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COURT OF APPEALS
FRANKLIN CO. OHIO

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

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CLERK OF COURTS

Julie A. Taylor, M.D.,

Plaintiff-Appellant,

v.

State Medical Board of Ohio,

Defendant-Appellee.

No. 10AP-262
(C.P.C. No. 09CVF-14524)

(ACCELERATED CALENDAR)

JUDGMENT ENTRY

For the reasons stated in the decision of this court rendered herein on November 16, 2010, appellant's assignments of error one through six are overruled and the seventh assignment of error is rendered moot. Therefore, it is the judgment and order of this court that the judgment of the Franklin County Court of Common Pleas is affirmed. Costs shall be assessed against appellant.

TYACK, P.J., BROWN & FRENCH, JJ.

By



Judge G. Gary Tyack, P.J.

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Schneider, J
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IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

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CLERK OF COURTS

Julie A. Taylor, M.D , :
Plaintiff-Appellant, :
v. :
State Medical Board of Ohio, :
Defendant-Appellee. .

No. 10AP-262
(C P C No 09CVF-14524)
(ACCELERATED CALENDAR)

D E C I S I O N

Rendered on November 16, 2010

Jurca & Lashuk, LLC, Jeffrey L. Jurca and Jason P. Grable,
for appellant.

Richard Cordray, Attorney General, and Kyle C. Wilcox,
for appellee.

APPEAL from the Franklin County Court of Common Pleas

TYACK, P.J.

{¶1} Julie A. Taylor, M D , appeals from a decision of the Franklin County Court of Common Pleas, affirming the September 9, 2009 order of the State Medical Board of Ohio ("Board"). The Board found Dr Taylor in violation of R.C. 4731.22(B)(19) and placed temporary limitations on Dr. Taylor's license to practice medicine. The Board concluded that Dr Taylor was unable to practice medicine according to acceptable and

prevailing standards of care by reason of mental illness unless she received appropriate treatment and monitoring. For the reasons that follow, we affirm.

{¶2} On September 27, 2004, the Board notified Dr. Taylor that it had reason to believe she was in violation of R.C. 4731.22(B)(19) in that she was impaired due to mental illness. The Board ordered Dr. Taylor to undergo a psychiatric evaluation by Dr. Stephen Noffsinger, a board certified psychiatrist. Dr. Noffsinger examined Dr. Taylor in January 2005. He found that Dr. Taylor suffers from Bipolar II Disorder and Post Traumatic Stress Disorder and had a history of multiple psychiatric inpatient hospitalizations in late 2003 and 2004. Dr. Noffsinger prepared a report classifying Dr. Taylor's Bipolar II Disorder as in full remission because her depressive symptoms had gradually resolved during the spring of 2004, and for the past two months her depressive symptoms had been well controlled with treatment. Based on her history and the recurrent nature of her illness, Dr. Noffsinger opined that it was foreseeable that Dr. Taylor would experience future disabling episodes of her mental illness. Dr. Noffsinger further opined that Dr. Taylor's condition was treatable. Therefore, in Dr. Noffsinger's opinion, as long as Dr. Taylor continued in treatment including medication and counseling, and was monitored and supervised by the Board, Dr. Taylor was capable of practicing medicine according to acceptable and prevailing standards of care.

{¶3} On January 9, 2008, the Board issued a Notice of Opportunity Letter, advising Dr. Taylor that the Board intended to determine whether to limit, revoke, permanently revoke, or suspend her license for being in violation of R.C. 4731.22(B)(19) (inability to practice according to acceptable and prevailing standards of care by reason of

mental illness). Dr. Taylor requested a hearing. The hearing took place on November 6, 2008

{¶4} The hearing examiner found that Dr. Taylor was in violation of R.C 4731.22(B)(19) and proposed placing conditions on her license. The Board, however, remanded the matter for consideration of materials filed by Dr Taylor with her objections to the report. Dr Taylor presented evidence by means of a letter and affidavit from her then treating psychiatrist, Gerald A Melchiode, M.D. Dr Melchiode stated that based upon his treatment and most recent examination of Dr. Taylor on October 21, 2008, Dr. Taylor had the ability to practice medicine according to acceptable and prevailing standards of care without the need of any restrictions, conditions, limitations, monitoring, or treatment.

