly reserves the right to institute formal proceedings based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Agreement.
- C. Dr. Furicchia is licensed to practice medicine and surgery in the State of Ohio, License # 35.065087.
- D. Dr. Furicchia states that he is not licensed to practice medicine and surgery in any other State or jurisdiction.
- E. Dr. Furicchia admits that on or about April 9, 2007, as ordered by the Board, he entered Glenbeigh Hospital, a Board-approved treatment provider in Rock Creek, Ohio, for the purpose of undergoing a three-day evaluation to determine whether he is in violation of

Section 4731.22(B)(26), Ohio Revised Code. Dr. Furicchia further admits that as a result of this examination at Glenbeigh Hospital, he was diagnosed with chemical dependency and determined to be impaired in his ability to practice according to acceptable and prevailing standards of care due to the habitual or excessive use or abuse of alcohol. Dr. Furicchia further admits that he remained at Glenbeigh Hospital for further treatment, to include a minimum of 28 days of residential treatment.

Dr. Furicchia further admits that the Board's evaluation order was based upon being charged with Operating a Motor Vehicle under the Influence of Alcohol or Drugs of Abuse, Possession of Drugs and Possession of Drug Paraphernalia on February 16, 2005, at approximately 3:43 a.m., in Sylvania, Ohio. Dr. Furicchia further admits that as indicated in the citation, a police officer determined from a breathalyzer test that he had 0.103 % blood alcohol content. Dr. Furicchia further admits that on or about April 15, 2005, in the Sylvania Municipal Court, in Sylvania, Ohio, he pled guilty to, and was found guilty of, the amended charge of Reckless Operation, second offense, and the court ordered the suspension of his driver's license for 90 days, and his attendance at a three-day D.U.I. program.

Dr. Furicchia further admits that this evaluation order was also based upon being charged with Operating a Vehicle Impaired, Obstructing Official Business, and violating Marked Lanes on March 7, 2006, at approximately 11:42 p.m., in Sylvania, Ohio. Dr. Furicchia further admits he pled guilty to, and was found guilty of, the amended charges of Reckless Operation and Disorderly Conduct, and the court ordered the suspension of his driver's license for six months, and his completion of a program of alcohol treatment.

Dr. Furicchia further admits that this evaluation order was also based, in part, upon his hospital privileges being suspended with the requirement to see a psychiatrist for an evaluation for substance abuse or behavioral issues. Dr. Furicchia further admits that such suspension resulted from his conduct of yelling at nurses in the operating room, and that in addition to the suspension, he was required to receive anger management treatment.

### **AGREED CONDITIONS**

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

#### **SUSPENSION OF CERTIFICATE**

1. The certificate of Dr. Furicchia to practice medicine and surgery in the State of Ohio shall be **SUSPENDED** for an indefinite period of time.

Sobriety

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

Releases; Quarterly Declarations and Appearances

4. Dr. Furicchia shall provide authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Dr. Furicchia's chemical dependency or related conditions, or for purposes of complying with this Consent Agreement, whether such treatment or evaluation occurred before or after the effective date of this Consent Agreement. The above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute. Dr. Furicchia further agrees to provide the Board written consent permitting any treatment provider from whom he obtains treatment to notify the Board in the event he fails to agree to or comply with any treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Consent Agreement.
5. Dr. Furicchia shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Consent Agreement. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which this Consent Agreement becomes effective, provided that if the effective date is on or after the sixteenth day of the month, the first quarterly declaration must be received in the Board's offices on the first day of the fourth month following. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
6. Dr. Furicchia shall appear in person for an interview before the full Board or its designated representative during the third month following the effective date of this Consent Agreement. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

Drug & Alcohol Screens; Supervising Physician

7. Dr. Furicchia shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board. Dr. Furicchia shall ensure that all screening

reports are forwarded directly to the Board on a quarterly basis. The drug testing panel utilized must be acceptable to the Secretary of the Board.

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

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

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

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

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

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

#### Rehabilitation Program

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

other specific program must receive prior Board approval.

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

#### **CONDITIONS FOR REINSTATEMENT**

10. The Board shall not consider reinstatement of Dr. Furicchia's certificate to practice medicine and surgery until all of the following conditions are met:
  - a. Dr. Furicchia shall submit an application for reinstatement, accompanied by appropriate fees, if any.
  - b. Dr. Furicchia shall demonstrate to the satisfaction of the Board that he can resume practice in compliance with acceptable and prevailing standards of care under the provisions of his certificate. Such demonstration shall include but shall not be limited to the following:
    - i. Certification from a treatment provider approved under Section 4731.25 of the Revised Code that Dr. Furicchia has successfully completed any required inpatient treatment.
    - ii. Evidence of continuing full compliance with a post-discharge aftercare contract with a treatment provider approved under Section 4731.25 of the Revised Code. Such evidence shall include, but not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with rule 4731-16-10 of the Administrative Code.
    - iii. Evidence of continuing full compliance with this Consent Agreement.
    - iv. Two written reports indicating that Dr. Furicchia's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by physicians knowledgeable in the area of addictionology and who are either affiliated with a current Board-approved treatment provider or otherwise have been approved in advance by the Board to provide an assessment of Dr. Furicchia. Prior to the assessments, Dr. Furicchia shall provide the evaluators with copies of patient records from any evaluations and/or treatment that he has received, and a copy of this Consent Agreement. The reports from the evaluators shall include any recommendations for treatment, monitoring, or supervision of Dr. Furicchia, and any conditions, restrictions, or limitations that should be imposed on Dr. Furicchia's practice. The reports shall also describe the basis for the evaluator's determinations.

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

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

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

11. In the event that Dr. Furicchia has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to application for reinstatement, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of Dr. Furicchia's fitness to resume practice.

#### **REQUIRED REPORTING BY LICENSEE**

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

with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

14. Dr. Furicchia shall provide a copy of this Consent Agreement to all persons and entities that provide Dr. Furicchia chemical dependency treatment or monitoring.

The above-described terms, conditions and limitations may be amended or terminated in writing at any time upon the agreement of both parties.

#### **FAILURE TO COMPLY**

If, in the discretion of the Secretary and Supervising Member of the Board, Dr. Furicchia 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. Furicchia 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. Furicchia 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. Furicchia acknowledges that his social security number will be used if this information is so reported and agrees to provide his social security number to the Board for such purposes.

**EFFECTIVE DATE**

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

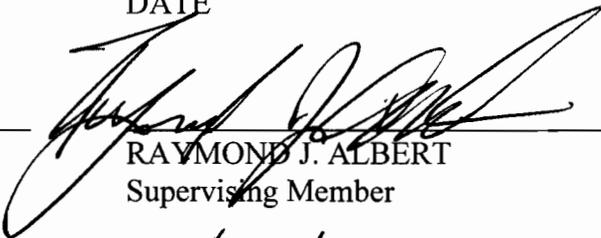
  
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JAMES V. FURICCHIA, M.D.

  
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LANCE A. TALMAGE, M.D.  
Secretary

5/8/2007  
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DATE

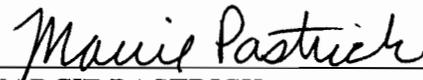
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ANTHONY J. CALAMUNCI  
Attorney for Dr. Furicchia

  
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RAYMOND J. ALBERT  
Supervising Member

5/4/07  
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5/9/07  
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MARCIE PASTRICK  
Enforcement Attorney

May 9, 2007  
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