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 11, 2011

Henry J. Taylor, III, M.D.
5021 Settlers Drive NE
Salem, OR 97305-3395

RE: Case No. 09-CRF-165

Dear Doctor Taylor:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Patricia A. Davidson, Esq., Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on May 11, 2011, 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 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.

THE STATE MEDICAL BOARD OF OHIO

Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

CERTIFIED MAIL NO. 91 7108 2133 3938 3020 3683
RETURN RECEIPT REQUESTED

Cc: Eric J. Plinke, Esq.
CERTIFIED MAIL NO. 91 7108 2133 3938 3020 3690
RETURN RECEIPT REQUESTED

Mailed 5-26-11

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Patricia A. Davidson, Esq., State Medical Board Hearing Examiner; and excerpt of the Minutes of the State Medical Board, meeting in regular session on May 11, 2011, 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 Henry J. Taylor, III, M.D., Case No. 09-CRF-165, 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 11, 2011
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF	*	
	*	CASE NO. 09-CRF-165
HENRY J. TAYLOR, III, M.D.	*	

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on May 11, 2011.

Upon the Report and Recommendation of Patricia A. Davidson, Esq., State Medical Board 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 within, 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.

Rationale for Amendment: The Order is amended to provide appropriate monitoring should Dr. Taylor return to Ohio to practice.

It is hereby ORDERED that:

A. **SUSPENSION OF CERTIFICATE**: The certificate of Henry J. Taylor, III, M.D., to practice allopathic medicine and surgery in the State of Ohio shall be SUSPENDED for an indefinite period of time, but not less than one year. This suspension shall be deemed to have commenced on August 10, 2010, the date on which Dr. Taylor entered into an Interim Agreement with the Board.

B. **INTERIM TERMS AND CONDITIONS DURING SUSPENSION**

1. **Obey the Law**: Dr. Taylor shall obey all federal, state, and local laws. In addition, Dr. Taylor shall obey all rules governing the practice of medicine and surgery in Ohio and in any state in which he is practicing medicine.

2. **Declarations of Compliance**: Dr. Taylor shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the terms and conditions of this Order. The first quarterly declaration must be received in the Board's offices

on or before the first day of the third month following the month in which this Order becomes effective. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

3. **Evidence of Compliance with the Order of the Washington Commission**: At the time he submits his declarations of compliance, Dr. Taylor shall also submit declarations under penalty of Board disciplinary action and/or criminal prosecution stating whether he has complied with all the terms, conditions, and limitations imposed by the Washington Commission in *Matter of Henry J. Taylor, III, M.D.,* Case No. M2009-1031. Moreover, Dr. Taylor shall cause to be submitted to the Board copies of any reports that he submits to the Washington Commission whenever and at the same time the Washington Commission requires such submission.

4. **Notification of Change or Termination of Other Board's Order**: Dr. Taylor shall immediately notify the Board in writing of any modification or change to any term, condition, or limitation imposed by the Washington Commission in *Matter of Henry J. Taylor, III, M.D.,* Case No. M2009-1031, including termination of suspension or probation.

5. **Absence from State of Residence**: Dr. Taylor shall obtain permission from the Board for departures or absences from the state where he resides.[1]

   Such periods of absence shall not reduce the term of suspension or probation 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 monitoring is otherwise being performed. Further, the Secretary and Supervising Member of the Board shall have discretion to waive part or all of the monitoring terms set forth in this Order for occasional periods of absence of 14 days or less.

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

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

---

[1] Note: At the time of the hearing in November 2010, Dr. Taylor stated his intention to move to Ohio from Washington within a few weeks after the hearing.

7. **Releases**. Within 30 days of the effective date of this Order, and as otherwise directed by the Board, Dr. Taylor 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 or have provided any treatment or evaluation of Dr. Taylor with regard to any psychiatric condition, whether such treatment or evaluation occurred before or after the effective date of this Order. To the extent permitted by law, the above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute. Dr. Taylor shall also provide the Board written consent permitting any psychiatrist, psychologist, counselor, or other treatment provider from whom he obtains treatment to notify the Board in the event Dr. Taylor fails to agree to or comply with any treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Order.

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

1. **Application for Reinstatement or Restoration**: Dr. Taylor shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.

2. **Compliance with Interim Conditions**: Dr. Taylor shall have maintained compliance with all the terms and conditions set forth in Paragraph B of this Order.

3. **Certification of Compliance with the 2010 Order of the Washington Commission**: At the time he submits his application for reinstatement or restoration, Dr. Taylor shall submit to the Board certification from the Washington Commission, dated no earlier than 60 days prior to Dr. Taylor's application for reinstatement or restoration, that Dr. Taylor has maintained full compliance with the 2010 Order of the Washington Commission.

4. **Psychiatric Assessment, Treatment**: No more than 120 days before submitting the application for reinstatement or restoration, Dr. Taylor shall submit to an assessment by a psychiatrist of the Board's choice, at Dr. Taylor's expense.

   Prior to the assessment, Dr. Taylor shall furnish the approved psychiatrist a copy of the Board's Order, including the Summary of the Evidence, Findings of Fact, and Conclusions of Law, and any other documentation that the Board

may deem appropriate or helpful to that psychiatrist. Dr. Taylor shall also furnish the approved psychiatrist a copy of the 2010 order of the Washington Commission.

Dr. Taylor shall obtain from the approved psychiatrist an assessment of Dr. Taylor's current psychiatric status. Upon completion of the assessment, Dr. Taylor shall cause a written report to be submitted to the Board from the approved psychiatrist. The written report shall include:

a. A detailed report of the evaluation of Dr. Taylor's current psychiatric status and condition;

b. A detailed plan of recommended treatment, if any, based upon the psychiatrist's informed assessment of Dr. Taylor's current needs;

c. A statement regarding any recommended limitations upon his practice; and

d. Any reports upon which the treatment recommendation is based, including reports of physical examination and psychological or other testing.

Should the Board-approved assessor recommend treatment, and upon approval by the Board of a treatment plan, Dr. Taylor shall undergo and continue treatment as approved. If visits to a psychiatrist, psychologist or other treatment provider are part of the approved treatment, then the rate of visits shall be as recommended by a Board-approved psychiatrist or as directed by the Board. The sessions shall be in person and may not be conducted by telephone or other electronic means. Dr. Taylor shall comply with his treatment plan, including taking medications as prescribed for any psychiatric disorder, and submitting to periodic tests of his blood and/or urine as required by the approved treatment provider or by the Board.

Dr. Taylor shall ensure that any mood-altering or psychotropic medication prescribed for him shall be prescribed by a psychiatrist approved by the Board.

Dr. Taylor shall continue in treatment until such time as the Board determines that no further treatment is necessary. Dr. Taylor shall ensure that reports from the approved treatment provider 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. Taylor's declarations of compliance. The reports shall contain information describing Dr. Taylor's current treatment plan and any changes that have been made to the treatment plan since the prior report; his compliance with the treatment plan; his mental/emotional status; his progress

in treatment; and results of any laboratory or other studies that have been conducted since the prior report.

Dr. Taylor shall ensure that his approved treating psychiatrist or other treatment provider immediately notifies the Board of Dr. Taylor's failure to comply with his treatment plan and/or any determination that Dr. Taylor is unable to practice due to his psychiatric disorder.

In the event that the approved psychiatrist or other treatment provider becomes unable or unwilling to serve in this capacity, Dr. Taylor shall immediately so notify the Board in writing and make arrangements acceptable to the Board for another treatment provider as soon as practicable. Dr. Taylor shall further ensure that the previously approved treatment provider also notifies the Board directly of his or her inability to continue to serve and the reasons therefor.

The Board, in its sole discretion, may disapprove any psychiatrist, psychologist, or other treatment provider proposed to serve as Dr. Taylor's approved treatment provider, or may withdraw its approval of any treatment provider who was previously approved to serve as Dr. Taylor's treatment provider, in the event that the Secretary and Supervising Member of the Board determine that any such treatment provider has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

5. **Professional Ethics Course(s)**: At the time he submits his application for reinstatement or restoration, Dr. Taylor shall provide acceptable documentation of successful completion of a course or courses dealing with professional ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any course(s) taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.

   In its discretion, the Board may choose whether it will accept, in full or partial fulfillment of this requirement, any course that Dr. Taylor has taken in compliance with the order of the Washington Commission.

   In addition, at the time Dr. Taylor submits the documentation of successful completion of the course(s) dealing with 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.

6. **Personal Ethics Course(s)**: At the time he submits his application for reinstatement or restoration, Dr. Taylor shall provide acceptable documentation of successful completion of a course or courses dealing with

personal ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any course(s) taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.

In its discretion, the Board may choose whether it will accept, in full or partial fulfillment of this requirement, any course that Dr. Taylor has taken in compliance with the order of the Washington Commission.

In addition, at the time Dr. Taylor submits the documentation of successful completion of the course(s) dealing with personal 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.

7. **Additional Evidence of Fitness To Resume Practice**: In the event that Dr. Taylor has not been engaged in the active practice of allopathic medicine and surgery for a period in excess of two years prior to application for reinstatement or restoration, the Board may exercise its discretion under Ohio Revised Code Section 4731.222 to require additional evidence of his fitness to resume practice.

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

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

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

   In its discretion, the Board may choose whether it will accept, in full or partial fulfillment of this requirement, any course that Dr. Taylor has taken in compliance with the order of the Washington Commission.

In addition, at the time Dr. Taylor submits the documentation of successful completion of the course(s) dealing with the prescribing of controlled substances, 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.

3. **Medical Records Course(s)**: Before the end of the first year of probation or as otherwise approved by the Board, Dr. Taylor shall provide acceptable documentation of successful completion of a course or courses on maintaining adequate and appropriate medical records. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any course(s) taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.

   In its discretion, the Board may choose whether it will accept, in full or partial fulfillment of this requirement, any course that Dr. Taylor has taken in compliance with the order of the Washington Commission.

   In addition, at the time Dr. Taylor submits the documentation of successful completion of the course(s) on maintaining adequate and appropriate medical records, 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.

4. If treatment was recommended pursuant to Section C.4 above, Dr. Taylor shall undergo and/or continue treatment as approved. If visits to a psychiatrist, psychologist or other treatment provider are part of the approved treatment, then the rate of visits shall be as recommended by a Board-approved psychiatrist or as directed by the Board. The sessions shall be in person and may not be conducted by telephone or other electronic means. Dr. Taylor shall comply with his treatment plan, including taking medications as prescribed for any psychiatric disorder, and submitting to periodic tests of his blood and/or urine as required by the approved treatment provider or by the Board.

   Dr. Taylor shall ensure that any mood-altering or psychotropic medication prescribed for him shall be prescribed by a psychiatrist approved by the Board.

   Dr. Taylor shall continue in treatment until such time as the Board determines that no further treatment is necessary. Dr. Taylor shall ensure that reports from the approved treatment provider 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. Taylor's declarations of compliance. The reports shall contain information describing Dr. Taylor's current treatment plan and any changes that have been made to the treatment plan since the prior report; his compliance with the treatment plan; his mental/emotional status; his progress in treatment; and results of any laboratory or other studies that have been conducted since the prior report.

Dr. Taylor shall ensure that his approved treating psychiatrist or other treatment provider immediately notifies the Board of Dr. Taylor's failure to comply with his treatment plan and/or any determination that Dr. Taylor is unable to practice due to his psychiatric disorder.

In the event that the approved psychiatrist or other treatment provider becomes unable or unwilling to serve in this capacity, Dr. Taylor shall immediately so notify the Board in writing and make arrangements acceptable to the Board for another treatment provider as soon as practicable. Dr. Taylor shall further ensure that the previously approved treatment provider also notifies the Board directly of his or her inability to continue to serve and the reasons therefor.

The Board, in its sole discretion, may disapprove any psychiatrist, psychologist, or other treatment provider proposed to serve as Dr. Taylor's approved treatment provider, or may withdraw its approval of any treatment provider who was previously approved to serve as Dr. Taylor's treatment provider, in the event that the Secretary and Supervising Member of the Board determine that any such treatment provider has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

5. **Evidence of Unrestricted Licensure in Washington State**: Before the probationary period is terminated, Dr. Taylor shall provide the Board with acceptable documentation evidencing his full and unrestricted licensure in the State of Washington. If the sole remaining condition for full and unrestricted licensure in Washington is that Dr. Taylor must demonstrate full and unrestricted licensure in Ohio, then this requirement may be deemed by the Board to be satisfied.