{¶5} On remand, both the hearing examiner and the Board rejected Dr. Taylor's position that she could practice without restrictions. The hearing examiner issued a new report, but proposed the same order, and the Board adopted both. On September 9, 2009, the Board imposed a temporary limitation for an indefinite period of time on Dr. Taylor's ability to practice medicine and surgery in Ohio.

{¶6} Dr Taylor appealed the Board's order to the Franklin County Court of Common Pleas pursuant to R.C 119.12. The court of common pleas found reliable, probative, and substantial evidence to support the Board's order. The court overruled the assigned errors concerning alleged due process violations, and prejudice due to delay in bringing the action, and ultimately found the Board's order to be in accordance with law

{¶7} Dr Taylor appealed to this court assigning the following as error.

[I] The trial court erred in its analysis by determining that Dr Taylor was in violation of R.C § 4731.22(B)(19) due to past mental illness.

[II.] The trial court erred in finding that the Board's promulgation of O.A.C. § 4731-28-01 did not expand R.C. 4731.22(B)(19).

[III.] The trial court erred in finding that the Board gave proper notice to Dr. Taylor consistent with her due process rights.

[IV.] The trial court erred in finding that the Board timely commenced the administrative action consistent with Dr Taylor's due process rights

[V] The trial court erred in finding that Dr. Taylor did not suffer material prejudice due to the Board's delay in prosecuting the administrative action.

[VI.] The trial court erred and abused its discretion in finding that the Order of the Board was supported by reliable, probative, and substantial evidence.

[VII] The trial court erred by applying the incorrect standard of review

{¶8} Pursuant to R.C. 119.12, when a trial court reviews an order of an administrative agency, it must consider the entire record to determine if the agency's order is supported by reliable, probative, and substantial evidence and is in accordance with law. If a party appeals the trial court's decision to affirm, reverse, vacate, or modify the agency's order, the appellate court must determine whether the trial court abused its discretion in its examination of the record for reliable, probative, and substantial evidence *Pons v. Ohio St Med Bd.*, 66 Ohio St 3d 619, 621, 1993-Ohio-122.

{¶9} Reliable, probative, and substantial evidence has been defined as follows:

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

Our Place, Inc. v. Ohio Liquor Control Comm. (1992), 63 Ohio St.3d 570, 571.

(Footnotes omitted.)

{¶10} The term "abuse of discretion" connotes more than an error of law or judgment; it implies that the court's attitude is unreasonable, arbitrary, or unconscionable.

Blakemore v. Blakemore (1983), 5 Ohio St.3d 217, 219

{¶11} On questions of law, an appellate court's review is plenary. *Univ. Hosp., Univ of Cincinnati College of Med. v. State Emp. Relations Bd.* (1992), 63 Ohio St.3d 339, 343.

{¶12} With this standard in mind, we address Dr. Taylor's assignments of error. Assignments of error one through three are related to the decision that Dr Taylor was in violation of R.C. 4731.22(B)(19). That section provides, in pertinent part, as follows:

The board, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend an individual's certificate to practice, refuse to register an individual, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate for one or more of the following reasons:

* * *

(19) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills.

{¶13} Dr Taylor argues that in order for the Board to find a physician in violation of R C 4731.22(B)(19), there must be evidence of a *current* inability to practice according to acceptable and prevailing standards of care. Dr. Taylor asserts that the state presented evidence only of her history of *past* mental illness, and at the time of her examination and the subsequent Notice of Opportunity letter was mailed, her condition was in full remission.

{¶14} The evidence shows that both Dr. Noffsinger and Dr. Melchiode opined that Dr. Taylor was currently capable of practicing medicine, albeit Dr. Noffsinger qualified his opinion by stating that her ability to practice must be limited by certain restrictions, treatment, and monitoring. The record demonstrates that Dr. Taylor has, since 2004, voluntarily sought and engaged in treatment for her conditions, and she was undergoing such treatment at the time of her Board ordered examination. Therefore, she argues, although she may have been unable to practice according to acceptable and prevailing standards of care in the past, she is currently able to do so.