6. **Practice Plan and Monitoring Physician:** Prior to Dr. Taylor's commencement of practice in Ohio, or as otherwise determined by the Board, Dr. Taylor shall submit to the Board and receive its approval for a plan of practice in Ohio. The practice plan, unless otherwise determined by the Board, shall be limited to a supervised structured environment in which Dr. Taylor's activities will be directly supervised and overseen by a monitoring physician approved by the Board. Dr. Taylor shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

   At the time Dr. Taylor submits his practice plan, he shall also submit the name and curriculum vitae of a monitoring physician for prior written approval by the Secretary and 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. Taylor and who is engaged in the same or similar practice specialty.

   The monitoring physician shall monitor Dr. Taylor and his medical practice, and shall review Dr. Taylor'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. Taylor and his medical practice, and on the review of Dr. Taylor's patient charts. Dr. Taylor 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. Taylor's declarations of compliance.

   In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Taylor shall immediately so notify the Board in writing. In addition, Dr. Taylor shall make arrangements acceptable to the Board for another monitoring physician within 30 days after the previously designated monitoring physician becomes unable or unwilling to serve, unless otherwise determined by the Board. Dr. Taylor shall further ensure that the previously designated monitoring physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

   The Board, in its sole discretion, may disapprove any physician proposed to serve as Dr. Taylor's monitoring physician, or may withdraw its approval of any physician previously approved to serve as Dr. Taylor's monitoring physician, in the event that the Secretary and Supervising Member of the Board determine that any such monitoring physician has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

7. **Modification of Terms**: Dr. Taylor shall not request modification of the terms, conditions, or limitations of probation for at least one year after imposition of these probationary terms, conditions, and limitations.

8. **Tolling of Probationary Period While Out of Compliance**: In the event Dr. Taylor is found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Order.

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

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. Taylor shall provide a copy of this Order to all employers or entities with which he is under contract to provide healthcare services (including but not limited to third-party payors), or is receiving training, and the Chief of Staff at each hospital or healthcare center where he has privileges or appointments. Further, Dr. Taylor shall promptly provide a copy of this Order to all employers or entities with which he contracts in the future to provide healthcare services (including but not limited to third-party payors), or applies for or receives training, and the Chief of Staff at each hospital or healthcare center where he applies for or obtains privileges or appointments.

   In the event that Dr. Taylor provides any healthcare services or healthcare direction or medical oversight to any emergency medical services organization or emergency medical services provider in Ohio, within 30 days of the effective date of this Order, 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. Taylor receives from the Board written notification of the successful completion of his probation.

2. **Required Reporting to Other State Licensing Authorities**: Within 30 days of the effective date of this Order, Dr. Taylor 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 professional license or certificate. Also, Dr. Taylor shall provide a copy of this Order at the time of application to the proper licensing authority of any state or jurisdiction in which he applies for

any professional license or reinstatement/restoration of any professional license. This requirement shall continue until Dr. Taylor receives from the Board written notification of the successful completion of his probation.

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

G. **VIOLATION OF THE TERMS OF THIS ORDER**: If Dr. Taylor 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.

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

Lance A. Talmage, M.D.
Secretary

(SEAL)

May 11, 2011
Date

STATE MEDICAL BOARD
2011 MAR 17 PM 3:23

BEFORE THE STATE MEDICAL BOARD OF OHIO

In the Matter of	*	
		Case No. 09-CRF-165
Henry J. Taylor, III, M.D.,	*	
		Hearing Examiner Davidson
Respondent.	*	

REPORT AND RECOMMENDATION

Basis for Hearing

In a notice of opportunity for hearing dated December 9, 2009, the State Medical Board of Ohio [Board] notified Henry J. Taylor, III, M.D., that it intended to determine whether to take disciplinary action against his certificate to practice medicine and surgery in Ohio. The Board alleged that, in September 2009, the Medical Quality Assurance Commission of the State of Washington [Washington Commission or the Commission] issued an Ex Parte Order of Summary Suspension, suspending Dr. Taylor's license to practice in Washington pending a hearing and final order. (St. Ex. 1)

The Board charged that the summary suspension by the Washington Commission constitutes "[a]ny of the following actions taken by the agency responsible for regulating the practice of medicine and surgery * * * in another jurisdiction, for any reason other than the nonpayment of fees; the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to reinstate or renew a license; imposition of probation; or issuance of an order of censure or other reprimand," as that language is used in Ohio Revised Code Section [R.C.] 4731.22(B)(22). (St. Ex. 1)

On January 8, 2010, the Board received Dr. Taylor's request for a hearing. (St. Ex. 1)

Appearances

Mike DeWine, Attorney General, and Kyle C. Wilcox, Assistant Attorney General, for the State. Eric J. Plinke, Esq., for the Respondent.

Hearing Date: November 18, 2010.

SUMMARY OF THE EVIDENCE

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

Background

1. Henry J. Taylor, III, M.D., was born in Oregon, Ohio. After obtaining a biology degree from the University of Toledo, he took a job as a high-school teacher and coach in Ohio. Following several years of teaching, he entered the University of Toledo Medical School, from which he graduated in 1992. Dr. Taylor completed a residency in family practice at the Toledo Hospital in 1995 and then practiced five years with a group affiliated with St. Vincent Mercy Hospital in Toledo. Dr. Taylor then purchased Great Lakes Medical Practice in Oregon, Ohio, and began his own small practice called Bay Pointe Family Practice, where he practiced from 2000 to 2007. (Tr. at 33-37)

2. Dr. Taylor testified that he then developed a new practice model that would not require him to deal with so many staffing difficulties. The new practice was run in drugstores and involved the employment of nurse practitioners. "It was a medical model where it was $50 for patients to come in and be seen for whatever they needed to be seen in." His three clinics were located in stores called The Pharm, but, after six months, the Rite Aid company bought the Pharm stores, and the new owners decided to contract with a different physician group. (Tr. at 38-39)

3. Dr. Taylor testified that he had then accepted a job with Sea Mar Community Health Centers, a company in Seattle that operated more than a dozen clinics across the state. Dr. Taylor took a position with the clinic in Copalis Beach, Washington. (Tr. at 40-43, 47, 97)

4. Dr. Taylor's employment with Sea Mar ended in January 2009. He stated that in February and March 2009, he worked for the Quinault Indian Tribe in Washington, and then worked from April 2009 to October 2009 for the Siletz Tribe in Oregon. Dr. Taylor testified that the last time he practiced medicine was October 9, 2009. (Tr. at 84-85, 88)

5. Dr. Taylor has been licensed to practice allopathic medicine and surgery in Ohio since 1993, under certificate number 35.065592. He has also been licensed in Michigan and Washington. Dr. Taylor testified that he is board-certified in family medicine. Dr. Taylor also submitted his curriculum vitae, which provides additional details. (Ohio eLicense Center at *<https://license.ohio.gov/lookup/ default.asp?division=78>*, query 03/11/11; Tr. at 15, 67; Resp. Ex. C)

September 2009: Action by the Washington Commission - Prehearing Suspension

6. On September 18, 2009, the Washington Commission issued an Ex Parte Order Of Summary Suspension in the *Matter of Henry J. Taylor, III, M.D.,* Case No. M2009-1031. (St. Ex. 2) The Commission set forth findings of fact and conclusions of law in support of the summary suspension, concluding among other things that the findings establish "the existence of an immediate danger to the public health, safety, or welfare if Respondent has an unrestricted credential." Accordingly, the Commission summarily suspended Dr. Taylor's license to practice as a physician and surgeon in the state of Washington "pending further disciplinary proceedings by the Commission." (St. Ex. 2)

December 2009: Administrative Action in Ohio

7. In December 2009, the Ohio Board issued its notice of opportunity for hearing to Dr. Taylor in Case No. 09-CRF-165, based on the ex parte order of summary suspension issued by the Washington Commission in September 2009. (St. Ex. 1)

8. Following a June 2010 hearing in Washington, Dr. Taylor requested that his hearing in Ohio be postponed pending the outcome of the Washington proceedings. On August 10, 2010, Dr. Taylor entered into an Interim Agreement, agreeing not to practice medicine or surgery in Ohio until a final order is rendered in the present administrative action. (Tr. at 86-88; Resp. Ex. D)

September 2010: Final Order by the Washington Commission

9. From June 22 to 24, 2010, the Washington Commission held a hearing regarding the allegations against Dr. Taylor in Case No. M2009-1031. On September 8, 2010, the Washington Commission issued its Findings of Fact, Conclusions of Law, and Final Order in the *Matter of Henry J. Taylor, III, M.D.,* Case No. M2009-1031 [Final Order]. (Tr. at 85; Resp. Ex. B) The Washington Commission stated:

> SUMMARY OF PROCEEDINGS
>
> At the hearing, the Department presented the testimony of:
>
> 1. Henry J. Taylor, III, M.D., the Respondent;
> 2. Joy Johnson, R.N., Department of Health Care Investigator;
> 3. Deborah Thomas, HCA,[1] Medical Assistant Supervisor;
> 4. Suhail Shaikh, M.D., the Respondent's Supervisor;
> 5. Carol Ford, L.P.N.;
> 6. Steve Wilkens, Pharmacist, Target Pharmacy in Oregon (by telephone); and
> 7. Ricardo Jimenez, M.D.
>
> The Respondent presented the testimony of:
>
> 1. Henry J. Taylor, III, M.D., the Respondent; and
> 2. Patient A.
>
> The Presiding Officer admitted the following Department exhibits:
>
> Exhibit D-2: Emails sent on behalf of the Respondent by his wife to Debra Thomas, HCA.
> Exhibit D-3: Prescriptions for Patient A from Aberdeen Health Mart Pharmacy.
> Exhibit D-4: Medical Expenses (Prescription Profile) for Patient A from Ocean Shores Pharmacy.

[1] An HCA is a Health Care Assistant.

Exhibit D-5:	Prescriptions for Patient A from Ocean Shores Pharmacy.
Exhibit D-6:	Patient History Report for Patient A (prescription profile) from Rite Aid in Aberdeen, Washington.
Exhibit D-7:	Pharmacy Profile for Patient A from Safeway in Aberdeen, Washington.
Exhibit D-8:	Certification of and Pharmacy Profile for Patient A from Wal-Mart Pharmacy.
Exhibit D-9:	Pharmacy Profile prescribed for Patient A from Rite-Aid.
Exhibit D-11:	Letter of cooperation, dated March 9, 2009, sent by Health Care Investigator Joy Johnson to the Respondent's Ocean Shores address in Washington.
Exhibit D-12:	Follow-up three-day certified letter dated April 3, 2009, sent by Ms. Johnson to the Respondent's Ocean Shores, Washington address with the attached letter of cooperation dated March 9, 2009.
Exhibit D-13:	Returned three-day certified letter received on April 30, 2009.
Exhibit D-14:	Previously sent letters to the Respondent, sent certified on June 2, 2009, to the Respondent's Ohio address.
Exhibit D-15:	Email from Deborah Thomas to Dr. Ricardo Jimenez, dated January 30, 2009.
Exhibit D-16:	Certified Mail receipt signed by the Respondent, received on June 9, 2009.
Exhibit D-17:	The Respondent's Personnel Records from Sea Mar Corporation.
Exhibit D-18:	Emails between the Respondent and Audra Lutz.
Exhibit D-19:	Police Report from Clackamas County Sheriff's Office in Wilsonville, Oregon.
Exhibit D-20:	Prescription written by the Respondent in Patient B's name.
Exhibit D-21:	Patient A's application for medical license in Washington.
Exhibit D-22:	Emails between the Respondent or his wife and individuals at Sea Mar.
Exhibit D-23:	The Respondent's medical records and prescriptions regarding Patient A.
Exhibit D-24:	Statement regarding Henry Taylor from Deborah Thomas dated March 20, 2009.
Exhibit D-25:	Email from Deborah Thomas to Shuhail [*sic*] Shaikh dated December 2, 2008.
Exhibit D-26:	Deposition of Patient B.

The Presiding Officer admitted the following Respondent exhibits:

Exhibit R-1:	Emails between the Respondent and/or Patient A and individuals at Sea Mar.
Exhibit R-2:	The Respondent's medical records regarding Patient A.
Exhibit R-3:	Letters of reference regarding the Respondent.

Exhibit R-4: Drug testing results form Siletz Tribe.
Exhibit R-5: Copalis Beach Decision Document.

I. FINDINGS OF FACT

1.1 On October 6, 2009, the Respondent was served with the Ex Parte Order of Summary Action summarily suspending his license to practice as a physician and surgeon in the state of Washington based on allegations of unprofessional conduct. This Final Order resolves the allegations.

1.2 The Respondent was granted a license to practice as a physician and surgeon in the state of Washington on August 7, 2008. The Respondent is board certified in Family Medicine.

1.3 The Respondent is also licensed as a physician in Ohio. The Respondent, [a family member, Patient A], and Dr. Taylor's young daughter left Ohio so that the Respondent could accept employment as a physician with Sea Mar Community Health Center (Sea Mar) in Copalis Beach, Washington. The Respondent and his wife have family and long-established ties to Ohio. Sea Mar employed the Respondent as a physician from September 2008 until January 2009.

1.4 During the Respondent's employment at Sea Mar, the Respondent experienced difficulty working with clinic staff members. The difficulty arose from differences of opinion about how the clinic should be managed, the Respondent's unfamiliarity or opposition to existing clinic practice and protocol, and personality differences among staff members. In spite of the Respondent's difficulties with clinic staff, patients at the clinic were generally satisfied with the Respondent's treatment.

1.5 As time went on, tension between the Respondent and clinic staff increased and the Respondent's behavior and demeanor around clinic staff members became erratic. The Respondent exhibited paranoia, reporting that his phones were being tapped and that he was being spied on through a hole in the ceiling and through the computers.

1.6 During this time, the Respondent also suffered significant family stressors. His [family member] suffered from several chronic and debilitating health conditions, including major depression. [This family member] expressed homesickness and complained of the loss of her support systems in Ohio. The Respondent also had obligations and stressors involving his family back in Ohio and made multiple trips to visit.

1.7 Due to work and family stressors, the Respondent was absent from work at Sea Mar for periods of time without explanation or with vague explanations to clinic staff. During one of these absences, the Respondent wrote a series of cryptic and bizarre emails to clinic staff. The emails were authored by the Respondent but sent or forwarded to the clinic under various other names. The emails contain

references to illegal hidden cameras present in the clinic, the surveillance of clinic phones, and the monitoring of emails and faxes. In addition, the Respondent complained that portions of the clinic were left unlocked, thousands of clinic records left unsecure, and of a blood stained "cutted" [sic] area in the clinic garage. In the emails, the Respondent describes his anxiety as high, "near panick" [sic].

1.8 The significant stressors suffered by the Respondent contributed to his erratic behavior at the clinic. The type of conduct engaged in by the Respondent is also associated with the misuse of drugs. There is a lack of clear and convincing evidence that the Respondent's conduct resulted from drug misuse.

Patient A

1.9 Prior to and during his employment at Sea Mar, the Respondent provided treatment to Patient A, [a family member of the Respondent]. Patient A is a physician but is not licensed in the state of Washington. Although the Respondent treated Patient A while employed at Sea Mar, Patient A was never a patient of the clinic and was not treated by clinic staff.

1.10 Between September 2008 and February, 2009, the Respondent wrote multiple prescriptions for Methylphenidate, a stimulant, and other medications, including narcotics, for Patient A. The prescriptions were written on prescription forms from Sea Mar and filled at multiple pharmacies. One of the prescriptions written on a Sea Mar prescription form was written after the Respondent left Sea Mar's employ.

1.11 After the Respondent learned of the allegations, the Respondent produced falsified charts for Patient A purporting to document treatment at Sea Mar during the Respondent's employment. The charts contain the Respondent's writing as well as the falsified initials of clinic staff documenting treatment. The Respondent falsified and produced the charts in order to substantiate his representation that Patient A was a patient of the clinic and had been treated by clinic staff. The falsified charts were never held by Sea Mar.[2]

1.12 The Washington State Medical Quality Assurance Commission Policy/Procedure, Self-Treatment or Treatment of Immediate Family Members, states that "practitioners generally should not treat themselves or members of their immediate families." The policy provides multiple reasons for this policy approach, including: 1. The potential for professional objectivity to be compromised, 2. The potential for compromised care due to discomfort by patient

[2] The Commission finds the Respondent's testimony that Patient A was a patient of the clinic not to be credible. Clinic staff testified that Patient A's charts were not in the clinic electronic medical records system or otherwise held at the clinic pursuant to clinic procedures, and no member of the clinic staff recalls seeing the charts or providing treatment to Patient A. In summary, the testimony of clinic staff, as well as the facts and circumstances, render the Respondent's testimony not believable.

or practitioner, 3. The increased potential for treatment beyond practitioners' expertise, and 4. Tension that may be created by a negative outcome.

The policy states:

> It would not always be inappropriate to undertake self-treatment or treatment of immediate family members. In emergency situations or isolated settings where there is no other qualified practitioner available, practitioners should not hesitate to treat themselves or family members until another practitioner becomes available. In addition, while practitioners should not serve as primary or regular care provider for immediate family members, there are situations in which routine care is acceptable for short-term minor problems.

This policy reflects the standard of care for treatment of immediate family members by physicians in Washington.

1.13 Patient A was treated by the Respondent for chronic back pain, major depression, and attention deficit disorder. The conditions suffered by Patient A have the potential to become debilitating and are characterized by chronic dissonance. In fact, Patient A suffered from the conditions for an extended period of time, including prior to the Respondent's departure from Ohio in approximately September 2008 through at least May 2009.

1.14 The Respondent treated Patient A by prescribing multiple powerful medications in large doses, including narcotics. Potential side effects and/or complications associated with the medications include the possibility of serious addiction and withdrawal symptoms. The Respondent did not institute medication management procedures for addictive medications with Patient A, such as use of a pain contract, use of a single pharmacy to fill prescriptions, assessment if the patient reports of flushing medication, and pill count procedures.

1.15 The standard of care for treating immediate family members in Washington permits the treating of immediate family members in emergency situations or to provide short-term routine care. The Respondent's treatment of Patient A was not emergent, short-term, or routine.

1.16 The standard of care for treating immediate family members in Washington also permits the treating of immediate family members in isolated settings. Copalis Beach is small and has limited healthcare options, but is not geographically isolated. It is located near several towns or cities with larger population centers, such as Aberdeen, which have greater healthcare options. Despite the availability of healthcare options in neighboring cities, the Respondent did not refer or transfer care of Patient A to another physician.

1.17 Considering the Respondent's relationship with Patient A, the chronic debilitating conditions suffered by Patient A, the powerful and addictive medications prescribed, the possible side effects and complications from the medications, the lack of medication management procedures, the length of time for which the Respondent provided treatment, and the availability of other healthcare options in neighboring cities, the Respondent's treatment of Patient A, including the failure to transfer care to another physician, breached the standard of care for a physician and surgeon in the state of Washington.

1.18 Respondent's conduct in using Sea Mar prescription pads when Patient A was not a patient of Sea Mar, and attempting to cover up his actions by producing falsified patient charts for Patient A, evidences the loss of professional objectivity and judgment by the Respondent in his care of Patient A. The Respondent's conduct presented an unreasonable risk of harm to Patient A through the potential for compromised care, including the risk of addiction to narcotics, overdose, and withdrawal. Additionally, due the Patient A's serious mental health condition of major depression, there existed an unreasonable risk of harm to Patient A through self harm or to others through Patient A's actions. The risk of harm to Patient A was moderate to severe in nature.

Cooperation with Investigation

1.19 Between March and May 2009, the Health Care Investigator, Joy Johnson, sent multiple letters to the Respondent requesting a statement and other information relating to the Commission's investigation of the Respondent. Additionally, Ms. Johnson made multiple contacts with third parties in an attempt to make contact with the Respondent.

1.20 On June 2, 2009, Ms. Johnson sent, by certified mail, copies of the previously sent letters to the Respondent to an address in Ohio.

1.21 On June 9, 2009, Ms. Johnson received a signed certified mail receipt with a signature purported to be the Respondent. It is unclear whether the Respondent actually signed the certified mail receipt.

1.22 At the time the investigation was being conducted, the Respondent had moved several times and had various former addresses. The Respondent did not respond to the contacts from Ms. Johnson because he did not receive actual notice of the investigation. The Respondent's failure to respond was a result of lack of knowledge of the investigation.

Unsubstantiated Allegations

1.23 The Statement of Charges alleged that on March 19, 2009, the Respondent called in a prescription to a pharmacy in Oregon for Patient B, a former employee of Sea Mar and that Patient A, the Respondent's [family member], attempted to pick up the prescription. The pharmacist was unable to identify the Respondent as the individual who called in the prescription and identify Patient A as the individual who picked up the prescription. Patient B's credibility could not be evaluated since she did not testify at hearing. This allegation is unsubstantiated.

1.24 The Statement of Charges also alleged that coworkers saw white residue on the Respondent's desk and nose and observed that his pupils were dilated, and that the Respondent was observed by a coworker to be attempting to conceal injecting himself. The testimony regarding this allegation was not specific as to what conduct was actually observed. This allegation is not substantiated.

1.25 The Statement of Charges also alleged that a patient reported the Respondent placed her on a medication even though she did not want it, and another patient reported she had pills missing after her pills were returned to her by the Respondent. The credibility of these allegations could not be judged adequately because these patients did not testify at hearing. These allegations are not substantiated.

1.26 The Statement of Charges alleged that Respondent gave many injections to patients without following the protocol for obtaining consent at any appointment prior to the injection. The testimony regarding this allegation was not specific as to what conduct was actually observed and the applicable protocol, and therefore was not credible. This allegation is not substantiated.

Past Disciplinary Record

1.27 There is no evidence of past unprofessional conduct and/or discipline against the Respondent's license in Washington or Ohio.

II. CONCLUSIONS OF LAW

2.4 The Department proved with clear and convincing evidence that the Respondent committed unprofessional conduct as defined in RCW [Revised Code of Washington] 18.130.180(1), which states:

> The commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of the person's profession, whether the act constitutes a crime or not. * * *

2.5 An act of moral turpitude is an act of "baseness, vileness, or the depravity in private and social duties which man owes to his fellow man."

2.6 To relate to the practice of the profession under RCW 18.130.180(1) and (17), the "conduct must indicate unfitness to bear the responsibilities of, and enjoy the privileges of, the profession." Conduct may indicate unfitness to practice the profession if (1) it raises reasonable concerns that the individual may abuse the status of the profession to harm members of the public, or (2) it lowers the standing of the profession in the eyes of the public.

2.7 The Respondent used prescription pads from the clinic employing him in order to fill prescriptions, including narcotics, for his [family member], even though [the family member] was not a patient of the clinic. In other words, the Respondent used his credibility and status as a physician, and that of his employer, to perpetrate a deception for the purpose of obtaining addictive prescription medications for a family member. This type of conduct is an act of moral turpitude that both raises reasonable concerns that the individual may abuse the status of the profession to harm members of the pubic and lowers the standing of a physician in the eyes of the public.

2.8 The Department proved with clear and convincing evidence that the Respondent committed unprofessional conduct as defined in RCW 18.130.180(4), which states:

> Incompetence, negligence, or malpractice which results in injury to a patient or which creates an unreasonable risk that a patient may be harmed. The use of a nontraditional treatment by itself shall not constitute unprofessional conduct, provided that it does not result in injury to a patient or create an unreasonable risk that a patient may be harmed;

2.9 The standard of care for a physician and surgeon in the state of Washington provides that practitioners should not treat themselves or members of their immediate families except in emergency situations, isolated settings where there is no other qualified practitioner available, or as part of routine care for short-term minor problems. The Respondent's treatment of Patient A breached the standard of care for a physician and surgeon in the state of Washington and caused unreasonable risk that a patient would be harmed. *See* Findings of Fact, Paragraphs 1.9 through 1.18.

2.10 The Department failed to prove with clear and convincing evidence that the Respondent committed unprofessional conduct [by failing to cooperate in the Washington Commission's investigation].

2.11 Although the Respondent did not respond to inquiries from the Health Care Investigator, Joy Johnson, the Respondent's lack of response was due to several moves and the fact that he had various former addresses. For that reason, the allegation that the Respondent engaged in unprofessional conduct under RCW 18.130.180(8)(a) and (b) should be dismissed.