{¶15} As far as it goes, Dr Taylor's argument is correct. A history of mental illness may not result in an individual being unable to practice according to acceptable and prevailing standards of care. In *Landefeld v. State Med Bd. of Ohio* (June 15, 2000), 10th Dist. No. 99AP-612, a physician sought to use his bipolar condition as a defense to charges of misconduct brought under other provisions of R.C 4731.22(B) The physician submitted to a Board ordered mental examination, and the examining physician found that even though the physician suffered from bipolar disorder, his impairment did not render him unable to practice according to acceptable standards of care. The physician

was under the care of a doctor and his treatment included administration of the drug *lithium carbonate that had stabilized his moods.*

{¶16} This court then stated that "[i]n considering the language of R C 4731.22(B)(19), we do not interpret the statute as requiring the board to charge a licensed practitioner under that division in every instance in which the physician asserts (or even establishes) that he suffers from a mental illness. Specifically, R.C. 4731.22(B)(19) is not triggered by mere evidence of a mental illness; rather, the board's authority to charge and discipline a practitioner under (B)(19) is dependent upon the board's finding of an individual's 'inability to practice according to acceptable and prevailing standards of care' by reason of a mental illness." *Id.*

{¶17} The question then becomes whether a practitioner who suffers from a mental impairment that is in full remission due to ongoing care and treatment can still have restrictions placed on her license. Dr. Taylor argues that she was blindsided by an administrative rule that was not in effect at the time she was charged. The first mention of this administrative rule in this case appeared in the hearing examiner's 2009 report and recommendation Ohio Adm.Code 4731-28-01, effective June 30, 2007, provides that, for purposes of R C. 4731.22(B)(19), the following definitions apply:

(A) "Mental illness" includes, but is not limited to, mental disorder, and

(B) "Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills", includes inability to practice in accordance with such standards *without appropriate treatment, monitoring, or supervision.*

(Emphasis added.)

{¶18} Dr. Taylor argues that the rule improperly expands the definitions of mental illness and inability to practice beyond that of the statute. She argues that she never was given notice that she would be judged under a standard that is different from the statute. She contends that the rule was not created until almost three years after her mental examination, and therefore it is unfair for her to be held to a new standard. We disagree.

{¶19} Former Ohio Adm Code 4731-16-03 contained the same definition of "inability to practice in accordance with acceptable and prevailing standards of care" as that of Ohio Adm.Code quoted above. When Ohio Adm Code 4731-16-03 was repealed, it was replaced with the current rule. However, the same standard has been in place since Dr. Taylor was given notice of the charges against her.

{¶20} The Supreme Court has specifically recognized and respected the expertise of the medical board in medical matters. *Arten v. State* (1980), 61 Ohio St.2d 168. Here, the rule serves to clarify that the "unable to practice" language of R.C. 4731.22(B)(19) includes those practitioners, such as Dr. Taylor, who are unable to practice in accordance with acceptable and prevailing standards of care without proper treatment, monitoring, and supervision. Because the same definition of inability to practice was present before, during, and after Dr. Taylor was charged with a violation of R.C. 4731.22(B)(19), she cannot now complain that the Board changed the standard by which it evaluated her.

{¶21} Under the definition set forth in the rule, the Board could have and did find Dr. Taylor currently unable to practice medicine without appropriate treatment, monitoring, or supervision.

{¶22} Assignments of error one, two, and three are overruled.

{¶23} In her fourth and fifth assignments of error, Dr. Taylor contends that the Board unreasonably delayed pursuing the charges against her, and that the delay materially prejudiced her.

{¶24} It is undisputed that nearly three years elapsed from January 19, 2005 when Dr. Noffsinger issued his report until January 8, 2008 when the Board issued its Notice of Opportunity letter to Dr Taylor. In the meantime, the Board promulgated Ohio Adm.Code 4731-28-01 (effective June 30, 2007) which Dr Taylor alleges created a new standard upon which any inability to practice according to acceptable and prevailing standards of care would be determined

{¶25} It appears from the record that much of the delay in going forward with formal charges resulted from the Board continuing to seek information on Dr. Taylor's condition and treatment. In November 2006, the Board received additional interrogatory responses from Dr Taylor outlining her current treatment and status. At that time, Dr. Taylor was not practicing medicine, and she was receiving Social Security disability benefits. In July 2007, the Board received treatment records from Dr. Taylor's treating psychiatrist, Dr. Rena Kay. The additional materials were sent to Dr. Noffsinger in December 2007. Dr. Noffsinger wrote a letter in December 2007 indicating that the additional information did not change his opinion that Dr Taylor was able to practice according to acceptable and prevailing standards of care *if* she complied with treatment and conditions.