2.12 The Department proved with clear and convincing evidence that the Respondent committed unprofessional conduct as defined in RCW 18.130.180(13), which states:

> Misrepresentation or fraud in any aspect of the conduct of the business or profession;

2.13 The Respondent used prescription pads identified as being from the clinic employed by him in order to fill prescriptions for his [family member], even though she was not a patient of the clinic. This conduct constitutes misrepresentation in the conduct of his profession.

2.14 The Department failed to prove with clear and convincing evidence that the Respondent committed unprofessional conduct as defined in RCW 18.130.180(23), which states:

> Current misuse of:
>
> . . .
>
> (b) Controlled substances; or
> (c) Legend drugs;

2.15 Although the type of conduct the Respondent engaged in, such as paranoia, is associated with misuse of drugs, there is a lack of clear and convincing evidence that the Respondent's conduct resulted from drug misuse, since none of the specific factual allegations related to drug use by the Respondent were substantiated. Therefore, the allegation that the Respondent engaged in unprofessional conduct under RCW 18.130.180(3)(b) and (c) should be dismissed.

2.16 The Department failed to prove with clear and convincing evidence that the Respondent committed unprofessional conduct as defined in RCW 18.130.180(7) and WAC [Washington Administrative Code] 246-919-620(1)(b) and (3)(b), which state:

* * *

> (1) A licensee must comply with a request, under RCW 70.02.050, for health care records or documents from an investigator who is acting on behalf of the disciplining authority pursuant to RCW 18.130.050(2) * * *.

* * *

> (3) A licensee must comply with a request for information from an investigator who is acting on behalf of the commission pursuant to RCW 18.130.050(2).

WAC 246-919-620.

2.17 The Respondent did not respond to inquiries from the Health Care Investigator. However, the Respondent's lack of response was due to several moves and the fact that he had various former addresses. For that reason, the allegation that the Respondent engaged in unprofessional conduct under RCW 18.130.180(7) and WAC 246-919-620(1)(b) and (3)(b) should be dismissed.

Sanctions

2.18 In determining appropriate sanctions, public safety must be considered before the rehabilitation of the Respondent. RCW 18.130.160. The sanction rules for unprofessional conduct contained in WAC 246-16-800 through 890 apply. The Respondent's conduct falls under WAC 246-16-810, applying to a violation of the standard of care, causing a moderate to severe risk of patient harm. * * *

2.19 The aggravating factors in this case are: 1. The multiple instances of unprofessional conduct, 2. The ongoing nature of the violations, 3. The deceptive nature of the conduct, 4. The fact that the conduct involved compromised professional judgment, and 5. The false evidence provided by the Respondent at the hearing. The mitigating factors are: 1. Lack of prior discipline, and 2. The fact that the Respondent was suffering significant family stress at the time of the unprofessional conduct.

III. ORDER

3.1 The Respondent's license to practice as a physician and surgeon in the state of Washington is SUSPENDED.

Petition for Termination of the Suspension [*Terms/conditions for reinstating the license*]

3.2 In order to petition for termination of the suspension, the Respondent shall file a written petition and appear before the Commission. Prior to any petition, the Respondent shall provide satisfactory evidence to the Commission of his ability to practice competently and safely.

3.3 Evidence of the ability to practice competently and safely shall include a current (within 90 days of any petition) Washington Physicians Health Program

(WPHP) substance abuse and mental health evaluation endorsing the Respondent's ability to practice competently and safely.

If WPHP determines it is necessary for the Respondent to enter into a contract with WPHP and follow its monitoring requirements in order to ensure safe and competent practice, the Respondent shall enter a contract with WPHP.

Participation in WPHP

3.4 During the course of any contract between the Respondent and WPHP, the Respondent shall maintain satisfactory compliance with the contract until successful completion and discharge with staff approval from WPHP. The Respondent shall sign a waiver of confidentiality and release of information from WPHP to the Commission.

The Respondent shall authorize and request a representative of WPHP to prepare and submit quarterly reports to the Commission addressing the Respondent's progress in treatment, compliance with the treatment program, and ability to practice in a safe manner. If the Respondent fails to fully comply with the requirements of WPHP, all information compiled by WPHP regarding his participation therein will be made available to the Commission.

Termination of the Suspension [*Probationary Terms*]

3.5 Following any termination of the suspension by the Commission, the Respondent's license shall be immediately placed on probation for a period of 60 months subject to the following terms and conditions.

3.5.1 The Respondent shall fully comply with Paragraph 3.4 above.

3.5.2 The Respondent shall not treat himself or members of his immediate family to include himself, his spouse, or his children.

3.5.3 Within one year of termination of the suspension, the Respondent shall satisfactorily complete a total of 12 hours of continuing education classes pre-approved by the Commissions' Medical Consultant in the areas of 1. patient charting and documentation (six hours), and 2. ethics (six hours). Satisfactory completion of the classes shall be evidenced by official documentation of unconditional passage.

3.5.4 The Respondent shall appear before the Commission six months from any termination of the suspension or as soon thereafter as the Commission's schedule permits, and shall present proof that he is complying with this Order. The Respondent shall continue to make such compliance appearances every 12 months or as

frequently as the Commission otherwise requires, until the Respondent's license is fully reinstated.

3.5.5 The Respondent may submit a written request for full reinstatement of his license no sooner than 36 months from the date of the order terminating the suspension of his license.

* * *

3.9 Dismissal of Charges. The charges in this matter for the allegation of unprofessional conduct under RCW 18.130.180(7), (8)(a) and (b), and 23(b) and (c), as well as WAC 246-919-620(1)(b) and (3)(b), are DISMISSED.

CLERK'S SUMMARY

Charge	Action
RCW 18.130.180(1)	Violated
RCW 18.130.180(4)	Violated
RCW 18.130.180(7)	Dismissed
RCW 18.130.180(8)(a)	Dismissed
RCW 18.130.180(8)(b)	Dismissed
RCW 18.130.180(13)	Violated
RCW 18.130.180(23)(b)	Dismissed
RCW 18.130.180(23)(c)	Dismissed
WAC 246-919-620(1)(b)	Dismissed
WAC 246-919-620(3)(b)	Dismissed

(Resp. Ex. B)

Dr. Taylor's Testimony Regarding the Matters Set Forth in the Washington Orders

10. Dr. Taylor testified that he started work at the Sea Mar clinic on about September 25, 2008. He stated that he was the only physician at the clinic and that the next closest physician in this rural area was 45 minutes away. Dr. Taylor testified that, before he began working at the clinic, there had been only a physician assistant at that Sea Mar location. He also testified that a nurse administrator at the Sea Mar clinic in Aberdeen, Washington (about 45 minutes away by car) had been overseeing the Copalis clinic and continued to do so. He stated that this nurse administrator was "adversarial, border hostile" to him. According to Dr. Taylor, she had wanted to keep the PA who had been working there for six months when there was no physician. Dr. Taylor stated that, at their first meeting, the nurse administrator had kept him waiting for an hour before she had time to see him. (Tr. at 44-46)

11. Dr. Taylor testified that he had never before worked on an EMR system (electronic medical records) and that Sea Mar did not train him on its EMR system until the end

of October, and that the system was "new to them." In addition, Dr. Taylor stated that the EMR system was hooked up only 50% of the time. He further testified that the electricity at the clinic went out once or twice per week and that he was expected to continue seeing patients even when the power went out. Dr. Taylor testified that he had made complaints about these problems. He also commented that he was supposed to start with a small patient load but was "at 20 patients immediately." Further, Dr. Taylor complained that his family's health insurance was delayed sixty days, until November 1. (Tr. at 48-49)

12. Dr. Taylor explained that there was an employee at the clinic who served the local manager under the supervision of the nurse administrator in Aberdeen, and that the two of them had conflicts. Dr. Taylor stated that he was caught in the middle. Dr. Taylor also had conflicts with the local manager. He explained that this employee at the Copalis clinic—which had been recently bought by Sea Mar—was "used to running things her way even though she was an MA [medical assistant] who would never give me her level of certification, even though I asked millions of times what she could do and couldn't do." Dr. Taylor indicated that, when there was something the medical assistant did not want to do, she would just say that it "wasn't in her job description, and she wouldn't do it nor come in the room." Dr. Taylor explained that, in the state of Washington, there are five levels of certification for medical assistants, and he was never able to learn this MA's level of certification. He testified that there was also a licensed practical nurse in the Copalis clinic, but she was a very timid lady who did not want to make waves. (Tr. at 44, 48-49)

13. Dr. Taylor testified that clinic policies made his work difficult. For example, he said there were two reception people who were not allowed to know anything confidential about patients and were not allowed to access the EMR, but they were the only ones with whom he had contact regarding discharge of patients. These employees were not allowed to schedule a patient for a follow-up for any specific diagnosis, which was not the way he had practiced before and which he found confusing. He stated: "It has to be done the way I was used to doing it in the last three clinics I have created." Dr. Taylor felt that he had been hired to have "more of a director position" and to implement a structure at the clinic, but he met with resistance. For example, he testified that the supervisor in Aberdeen told "her" two secretaries in Copalis that they did not have to attend Dr. Taylor's meetings, and he was thus unable to develop a triage system. He stated that this administrator in Aberdeen, an LPN, was "a young girl not experienced in management" who apparently had never practiced as a "clinical nurse." Dr. Taylor felt that she had a poor attitude toward him: "The gist of it was this guy's here, for all we know he doesn't even have a medical license, and he's telling us what to do. Why should we listen to him. We've been doing it our way." (Tr. at 44, 50-51)

14. Dr. Taylor stated that he reported all these problems in emails to Sea Mar management: "I reported that in emails to Dr. Juergia and another physician that worked at Aberdeen

who was just out of residency and was a foreign resident who just had to put his time in post residency to get his loans paid off."[3] (Tr. at 51)

15. Dr. Taylor testified that another area of conflict and stress was that he left Washington every other week to watch his son play college football. He stated that Dr. Juergia had okayed these absences in advance, but the Sea Mar staff was not aware of that. He testified that, even after staff was made aware of the authorization, his absences caused conflict. (Tr. at 56-57)

16. Dr. Taylor testified that he discovered at one point, by December 2008, that two secretaries had accessed a local lawyer's chart and that two nurses had accessed the chart on a Saturday. He said that two of these employees did not have authority to access this chart at all, and that he should have been the only one logging onto the EMR system on a Saturday, but four people had logged on. Dr. Taylor testified that he reported this information to Sea Mar, and there was a big investigation. He said that the local manager was very upset about his report. Dr. Taylor asserted that she openly insulted him in the office: "In front of the patients and the staff, railed at me with every word possible known to man, 'Unlicensed, uneducated punk. Don't know what you're doing. I can't believe you came here and did this to me.'" He stated that the results of the investigation were not given to him, but about a week later, Dr. Juergia came down and gave him full control of the clinic, saying that he could run it any way he wanted to. (Tr. at 54-55, 58)

17. Dr. Taylor commented that, after he was given control, everything was fine for about a week, during which there was lower stress in the clinic, and things were relaxed during the holiday season. He testified that the trouble started about a week later when he "needed to leave all of a sudden" and the supervisor in Aberdeen would not assign a PA to cover the Copalis clinic while Dr. Taylor was gone. Dr. Taylor said that her attitude was, "All, right, you're going to cut us off, we're going to cut you off." In addition, Dr. Taylor described an episode in January 2009 when his wife had dropped him off at the clinic, after which the electricity went out and he happened to lock himself out of the clinic, and he managed to enter via a garage. He stated that he had observed numerous medical charts in an unsecured area to which a maintenance worker had access, and he felt it was a "disaster." He stated that, when his wife picked him up, he made the decision that he would not go back to the clinic. Dr. Taylor stated that he then traveled to Ohio, where his son had been in a car accident. He testified that, a week later, Dr. Juergia called him in Ohio and said, "This isn't working." Dr. Taylor stated that he had told Dr. Juergia he agreed, that it was not working, and had indicated that he would return to the office to finish several days' worth of charts to be dictated, but Dr. Juergia said, "Absolutely not" and that they would simply "drop it" and "leave it there." (Tr. at 58-59)

---

[3] Dr. Taylor was apparently referring to Suhail Shaikh, M.D., who is identified in the Washington order as Dr. Taylor's supervisor at Sea Mar.