{¶26} Much of the delay is attributable to Dr. Taylor. In June 2005, the Board requested that she sign a release for her medical records. In September 2006, she had still not signed the release regarding treatment records, and this stalled the progress of the investigation.

{¶27} In order to find a due process violation, Dr. Taylor must show more than mere delay in bringing the action. She must also show material prejudice. *Smith v. State Med Bd of Ohio* (July 19, 2001), 10th Dist. No. 00AP-1301, *McCutcheon v. Ohio State Med. Bd.* (1989), 65 Ohio App.3d 49, 56-57.

{¶28} Here, Dr. Taylor argues that she was materially prejudiced by the delay because, in the middle of the period of inactivity, the Board enacted Ohio Adm.Code 4731-28-01, which changed the standard under which she was judged unable to practice according to acceptable, and prevailing standards of care.

{¶29} As discussed in connection with the first three assignments of error, the definition of inability to practice never changed. Only the number of the rule changed. In Baldwin's Ohio Administrative Code, Vol. 11A, under the "Historical and Statutory Notes" there is an editor's note that "[e]ffective 6-30-07, 4731-28-01 contains provisions of former 4731-16-03." A check of Ohio Adm.Code 4731-16-03 shows that the definition was the same. Dr. Taylor cannot show that she was materially prejudiced, nor can her due process rights have been violated by the delay since she was responsible for a large portion of the delay.

{¶30} The fourth and fifth assignments of error are not well-taken and are overruled.

X

{¶31} In her sixth assignment of error, Dr Taylor argues there is no evidence from which the Board could have found her in violation of R.C. 4731.22(B)(19). Dr Taylor emphasizes that the Board's own expert opined that Dr Taylor "is presently capable of practicing medicine according to acceptable and prevailing standards of care." (State's exhibit No. 9, at 9) However, Dr. Taylor ignores the portion of Dr. Noffsinger's report that found her ability to continue to practice medicine according to acceptable and prevailing standards of care is contingent upon her ongoing compliance with certain conditions. The court of common pleas did not abuse its discretion in finding reliable, probative, and substantial evidence that supported the Board's decision.

{¶32} The sixth assignment of error is not well-taken and is overruled.

{¶33} In her final assignment of error, Dr. Taylor argues that the court of common pleas applied an incorrect standard of review in considering her due process arguments. Because our review of those assignments of error is plenary, the assignment of error is moot.

{¶34} Based on the foregoing, Dr Taylor's assignments of error one through six are overruled, and the seventh assignment of error is rendered as moot. The judgment of the Franklin County Court of Common Pleas is affirmed

Judgment affirmed.

BROWN and FRENCH, JJ., concur.

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

JULIE A. TAYLOR, M.D.,
8515 Boulevard Hills, #1102
North Richland Hills, Texas 76180

Appellant,

v.

STATE MEDICAL BOARD OF OHIO,
30 East Broad Street, 3rd Floor
Columbus, Ohio 43215-6127

Appellee

Case No. 09CVF-14524

JUDGE SCHNEIDER

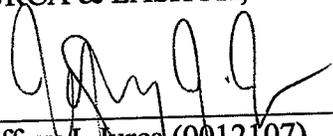
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NOTICE OF APPEAL

Notice is hereby given that Appellant, Julie A. Taylor, M.D., hereby appeals to the Court of Appeals of Franklin County, Ohio, Tenth Appellate District from the Judgment Entry entered in this action on the 4th day of March, 2010.

Respectfully submitted,

JURCA & LASHUK, LLC



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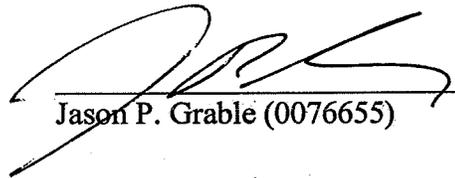
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CERTIFICATE OF SERVICE

The undersigned does hereby certify that the foregoing was sent via ordinary U.S. Mail, postage prepaid, this 23rd day of March, 2010, to the following:

Kyle C. Wilcox, Esq.
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Jason P. Grable (0076655)

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

TERMINATION NO. 10
BY: KT

JULIE A. TAYLOR, M.D.,

Appellant

v.