18. Dr. Taylor's employment with Sea Mar ended in January 2009. He testified he was not aware of any allegations against him regarding substance abuse until after a job offer was rescinded based on a negative report from Sea Mar. (Tr. at 61-62, 84-85)

19. Dr. Taylor admitted that he had prescribed controlled substances for a family member. He admitted that he had violated Washington law by treating a family member in the manner that he did. He stated: "I understand that was absolutely unprofessional and wrong to have done." Dr. Taylor also described the various factors that had caused him to prescribe as he had for Patient A and discussed the Commission's finding that he had falsified a chart for Patient A, and he discussed his charting for Patient A.[4] (Tr. at 63-83, 90)

20. With respect to stressors in his life that affected his behavior during the time he worked for Sea Mar, Dr. Taylor stated that, when he and his family were driving from Ohio to Washington in their RV, it broke down in Chicago during rush hour, and they had to push it off the road. Further, they were then obliged to make the rest of the journey in a truck with a U-Haul, and then had to manage in Washington with only one car. (Tr. at 58)

21. In addition, Dr. Taylor described a "major stressor" when his wife's father became extremely ill around the time they were moving from Ohio to Washington. His wife was very close to her father. Dr. Taylor stated that, about a week after he started at Sea Mar, his father-in-law died, and his wife was deeply affected. (Tr. at 57)

22. With respect to improper emails received by the Copalis staff, Dr. Taylor indicated that he had not written or sent them. He said it was his wife's email account and that he did not use it and did not even know how to get into it. (Tr. at 55-56)

23. Dr. Taylor denied that he had falsified a chart for Patient A, his family member. He stated that the family member came in at a side door of the clinic and was seen by him "three official times" and that "a paper chart was kept" for each visit. He asserted that, two out of three times, Patient A's vital signs were taken by clinic staff and that some lab tests were also done. (Tr. at 71-72)

24. Dr. Taylor testified that he later met the physician who had left the Copalis clinic about a year earlier. He asserted that this physician reported having left because he was fed up with the way the clinic was run and was there 12 hours a day and had to do everything himself. (Tr. at 51-52)

25. Dr. Taylor testified that neither Dr. Juergia[5] nor any of the administrative physicians of Sea Mar had ever visited the Copalis clinic. (Tr. at 53)

---

[4] The testimony regarding Dr. Taylor's treatment of Patient A was transcribed separately and placed under seal to protect patient confidentiality. (Tr. at 63-64)

[5] Throughout the hearing, Dr. Taylor referred to this Sea Mar executive as "Dr. Juergia." However, toward the end of the hearing, when the Hearing Examiner asked for a spelling of that name, Dr. Taylor stated there was no Dr. Juergia at Sea Mar. He explained that Dr. Juergia was actually one of his instructors during medical school. He stated that all his references to Dr. Juergia should have been to Dr. Jimenez. (Tr. at 101)

26. Dr. Taylor submitted a number of letters from colleagues in his support, praising him for a variety of worthy characteristics. (Resp. Ex. A) The letters predate the administrative action in Washington, and Dr. Taylor explained that the letters were reference letters when he was looking for jobs before 2009.[6]

27. With respect to the required evaluation by WPHP, Dr. Taylor testified that he had contacted that program, spoken with the coordinator, and submitted samples of hair and urine. He recounted what he had been told informally about the results of his evaluation, but he stated that, at the time of the hearing in November 2010, he had not yet received any documentation of test results or any final recommendation from WPHP. He testified that he is still waiting for a+ written report from WPHP. (Tr. at 90-94)

28. When asked about his plans for the future and what he would like to do, Dr. Taylor testified:

> The only reason we're on the coast right now is to have this issue resolved. It's not my license in Washington I'm worried about. It's getting it resolved so I can continue to practice in Ohio and Michigan where I'm from. * * * The plan was to move back after two years anyway, get solid financially and move back to Ohio. I have two kids that are still here, 14 and 13, that go to school here that we come back and see on a regular basis. So it was always a temporary situation for a better, more stable job and a breather. We'd be back here already if it wasn't for the continuing situation happening in Washington that's taken this long to resolve.
>
> So the plan is to move back November 29th, even of this year if everything's over with, and at the latest early next year. My wife is due with twins the end of December. So they're either going to be born there [in Washington] and move here, or we're going to get here before they come out. Just waiting.
>
> * * *
>
> Yeah, I'm from here and I want to be back here.

(Tr. at 94-95)

29. When he was asked whether there was anything else he would like the Board members to know about the action in Washington, Dr. Taylor testified, in part:

> I think the major thing is this was a five-month period in Washington, and my record was clear before that period, my entire career and afterwards.[7]

---

[6]The letters were admitted. However, the finder of fact may consider that they were not submitted under oath or subject to cross-examination.

[7] In stating that the problems related only to a "five-month period," Dr. Taylor ignores his falsification of a chart for Patient A and his presenting that false chart to the Washington Commission during a hearing in June 2010.

> Not only clear by people that evaluated my performance before and after, but in tox screens I had immediately after leaving my position in Washington to go to my job in Oregon which was a requirement of a federal job to get.
>
> As far as the treatment of [a family member] with the types of medications I did and the situation I did, it was absolutely poor judgment. I was out of my element. I made a poor move, and looking back justified all the way along.
>
> Even in doing it, I didn't do it correctly, I treated [my family member] differently than I did other patients. And I'm very much a stickler on all these things. My practice for 12 years, a high percentage of it was musculoskeletal injuries and procedures in pain meds. So I know how to use them well and often and know how they work, and I know the dangers and successes of them. * * * I shouldn't have done it. I should have gotten [Patient A] out of the situation or gotten [Patient A] treatment.
>
> As far as the substance abuse, I've never had a history of any documented substance abuse illegally or alcohol related-wise. I've never had any encounters with the law. Those were accusations made by two people that I had adversary relationships with while working at Sea Mar not seeing it, just making comments on my dilated pupils and sniffing my nose. They've never had a basis in my life at all. * * *
>
> So I am argumentative, I do stick up for my rights and my points, and I do have a lot of confidence in my ability to treat people. * * * I thought I could turn it around. Looking back, I don't think there was any way I could turn it around. It's hard for me to admit that, but, you know, a lot of bad things happened. Some were my fault, a lot of them weren't.[8]

(Tr. at 98-101)

LEGAL ISSUES

Consideration of Matters Not Alleged in the December 2009 Notice

The notice of opportunity for hearing cites only the ex parte order of summary suspension by the Washington Commission in 2009. However, during the Board hearing, Dr. Taylor sought to admit the Final Order filed by the Commission, arguing that principles of fundamental fairness required that the Hearing Examiner and the Board be allowed to consider the Final Order in which many of the allegations against Dr. Taylor were dismissed as unsubstantiated. The Hearing Examiner agreed that, in order to present the matter fairly to the Board, it would be necessary to admit the

---

[8] In his comments about being unable to "turn it around" at the clinic and the relative responsibility for bad things that "happened," Dr. Taylor focuses on the termination of that employment and ignores that, according to the final order of the Washington Commission, Dr. Taylor himself was personally responsible for his violation of the standard of patient care, for his deceptive and fraudulent behavior in prescribing, and for prescribing controlled substances for a family member and then falsifying a patient chart for the family member. These were all actions within his control and not the fault of others.

Commission's Final Order and not to confine the Board's consideration to the prehearing allegations and charges by the Commission, many of which were later dismissed. (Tr. at 16-23)

However, the Hearing Examiner noted that the Final Order contained many very serious findings, conclusions, and sanctions against Dr. Taylor that could not be ignored if the Final Order were to be admitted. Therefore, the Hearing Examiner and parties discussed how to address the situation that the contents of the Final Order, and issue of the potential discipline under R.C. 4731.22(B) arising from the Final Order, are not set forth in the December 2009 notice. (Tr. at 22-26)

The result was that Dr. Taylor expressly waived receipt of a formal notice of opportunity for hearing with respect to the contents of the Final Order of the Washington Commission and potential discipline based on the contents of Final Order. Dr. Taylor, through counsel, agreed that he had received adequate notice and an opportunity to prepare with regard to the Commission's Final Order. When the Hearing Examiner asked whether Dr. Taylor understood and accepted that, if the Washington Final Order were admitted into the record, the Board could consider it and could impose terms and conditions based on the Final Order, the answer was "Yes." Dr. Taylor confirmed that, if this Board's order were to include disciplinary restrictions, terms, and limitations based on the Final Order, he would not object [with respect to notice and an opportunity to be heard]. (Tr. at 22-26)

Preclusive Effect of the Present Proceedings on
Future Matters the Board May Wish to Cite

The State argued that there are unresolved matters with regard to Dr. Taylor and expressed concern regarding the potential preclusive effect that could be subsequently imposed if the Hearing Examiner were to address all the matters set forth in the Final Order, such as the issue of substance abuse. (Tr. at 19-22)

Dr. Taylor agreed that he had been ordered to an evaluation in Washington regarding substance abuse and that the final results had not been reported yet. However, he emphasized that there had been no finding of drug abuse or impairment by the Commission. Dr. Taylor stated that, if the Ohio Board wants him to comply with the Washington order or has some other order "along those lines" of the Washington order, Dr. Taylor does not object. He would be willing to be evaluated by a Board-approved evaluator. (Tr. at 19-20, 25-27, 112-113, 116-117) Dr. Taylor advised that he is committed to cooperating with the process in Washington, just as he "will cooperate with whatever order this Board comes up with." (Tr. at 9-10)

The State reiterated that it did not want to be prohibited from any potential further investigation with respect to the unresolved matters. The Hearing Examiner advised that no prospective ruling could be made on the preclusion issue, but set forth the general rule of law that any issue that was not fully and fairly litigated in the present proceedings would not be subject to preclusive effect in a subsequent action. (Tr. at 27-28)

CREDIBILITY

Where Dr. Taylor's testimony was contrary to the statements, findings, and conclusions in the Commission's final order, the Hearing Examiner found that Dr. Taylor's testimony was not credible. During the hearing, he tended to minimize his misconduct and maximize the responsibility of others. The witnesses who testified in Washington regarding Dr. Taylor's misconduct did not testify at the Ohio hearing, but the Commission's final order is reliable, thorough and persuasive.

This finding regarding Dr. Taylor's lack of full credibility is based on his demeanor and tone during the hearing, as well as a consideration of the evidence as a whole, including the Commission's Final Order. Indeed, one of the Hearing Examiner's primary concerns is the Commission's unequivocal statement that Dr. Taylor falsified a chart for Patient A and then presented that chart to the Commission as evidence during its hearing. Further, the Commission stated that Dr. Taylor's conduct when under stress was erratic, that he wrote a series of cryptic and bizarre emails to clinic staff, and that he behaved in a paranoid manner. Accordingly, the Hearing Examiner relies heavily on the Commission's order and discounts much of Dr. Taylor's self-serving testimony.

FINDINGS OF FACT

1. On September 18, 2009, the State of Washington Quality Assurance Commission [Washington Commission] issued an Ex Parte Order of Summary Suspension in the *Matter of Henry J. Taylor, III, M.D.*, Case No. M2009-1039, suspending Dr. Taylor's license to practice medicine and surgery in the State of Washington, pending further proceedings. The Washington Commission set forth a number of allegations and charges against Dr. Taylor.

2. For several days in June 2010, the Washington Commission held an evidentiary hearing, during which Dr. Taylor appeared and presented his case in opposition to the allegations and charges against him. In September 2010, the Washington Commission issued its final order in the *Matter of Henry J. Taylor, III, M.D.*, Case No. M2009-1039 [Final Order]. In this Final Order, the Washington Commission dismissed seven of the charges against Dr. Taylor.

3. Nonetheless, the Washington Commission in its Final Order made findings of fact that included the following:

    - Dr. Taylor's "behavior and demeanor around clinic staff members became erratic." Dr. Taylor "exhibited paranoia, reporting that his phones were being tapped and that he was being spied on through a hole in the ceiling and through the computers."

    - Due to stresses at work and with his family, Dr. Taylor "was absent from work at Sea Mar for periods of time without explanation or with vague explanations to clinic staff." During one of these absences, Dr. Taylor "wrote a series of cryptic and bizarre emails to clinic staff." These emails "contain references to illegal hidden cameras present in the clinic, the surveillance of clinic phones, and the monitoring of emails and faxes." In addition, Dr. Taylor stated in his emails that portions of the clinic were left unlocked, thousands of records left unsecure, and that there was a bloodstained "cutted area" [sic] in

the clinic garage. In the emails, the Dr. Taylor also described his anxiety as high, "near panick" [sic].

- Dr. Taylor provided medical treatment to a member of his family, identified as Patient A. Between September 2008 and February 2009, Dr. Taylor "wrote multiple prescriptions for Methylphenidate, a stimulant, and other medications, including narcotics, for Patient A."

  "The prescriptions were written on prescription forms from Sea Mar and filled at multiple pharmacies. One of the prescriptions written on a Sea Mar prescription form was written after the Respondent left Sea Mar's employ."

- After Dr. Taylor learned of the charges that had been made by the Washington Commission in its summary-suspension order, he "falsified charts for Patient A purporting to document treatment at Sea Mar during the Respondent's employment." The false charts contain Dr. Taylor's writing as well as "the falsified initials of clinic staff documenting treatment."

- Dr. Taylor produced these falsified charts at the Washington Commission hearing "in order to substantiate his representation that Patient A was a patient of the clinic and had been treated by clinic staff." However, the Washington Commission found that the falsified charts were never patient charts held by Sea Mar.

- The Washington Commission found that Dr. Taylor had testified at the hearing that Patient A was a patient of the clinic, but his testimony was found "not to be credible." The Washington Commission found that Dr. Taylor's testimony was "not believable."

- Dr. Taylor treated Patient A "for chronic back pain, major depression, and attention deficit disorder," which are conditions that "have the potential to become debilitating and are characterized by chronic dissonance. In fact, Patient A suffered from the conditions for an extended period of time, including prior to the Respondent's departure from Ohio in approximately September 2008 through at least May 2009."

- Dr. Taylor treated Patient A "by prescribing multiple powerful medications in large doses, including narcotics. Potential side effects and/or complications associated with the medications include the possibility of serious addiction and withdrawal symptoms."

- Dr. Taylor "did not institute medication management procedures for addictive medications with Patient A, such as use of a pain contract, use of a single pharmacy to fill prescriptions, assessment if the patient reports of flushing medication, and pill count procedures."

- Dr. Taylor's treatment of Patient A "breached the standard of care for a physician and surgeon in the state of Washington."

This finding was based on the Respondent's relationship with Patient A, the chronic debilitating conditions suffered by the patient, the powerful and addictive medications Dr. Taylor prescribed, the possible side effects and complications from the medications, the lack of medication-management procedures, the length of time for which the Respondent provided treatment, and the failure to transfer care to another physician despite the availability of other healthcare options in neighboring cities.

Dr. Taylor showed a "loss of professional objectivity and judgment" in his care of Patient A. This was demonstrated by his "attempting to cover up his actions by producing falsified patient charts for Patient A" and by his use of Sea Mar prescription pads when Patient A was not a patient of Sea Mar.

- Dr. Taylor's conduct "presented an unreasonable risk of harm to Patient A through the potential for compromised care, including the risk of addiction to narcotics, overdose, and withdrawal."

- In addition, due to Patient A's "serious mental health condition of major depression, there existed an unreasonable risk of harm to Patient A through self harm or to others through Patient A's actions." The "risk of harm to Patient A was moderate to severe in nature."

4. However, the Commission also included the following in its findings of fact in the Final Order:

   - During the relevant period of time, Dr. Taylor "suffered significant family stressors. His [family member] suffered from several chronic and debilitating health conditions * * *. She expressed homesickness and complained of the loss of her support systems in Ohio. The Respondent also had obligations and stressors involving his family back in Ohio and made multiple trips to visit."

   - "The significant stressors suffered by the Respondent contributed to his erratic behavior at the clinic."

   - "The type of conduct engaged in by the Respondent is also associated with the misuse of drugs," but there is a lack of "clear and convincing evidence that the Respondent's conduct resulted from drug misuse."

   - In spite of the Respondent's difficulties with clinic staff, patients at the clinic were generally satisfied with the Respondent's treatment.

5. In its Final Order, the Washington Commission set forth conclusions of law including the following:

   - Dr. Taylor "used his credibility and status as a physician, and that of his employer, to perpetrate a deception for the purpose of obtaining addictive prescription medications for a family member. This type of conduct is an act of moral turpitude that both raises

reasonable concerns that the individual may abuse the status of the profession to harm members of the pubic and lowers the standing of a physician in the eyes of the public."

Accordingly, the Commission concluded that Dr. Taylor had committed unprofessional conduct relating to the practice of medicine as defined in RCW [Revised Code of Washington] 18.130.180(1) and (17), consisting of the "commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of the person's profession, whether the act constitutes a crime or not."

- Dr. Taylor's treatment of Patient A "breached the standard of care for a physician and surgeon in the state of Washington and caused unreasonable risk that a patient would be harmed."

  Accordingly, pursuant to RCW 18.130.180(4), the Commission concluded that Dr. Taylor engaged in "unprofessional conduct" consisting of "Incompetence, negligence, or malpractice which results in injury to a patient or which creates an unreasonable risk that a patient may be harmed."

- In addition, Dr. Taylor committed unprofessional conduct as defined in RCW 18.130.180(13), consisting of "Misrepresentation or fraud in any aspect of the conduct of the business or profession."

  Dr. Taylor committed "misrepresentation in the conduct of his profession" by using prescription pads identified as being from the Sea Mar clinic that employed him in order to fill prescriptions for a family member who was not a patient of the clinic.

5. In its Final Order, the Washington Commission identified aggravating factors: the multiple instances of unprofessional conduct, the ongoing nature of the violations, the deceptive nature of the conduct, the fact that the conduct involved compromised professional judgment, and the false evidence provided by the Respondent at the hearing. In addition, the Commission identified mitigating factors: the lack of prior discipline, and the fact that the Respondent was suffering significant family stress at the time of the unprofessional conduct.

6. In its Final Order, the Washington Commission imposed sanctions, terms and conditions including the following:

   - Suspension for an indefinite length of time.

   - Terms and conditions for ending the suspension, including the submission of "satisfactory evidence" of Dr. Taylor's "ability to practice competently and safely." Further, the demonstration of ability to practice competently and safely must include the following:

     (a) a substance-abuse and mental-health evaluation by an agency selected by the Washington Commission (the Washington Physicians Health Program) with regard to Dr. Taylor's "ability to practice competently and safely"; and,

(b) if the WPHP determines it is necessary for Dr. Taylor to enter a contract with "monitoring requirements in order to ensure safe and competent practice," then Dr. Taylor must
   (i) enter into a contract for such monitoring;
   (ii) maintain "satisfactory compliance with the contract" until successful completion and discharge with approval; and
   (iii) ask WPHP to submit quarterly reports addressing his progress in treatment, compliance with the treatment program, and ability to practice in a safe manner.

- Probation for 60 months subject to terms and conditions including the following:

  (a) Within one year of termination of the suspension, Dr. Taylor must satisfactorily complete 12 hours of approved continuing education in the areas of patient charting and documentation (six hours) and ethics (six hours).

  (b) Dr. Taylor must appear before the Commission six months after the start of his probation and shall present proof that he is complying with the Final Order. He must thereafter make compliance appearances every 12 months or as frequently as the Commission otherwise requires, until his license is fully reinstated.

CONCLUSIONS OF LAW

1. The September 2009 order of the Washington Commission, as described above in Finding of Fact 1, constitutes "[a]ny of the following actions taken by the agency responsible for regulating the practice of medicine and surgery * * * in another jurisdiction, for any reason other than the nonpayment of fees; the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to reinstate or renew a license; imposition of probation; or issuance of an order of censure or other reprimand," as that language is used in R.C. 4731.22(B)(22).

2. The September 2010 Final Order of the Washington Commission, as set forth above in Findings of Fact 2 through 6, constitutes "[a]ny of the following actions taken by the agency responsible for regulating the practice of medicine and surgery * * * in another jurisdiction, for any reason other than the nonpayment of fees; the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to reinstate or renew a license; imposition of probation; or issuance of an order of censure or other reprimand," as that language is used in R.C. 4731.22(B)(22).

RATIONALE FOR PROPOSED ORDER

The prehearing, ex parte order by the Washington Commission provided legal justification for the Board's issuance of the 2009 notice of opportunity for hearing. However, given the fact that the Commission subsequently held a hearing and issued a Final Order in 2010, the Hearing

Examiner concludes that no further action should be taken with respect to the 2009 order by the Commission, and the Hearing Examiner has based none of the proposed discipline on the first Conclusion of Law above.

With respect to the Final Order, it is true that a number of significant charges against Dr. Taylor were dismissed. Nonetheless, the fact remains that the Washington Commission ultimately found that Dr. Taylor engaged in serious misconduct as a physician:

1. He "used his credibility and status as a physician, and that of his employer, to perpetrate a deception for the purpose of obtaining addictive prescription medications for a family member," which constitutes an act of moral turpitude.
2. He breached the standard of care and caused unreasonable risk of harm to a patient.
3. He engaged in "misrepresentation or fraud" in the practice of medicine.

Further, a factor considered by the Washington Commission—that Dr. Taylor created false evidence to present to the Commission, in that he falsified Patient A's medical chart—is viewed as a serious factor by the Hearing Examiner in considering the recommended sanction.

Although a permanent revocation of licensure would be warranted for the conduct at issue, the Hearing Examiner recommends against it. The Hearing Examiner accepts that Dr. Taylor was experiencing significant stress. Further, there have been cases involving prescribing controlled substances for a family member in which the Board has allowed the physician to retain his or her license subject to a suspension and an array of terms and conditions for reinstatement of the license, followed by a probationary period.

The proposed order replicates the Washington sanctions for the most part. The Hearing Examiner recommends an indefinite suspension for a minimum of one year, with terms and conditions for reinstatement of the license, including demonstration of fitness to resume practice. It is recommended that the suspension be applied retroactively, in that the suspension should be deemed to have commenced on the date that Dr. Taylor signed the Interim Agreement in August 2010, in which he voluntarily agreed not to practice in Ohio until this matter was resolved.[9] Further, a minimum probationary period of five years is recommended.

In addition, the Hearing Examiner, like the Washington Commission, concludes that a mental-health evaluation is necessary to protect the public adequately. The Commission stated that, "based upon the aggravating and mitigating factors, particularly the deceptive nature of the conduct, and the lack of professional judgment exhibited by the Respondent, the Respondent's license should be suspended until the Respondent's professional competence and safe practice can be evaluated." (Paragraph 2.20) Further, the Commission found that Dr. Taylor had displayed erratic behavior and paranoid behavior when under stress, which cannot be ignored. The Commission

[9] With regard to commencing the suspension retroactively on the date of the Interim Agreement, the Hearing Examiner notes that such agreements are a useful tool to guard against risk to the public in cases where the allegations are very serious but no prehearing suspension has been ordered. The Hearing Examiner believes that declining to include the agreed period of prohibited practice as part of the suspension period could tend to make these agreements unduly disadvantageous to respondents.

made specific findings regarding Dr. Taylor's conduct that raise serious questions about his mental status. Thus, the proposed order requires, for reinstatement of the license, that Dr. Taylor must submit to a mental-health evaluation.

The Proposed Order does not require that Dr. Taylor must submit to an evaluation with regard to impairment under R.C. 4731.22(B)(26). The reason is that the issue of possible impairment related to substance use/abuse was not fully addressed during the present hearing. For example, the Hearing Examiner did not have the report regarding the substance-abuse evaluation to be performed by the Washington Physicians Health Program, nor any test results from the toxicology screens that were mentioned during the hearing. In addition, although several of the exhibits considered by the Washington Commission may have been related to substance use, those documents were not available for consideration by the Hearing Examiner. Moreover, the Washington Commission did not make specific findings that Dr. Taylor had in fact committed any substance abuse, or that he had not engaged in such conduct. Thus, the Hearing Examiner finds that the issue of impairment related to drug use is not an issue that has been placed before the Board in the present matter. The Hearing Examiner makes no finding or conclusion regarding the propriety or impropriety of a Board-ordered examination pursuant to R.C. 4731.22(B)(26) and the rules promulgated thereunder.

Last, the Proposed Order requires compliance with the Washington Final Order as well as education courses regarding personal ethics, professional ethics, prescribing controlled substances, and medical recordkeeping. Two of these are required to be completed prior to reinstatement, while two are required to be completed during the first year of probation. The Board may choose to accept some, all, or none of the courses that Dr. Taylor may already have completed in compliance with the Washington Commission's order.