STATE MEDICAL BOARD OF OHIO,

Appellee

Case No. 09CV-14524
JUDGE SCHNEIDER

FINAL APPEALABLE ORDER

**JUDGMENT ENTRY AFFIRMING THE STATE MEDICAL BOARD'S
SEPTEMBER 11, 2009, ORDER**

This case is before the Court upon the appeal, pursuant to R.C. 119.12, of the September 11, 2009 Order of the State Medical Board of Ohio which found that Dr. Taylor violated O.R.C. 4731.22(B)(19) and ordered limitations be placed upon her license for an indefinite period of time and further concluded that she would not be able to practice medicine in Ohio until such limitations had been removed. For the reasons stated in the decision of this Court rendered and filed on February 22, 2010, which decision is incorporated by reference as if fully rewritten herein, it is hereby:

ORDERED, ADJUDGED AND DECREED that judgment is entered in favor of Appellee, State Medical Board of Ohio, and the September 11, 2009, Order of the State Medical Board in the matter of Julie A. Taylor, M.D., is hereby AFFIRMED. Costs to Appellant.

IT IS SO ORDERED.

Date

JUDGE SCHNEIDER

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APPROVED:

per email 2-25-10

K.W.

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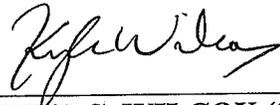
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**IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO CIVIL
DIVISION**

JULIE A. TAYLOR, M.D.,

CASE NO. 09CVF-14524

APPELLANT,

JUDGE SCHNEIDER

VS.

STATE MEDICAL BOARD OF OHIO,

APPELLEE.

DECISION ON MERITS OF APPEAL

Entered this 18 day of February, 2010.

The Court has for consideration this appeal by Julie A. Taylor, M.D. from an Order of the Ohio State Medical Board (Board). That Order, issued September 11, 2009 placed temporary limitations on Appellant's certificate to practice medicine and surgery and imposed a number of conditions. Appellant has sought this Court's review under Revised Code Chapter 119. The record of proceedings and legal arguments by counsel has been filed.

PROCEDURAL AND FACTUAL BACKGROUND

The factual and procedural background in this action is not in dispute. The record reflects that Appellant obtained a Bachelor of Science degree from Baylor University in 1984 and obtained her medical degree from the University of Texas Southwestern Medical School in 1988. Her internship and residency at Children's Hospital Medical Center in Cincinnati, Ohio in pediatrics was completed in 1992. Appellant has maintained a license to practice medicine in Ohio since December 1993 and Appellant is also licensed in Texas.

In 2004, the Board ordered Appellant have a psychiatric evaluation and she was

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evaluated by Stephen G. Noffsinger, M.D. Dr. Taylor detailed her background and psychiatric history. This included multiple psychiatric hospitalizations that were as recent as February 2004. Various diagnoses were given to Appellant's mental issues including Major Depressive Disorder, Bipolar Disorder II, Posttraumatic Stress Disorder (PTSD) and Borderline Personality Disorder. Dr. Noffsinger's opinion was that she was suffering from Bipolar II Disorder (in full remission) and PTSD.

On January 9, 2008, the Board issued a Notice of Opportunity for Hearing to Appellant. In that notice, the Board indicated that it might impose some sanction against or limitation on Appellant's license. The underlying considerations would be allegations that based upon notice in 2004 the Board had reason to believe that she was in violation of Ohio Revised Code [R.C.] Section 4731.22(B)(19). This was premised upon Respondent's history of psychiatric conditions, disorders and treatment dating back to 1998, her use of psychiatric medications and her ceasing her medical practice. The notice also stated that the 2005 diagnoses of the Board-appointed doctor was that Respondent suffered from a number of psychiatric conditions and disorders and that she would only be able to practice medicine in accordance with acceptable and prevailing standards of care so long as she comply with specified treatment, monitoring and supervision recommended by the Board. The third listed ground for consideration was that from 2004 to 2006, Appellant had practiced medicine on a part-time basis, her psychiatric conditions had increased, she had been receiving Social Security disability income, and that the Board-appointed doctor maintained his opinion that Respondent needed his previously-recommended treatment, monitoring and