PROPOSED ORDER

It is hereby ORDERED that:

A. **SUSPENSION OF CERTIFICATE**: The certificate of Henry J. Taylor, III, M.D., to practice allopathic medicine and surgery in the State of Ohio shall be SUSPENDED for an indefinite period of time, but not less than one year. This suspension shall be deemed to have commenced on August 10, 2010, the date on which Dr. Taylor entered into an Interim Agreement with the Board.

B. **INTERIM TERMS AND CONDITIONS DURING SUSPENSION**

1. **Obey the Law**: Dr. Taylor shall obey all federal, state, and local laws. In addition, Dr. Taylor shall obey all rules governing the practice of medicine and surgery in Ohio and in any state in which he is practicing medicine.

2. **Declarations of Compliance**: Dr. Taylor shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there

has been compliance with all the terms and conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which this Order becomes effective. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

3. **Evidence of Compliance with the Order of the Washington Commission**: At the time he submits his declarations of compliance, Dr. Taylor shall also submit declarations under penalty of Board disciplinary action and/or criminal prosecution stating whether he has complied with all the terms, conditions, and limitations imposed by the Washington Commission in *Matter of Henry J. Taylor, III, M.D.*, Case No. M2009-1031. Moreover, Dr. Taylor shall cause to be submitted to the Board copies of any reports that he submits to the Washington Commission whenever and at the same time the Washington Commission requires such submission.

4. **Notification of Change or Termination of Other Board's Order**: Dr. Taylor shall immediately notify the Board in writing of any modification or change to any term, condition, or limitation imposed by the Washington Commission in *Matter of Henry J. Taylor, III, M.D.*, Case No. M2009-1031, including termination of suspension or probation.

5. **Absence from State of Residence**: Dr. Taylor shall obtain permission from the Board for departures or absences from the state where he resides.[10]

   Such periods of absence shall not reduce the term of suspension or probation 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 monitoring is otherwise being performed. Further, the Secretary and Supervising Member of the Board shall have discretion to waive part or all of the monitoring terms set forth in this Order for occasional periods of absence of 14 days or less.

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

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

---

[10] Note: At the time of the hearing in November 2010, Dr. Taylor stated his intention to move to Ohio from Washington within a few weeks after the hearing.

7. **Releases**. Within 30 days of the effective date of this Order, and as otherwise directed by the Board, Dr. Taylor 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 or have provided any treatment or evaluation of Dr. Taylor with regard to any psychiatric condition, whether such treatment or evaluation occurred before or after the effective date of this Order. To the extent permitted by law, the above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute. Dr. Taylor shall also provide the Board written consent permitting any psychiatrist, psychologist, counselor, or other treatment provider from whom he obtains treatment to notify the Board in the event Dr. Taylor fails to agree to or comply with any treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Order.

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

1. **Application for Reinstatement or Restoration**: Dr. Taylor shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.

2. **Compliance with Interim Conditions**: Dr. Taylor shall have maintained compliance with all the terms and conditions set forth in Paragraph B of this Order.

3. **Certification of Compliance with the 2010 Order of the Washington Commission**: At the time he submits his application for reinstatement or restoration, Dr. Taylor shall submit to the Board certification from the Washington Commission, dated no earlier than 60 days prior to Dr. Taylor's application for reinstatement or restoration, that Dr. Taylor has maintained full compliance with the 2010 Order of the Washington Commission.

4. **Psychiatric Assessment, Treatment**: No more than 120 days before submitting the application for reinstatement or restoration, Dr. Taylor shall submit to an assessment by a psychiatrist of the Board's choice, at Dr. Taylor's expense.

   Prior to the assessment, Dr. Taylor shall furnish the approved psychiatrist a copy of the Board's Order, including the Summary of the Evidence, Findings of Fact, and Conclusions of Law, and any other documentation that the Board may deem appropriate or helpful to that psychiatrist. Dr. Taylor shall also furnish the approved psychiatrist a copy of the 2010 order of the Washington Commission.

   Dr. Taylor shall obtain from the approved psychiatrist an assessment of Dr. Taylor's current psychiatric status. Upon completion of the assessment, Dr. Taylor shall cause

a written report to be submitted to the Board from the approved psychiatrist. The written report shall include:

a. A detailed report of the evaluation of Dr. Taylor's current psychiatric status and condition;

b. A detailed plan of recommended treatment, if any, based upon the psychiatrist's informed assessment of Dr. Taylor's current needs;

c. A statement regarding any recommended limitations upon his practice; and

d. Any reports upon which the treatment recommendation is based, including reports of physical examination and psychological or other testing.

Should the Board-approved assessor recommend treatment, and upon approval by the Board of a treatment plan, Dr. Taylor shall undergo and continue treatment as approved. If visits to a psychiatrist, psychologist or other treatment provider are part of the approved treatment, then the rate of visits shall be as recommended by a Board-approved psychiatrist or as directed by the Board. The sessions shall be in person and may not be conducted by telephone or other electronic means. Dr. Taylor shall comply with his treatment plan, including taking medications as prescribed for any psychiatric disorder, and submitting to periodic tests of his blood and/or urine as required by the approved treatment provider or by the Board.

Dr. Taylor shall ensure that any mood-altering or psychotropic medication prescribed for him shall be prescribed by a psychiatrist approved by the Board.

Dr. Taylor shall continue in treatment until such time as the Board determines that no further treatment is necessary. Dr. Taylor shall ensure that reports from the approved treatment provider 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. Taylor's declarations of compliance. The reports shall contain information describing Dr. Taylor's current treatment plan and any changes that have been made to the treatment plan since the prior report; his compliance with the treatment plan; his mental/emotional status; his progress in treatment; and results of any laboratory or other studies that have been conducted since the prior report.

Dr. Taylor shall ensure that his approved treating psychiatrist or other treatment provider immediately notifies the Board of Dr. Taylor's failure to comply with his treatment plan and/or any determination that Dr. Taylor is unable to practice due to his psychiatric disorder.

In the event that the approved psychiatrist or other treatment provider becomes unable or unwilling to serve in this capacity, Dr. Taylor shall immediately so notify the Board in writing and make arrangements acceptable to the Board for another treatment

provider as soon as practicable. Dr. Taylor shall further ensure that the previously approved treatment provider also notifies the Board directly of his or her inability to continue to serve and the reasons therefor.

The Board, in its sole discretion, may disapprove any psychiatrist, psychologist, or other treatment provider proposed to serve as Dr. Taylor's approved treatment provider, or may withdraw its approval of any treatment provider who was previously approved to serve as Dr. Taylor's treatment provider, in the event that the Secretary and Supervising Member of the Board determine that any such treatment provider has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

5. **Professional Ethics Course(s)**: At the time he submits his application for reinstatement or restoration, Dr. Taylor shall provide acceptable documentation of successful completion of a course or courses dealing with professional ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any course(s) taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.

   In its discretion, the Board may choose whether it will accept, in full or partial fulfillment of this requirement, any course that Dr. Taylor has taken in compliance with the order of the Washington Commission.

   In addition, at the time Dr. Taylor submits the documentation of successful completion of the course(s) dealing with 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.

6. **Personal Ethics Course(s)**: At the time he submits his application for reinstatement or restoration, Dr. Taylor shall provide acceptable documentation of successful completion of a course or courses dealing with personal ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any course(s) taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.

   In its discretion, the Board may choose whether it will accept, in full or partial fulfillment of this requirement, any course that Dr. Taylor has taken in compliance with the order of the Washington Commission.

In addition, at the time Dr. Taylor submits the documentation of successful completion of the course(s) dealing with personal 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.

6. **Additional Evidence of Fitness To Resume Practice**: In the event that Dr. Taylor has not been engaged in the active practice of allopathic medicine and surgery for a period in excess of two years prior to application for reinstatement or restoration, the Board may exercise its discretion under Ohio Revised Code Section 4731.222 to require additional evidence of his fitness to resume practice.

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

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

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

   In its discretion, the Board may choose whether it will accept, in full or partial fulfillment of this requirement, any course that Dr. Taylor has taken in compliance with the order of the Washington Commission.

   In addition, at the time Dr. Taylor submits the documentation of successful completion of the course(s) dealing with the prescribing of controlled substances, 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.

3. **Medical Records Course(s)**: Before the end of the first year of probation or as otherwise approved by the Board, Dr. Taylor shall provide acceptable documentation of successful completion of a course or courses on maintaining adequate and appropriate medical records. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any course(s) taken in compliance with this provision shall be in addition to the

Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.

In its discretion, the Board may choose whether it will accept, in full or partial fulfillment of this requirement, any course that Dr. Taylor has taken in compliance with the order of the Washington Commission.

In addition, at the time Dr. Taylor submits the documentation of successful completion of the course(s) on maintaining adequate and appropriate medical records, 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.

4. If treatment was recommended pursuant to Section C.4 above, Dr. Taylor shall undergo and/or continue treatment as approved. If visits to a psychiatrist, psychologist or other treatment provider are part of the approved treatment, then the rate of visits shall be as recommended by a Board-approved psychiatrist or as directed by the Board. The sessions shall be in person and may not be conducted by telephone or other electronic means. Dr. Taylor shall comply with his treatment plan, including taking medications as prescribed for any psychiatric disorder, and submitting to periodic tests of his blood and/or urine as required by the approved treatment provider or by the Board.

   Dr. Taylor shall ensure that any mood-altering or psychotropic medication prescribed for him shall be prescribed by a psychiatrist approved by the Board.

   Dr. Taylor shall continue in treatment until such time as the Board determines that no further treatment is necessary. Dr. Taylor shall ensure that reports from the approved treatment provider 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. Taylor's declarations of compliance. The reports shall contain information describing Dr. Taylor's current treatment plan and any changes that have been made to the treatment plan since the prior report; his compliance with the treatment plan; his mental/emotional status; his progress in treatment; and results of any laboratory or other studies that have been conducted since the prior report.

   Dr. Taylor shall ensure that his approved treating psychiatrist or other treatment provider immediately notifies the Board of Dr. Taylor's failure to comply with his treatment plan and/or any determination that Dr. Taylor is unable to practice due to his psychiatric disorder.

   In the event that the approved psychiatrist or other treatment provider becomes unable or unwilling to serve in this capacity, Dr. Taylor shall immediately so notify the Board in writing and make arrangements acceptable to the Board for another treatment provider as soon as practicable. Dr. Taylor shall further ensure that the previously

approved treatment provider also notifies the Board directly of his or her inability to continue to serve and the reasons therefor.

The Board, in its sole discretion, may disapprove any psychiatrist, psychologist, or other treatment provider proposed to serve as Dr. Taylor's approved treatment provider, or may withdraw its approval of any treatment provider who was previously approved to serve as Dr. Taylor's treatment provider, in the event that the Secretary and Supervising Member of the Board determine that any such treatment provider has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

5. **Evidence of Unrestricted Licensure in Washington State**: Before the probationary period is terminated, Dr. Taylor shall provide the Board with acceptable documentation evidencing his full and unrestricted licensure in the State of Washington. If the sole remaining condition for full and unrestricted licensure in Washington is that Dr. Taylor must demonstrate full and unrestricted licensure in Ohio, then this requirement may be deemed by the Board to be satisfied.

6. **Modification of Terms**: Dr. Taylor shall not request modification of the terms, conditions, or limitations of probation for at least one year after imposition of these probationary terms, conditions, and limitations.

7. **Tolling of Probationary Period While Out of Compliance**: In the event Dr. Taylor is found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Order.

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

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. Taylor shall provide a copy of this Order to all employers or entities with which he is under contract to provide healthcare services (including but not limited to third-party payors), or is receiving training, and the Chief of Staff at each hospital or healthcare center where he has privileges or appointments. Further, Dr. Taylor shall promptly provide a copy of this Order to all employers or entities with which he contracts in the future to provide healthcare services (including but not limited to third-party payors), or applies for or receives training, and the Chief of Staff at each hospital or healthcare center where he applies for or obtains privileges or appointments.

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

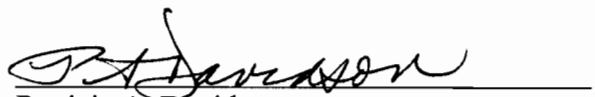
This requirement shall continue until Dr. Taylor receives from the Board written notification of the successful completion of his probation.

2. **Required Reporting to Other State Licensing Authorities**: Within 30 days of the effective date of this Order, Dr. Taylor 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 professional license or certificate. Also, Dr. Taylor shall provide a copy of this Order at the time of application to the proper licensing authority of any state or jurisdiction in which he applies for any professional license or reinstatement/restoration of any professional license. This requirement shall continue until Dr. Taylor receives from the Board written notification of the successful completion of his probation.

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

G. **VIOLATION OF THE TERMS OF THIS ORDER**: If Dr. Taylor 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.

EFFECTIVE DATE OF ORDER: 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

EXCERPT FROM THE DRAFT MINUTES OF MAY 11, 2011

REPORTS AND RECOMMENDATIONS AND PROPOSED FINDINGS AND PROPOSED ORDERS

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

Dr. Suppan asked whether each member of the Board had received, read and considered the hearing records; the Findings of Fact, Conclusions of Law, Proposed Orders, and any objections filed in the matters of: Emmett G. Cooper, M.D.; Janet Elizabeth Despot, M.D.; Surjit Singh Dinsa, M.D.; Brian Francis Lane, M.D.; Arthur Harry Smith, M.D.; Larry Lee Smith, D.O.; and Henry J. Taylor, III, M.D. A roll call was taken:

ROLL CALL:	Dr. Strafford	- aye
	Mr. Hairston	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Suppan	- aye
	Mr. Albert	- aye
	Dr. Madia	- aye
	Dr. Talmage	- aye
	Dr. Amato	- aye
	Ms. Elsass	- aye
	Dr. Ramprasad	- aye

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

ROLL CALL:	Dr. Strafford	- aye
	Mr. Hairston	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Suppan	- aye
	Mr. Albert	- aye
	Dr. Madia	- aye
	Dr. Talmage	- aye
	Dr. Amato	- aye
	Ms. Elsass	- aye
	Dr. Ramprasad	- aye

Dr. Suppan noted that, in accordance with the provision in section 4731.22(F)(2), Ohio Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of these matters. In the matters before the Board today, Dr. Talmage served as Secretary and Mr. Albert served as Supervising Member. In addition, Dr. Amato served as Acting Supervising Member in all but two of the matters before the Board. Therefore, Dr. Amato can only vote in the matters of Dr. Dinsa and Dr. Taylor, and must abstain from voting in all other cases.

Dr. Suppan reminded all parties that no oral motions may be made during these proceedings.

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

.....

HENRY J. TAYLOR, III, M.D., Case No. 09-CRF-165

.....

Dr. Talmage exited the meeting prior to this discussion.

.....

Mr. Hairston moved to approve and confirm Ms. Davidson's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Henry J. Taylor, III, M.D. Dr. Madia seconded the motion.

.....

Dr. Steinbergh moved to amend the Proposed Order to add the requirement that Dr. Taylor have a practice plan approved by the Board, including a monitoring physician and number of charts to be reviewed, before Dr. Taylor resumes the practice of medicine in Ohio. Dr. Strafford seconded the motion.

.....

A vote was taken on Dr. Steinbergh's motion to amend:

ROLL CALL:	Dr. Strafford	- aye
	Mr. Hairston	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye

Dr. Steinbergh	- aye
Dr. Suppan	- aye
Mr. Albert	- abstain
Dr. Madia	- aye
Dr. Amato	- aye
Ms. Elsass	- aye
Dr. Ramprasad	- aye

The motion to amend carried.

.....

Dr. Steinbergh to approve and confirm Ms. Davidson's Findings of Fact, Conclusions of Law, and Proposed Order, as amended, in the matter of Henry J. Taylor, M.D. Dr. Mahajan seconded the motion.

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

ROLL CALL:

Dr. Strafford	- aye
Mr. Hairston	- aye
Dr. Stephens	- aye
Dr. Mahajan	- aye
Dr. Steinbergh	- aye
Dr. Suppan	- aye
Mr. Albert	- abstain
Dr. Madia	- aye
Dr. Amato	- aye
Ms. Elsass	- aye
Dr. Ramprasad	- aye

The motion to approve carried.

INTERIM AGREEMENT
BETWEEN
HENRY J. TAYLOR, III, M.D.
AND
THE STATE MEDICAL BOARD OF OHIO

Henry J. Taylor, III, M.D., [Dr. Taylor] hereby agrees that he will not practice medicine and surgery in the State of Ohio in any form or manner until the allegations contained in the December 9, 2009, Notice of Opportunity for Hearing [December 2009 Notice] issued by the State Medical Board of Ohio [Board] have been examined by the Board and the Board has issued a Final Order. Dr. Taylor further agrees that any violation of the above-referenced limitation shall subject him to further disciplinary action pursuant to Section 4731.22, Ohio Revised Code. Dr. Taylor admits that the Board was substantially justified in its issuance of the December 2009 Notice which is based upon an Ex Parte Order of Summary Suspension [Summary Suspension Order] issued by the State of Washington, Department of Health, Quality Assurance Commission to Dr. Taylor on September 18, 2009. Dr. Taylor states that he is requesting a continuance of the Board's proceedings because he is in the process of contesting the allegations contained in the Summary Suspension Order.

The Board, by its acceptance of this Interim Agreement, hereby agrees not to object, through its counsel, to continuing the hearing on the December 2009 Notice until such time as the State of Washington has issued its final adjudication order related to the Immediate Suspension Order.

This Interim Agreement shall not be construed as an admission by Dr. Taylor to the allegations contained in the December 2009 Notice. Nothing in this Interim Agreement shall be construed to limit Dr. Taylor's right to a full hearing on the allegations contained in the Board's December 2009 Notice.

This Interim Agreement shall become effective immediately upon the last date of signature below.

Henry J. Taylor, III, M.D.

7/31/2010
Date

Lance Talmage MD
Lance Talmage, M.D., Secretary
State Medical Board of Ohio

8-10-10
Date

Raymond J. Albert, Supervising Member
State Medical Board of Ohio

8/10/10
Date

State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
med.ohio.gov

December 9, 2009

Case number: 09-CRF- 165

Henry J. Taylor, III, M.D.
P.O. Box 544
Siletz, OR 97380

Dear Doctor Taylor:

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 September 18, 2009, the State of Washington, Department of Health, Quality Assurance Commission issued an Ex Parte Order of Summary Suspension. A copy of the Ex Parte Order of Summary Suspension is attached hereto and incorporated herein.

The Ex Parte Order of Summary Suspension, as alleged in paragraph (1) above, individually and/or collectively, constitute "[a]ny of the following actions taken by the agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or the limited branches of medicine in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand," as that clause is used in Section 4731.22(B)(22), Ohio Revised Code.

Pursuant to Chapter 119., Ohio Revised Code, 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,

Mailed 12-10-09

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 3936 3070 8877
RETURN RECEIPT REQUESTED

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE COMMISSION

In the Matter of: HENRY J. TAYLOR, III, M.D., License No. MD60020413, Respondent.	Master Case No. M2009-1031 EX PARTE ORDER OF SUMMARY SUSPENSION

PRESIDING OFFICER: Christopher Swanson, Health Law Judge

COMMISSION PANEL: Judith Tobin, Public Member, Chair
Richard Brantner, M.D.
Bruce Cullen, M.D.

This matter came before the Medical Quality Assurance Commission (Commisson) on September 18, 2009 on an Ex Parte Motion for Order of Summary Action (Motion) brought by the Department of Health Medical Program (Department) through the Office of the Attorney General. The Department issued a Statement of Charges alleging Respondent violated RCW 18.130.180(1), (4), (7), (8)(a) and (b), (13), (23)(b) and (c), and WAC 246-919-620(1)(b) and (3)(b). After reviewing the Statement of Charges, Motion, and supporting evidence, the Commission grants the motion. Respondent's license to practice as a physician and surgeon is SUSPENDED pending further action.

I. FINDINGS OF FACT

1.1 Henry J. Taylor, III (Respondent) is a physician and surgeon, licensed by the state of Washington at all times applicable to this matter.

1.2 The Department issued a Statement of Charges alleging Respondent violated RCW 18.130.180 (1), (4), (7), (8)(a) and (b), (13), (23)(b) and (c), and WAC 246-919-620(1)(b) and (3)(b). The Statement of Charges was accompanied by all other documents required by WAC 246-11-250.

1.3 As set forth in the allegations in the Statement of Charges, as well as the Motion, Respondent accepted a position with Sea Mar Community Health Center in September 2008, shortly after he became licensed in Washington. Respondent relocated from Ohio, where he also holds a license. Within two weeks of his arrival at Sea Mar, staff noticed changes in Respondent's behavior. Respondent would arrive to work and be perfectly fine, and then suddenly his demeanor and physical appearance would change dramatically. He was calm one minute and manic the next. He appeared irritable, moody, and paranoid. On more than one occasion, co-workers saw white residue on Respondent's desk and nose and observed that his pupils were dilated. Respondent insisted on doing patient pill counts personally and one patient reported that Respondent put her on Endocet, even though she did not want it. This patient also reported that she had pills missing after her pills were returned to her by Respondent after his count. Respondent repeatedly failed to show up for work. Sea Mar terminated Respondent in January 2009. Respondent's whereabouts are unknown.

1.4 Between September 2008 and February 2009, Respondent wrote multiple prescriptions for Methylphenidate, a stimulant, and other medications, including narcotics, for his wife, Patient A. Patient A is a physician but is not licensed in the state of Washington. The prescriptions were written on prescription forms from Sea Mar and

filled at multiple pharmacies. Patient A was never a patient at Sea Mar and Respondent did not maintain a chart for Patient A. In addition, at least one of the prescriptions written on a Sea Mar prescription form was written after Respondent was terminated.

1.5 On March 19, 2009, Respondent called in a prescription to the Target Pharmacy in Wilsonville, Oregon on Patient B. Patient B is a former employee of Sea Mar, who had worked as a nurse with Respondent, and left the clinic because of Respondent. On March 20, 2009, the Target Pharmacy called Sea Mar to report that Patient B was there to pick up the prescription. Sea Mar staff supplied a description of Respondent's wife, and the description matched the person who was attempting to pick up the prescription that had been called into Target Pharmacy by Respondent. Patient B verified that she had not seen Respondent, was not his patient, and that she was not the person who presented a prescription to be filled at Target Pharmacy.

1.6 The above allegations, supported by the Declaration of James H. Smith, Chief Health Care Investigator together with the attached exhibits, justify the determination of immediate danger to the public health, safety, or welfare in this case and a decision to immediately suspend the credential until a hearing on the matter is held.

II. CONCLUSIONS OF LAW

2.1 The Commission, has jurisdiction over Respondent's credential to practice as a physician and surgeon. RCW 18.130.040.

2.2 The Commission has authority to take emergency adjudicative action to address an immediate danger to the public health, safety, or welfare. RCW 34.05.422(4), RCW 34.05.479, RCW 18.130.050(8), and WAC 246-11-300.

2.3 The Findings of Fact establish the existence of an immediate danger to the public health, safety, or welfare if Respondent has an unrestricted credential. The Findings of Fact establish that the requested summary action is necessary and adequately addresses the danger to the public health, safety, or welfare.

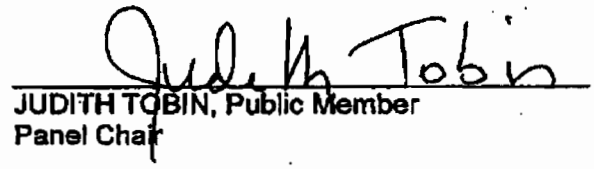
III. ORDER

Based on the Findings of Fact and Conclusions of Law, it is ORDERED that Respondent's license to practice as a physician and surgeon is SUMMARILY SUSPENDED pending further disciplinary proceedings by the Commission. Respondent shall immediately deliver all credentials, including wall, display, and/or wallet, if any, to the Commission.

3.2 It is HEREBY ORDERED that a protective order in this case is GRANTED. All healthcare information and nonconviction data contained in the Ex Parte Motion, Declaration, and attached exhibits shall not be released except as provided in Chapter 70.02 RCW and Chapter 10.97 RCW. RCW 34.05.446(1), WAC 246-11-400(2), and WAC 246-11-400(5).

Dated this 18 day of September, 2009.

Medical Quality Assurance Commission



JUDITH TOBIN, Public Member
Panel Chair

For more information, visit our website at http://www.doh.wa.gov/hearings.