supervision in order to practice within acceptable and prevailing standards of care. At the time of the hearing, Appellant was practicing in Texas. A hearing before a Hearing Officer for the Board was conducted November 6, 2008 and a Report and Recommendation was issued by the Hearing Officer March 19, 2009. The proposed order was to place temporary limitations on Appellant's license with a number of requirements including further psychiatric assessment. The Board remanded the matter back to the Hearing Officer for consideration of materials file by Appellant by way of objection to the report.

The Hearing Officer examined the materials which included a letter from Appellant's treating physician, Dr. Melciode and information from Appellant's employers. A new report was issued but proposed the same order. The Board adopted the report and order at its September 9, 2009 meeting.

STANDARD OF REVIEW

Several opinions have considered the standard of review in appeals brought under R.C. 119.12 from decisions of administrative agencies, including those from the Medical Board. Chapter 119 provides that there must be reliable, probative and substantial evidence to support the agency's decision. *University of Cincinnati v. Conrad* (1980), 63 Ohio St.2d 108, 407 N.E.2d 1265 still stands as the illustrative holding for review in a Chapter 119 appeal. While the review is a type of hybrid, the Court cannot simply substitute its judgment on the evidence. In *Rossiter v. State Med. Bd.*,¹ it was reaffirmed that when reviewing such an order, the Court must accord due deference to the Board's interpretation of the technical and ethical requirements of its profession.² Under the

¹ 155 Ohio App. 3d 689; 2004-Ohio-128; 802 N.E.2d 1149

² Citing *Pons v. Ohio State Med. Bd.* (1993), 66 Ohio St. 3d 619, 614 N.E.2d 748

applicable standard, the Court must affirm the order if it is supported by reliable, probative and substantial evidence and is in accordance with law.

In *Our Place, Inc. v. Ohio Liquor Control Comm.*³, the Ohio Supreme Court defined such evidence to be: "(1) "Reliable" evidence is dependable; that is, it can be confidently trusted. In order to be reliable, there must be a reasonable probability that the evidence is true. (2) "Probative" evidence is evidence that tends to prove the issue in question; it must be relevant in determining the issue. (3) "Substantial" evidence is evidence with some weight; it must have importance and value." If the evidence meets the requisite standard, a reviewing Court may not modify a sanction if such sanction is authorized by statute.⁴ If the sanction is within the range of permissible alternatives, then the Court must affirm.

The reviewing Courts have determined that from a due process standpoint, a proper evidentiary basis must be provided before levying a sanction. While a full adversarial and evidentiary proceeding may not be required, there must be some sort of reliable evidentiary review, including sworn testimony, as well as a full consideration of the circumstances of the case.⁵ With the above standard of review in mind, the Court will consider the assigned errors offered by Appellant.

ASSIGNED ERRORS

Appellant has offered three assigned errors. Appellant asserts that the Board's finding that she is unable to practice according to acceptable and prevailing standards of care is not supported by reliable, probative and substantial evidence. Appellant second

³ (1992) 63 Ohio St. 3d 570, 571, 589 N.E.2d 1303

⁴ *Henry's Cafe, Inc. v. Board of Liquor Control* (1959), 170 Ohio St. 233, 163 N.E.2d 678. Citing also to *Hale v. Ohio State Veterinary Med. Bd.* (1988), 47 Ohio App.3d 167, 548 N.E.2d 247.

⁵ *Goldman v. State Medical Bd.* (1996), 110 Ohio App. 3d 124, 673 N.E.2d 677, Dismissed by *Goldman v. State Medical Bd.* (1996), 77 Ohio St. 3d 1411, 670 N.E.2d 1001

asserts that the Board failed to provide her proper notice pursuant to R.C. 119.07 and violated her due process rights under the Ohio and United States Constitutions. The third assigned error is the Board denied Appellant due process by its failure to timely commence the administrative action.

DISCUSSION

Appellant asserts that there is insufficient evidence to support a finding that Appellant's "acts, conduct, and/or omissions as alleged, individually and collectively, constituted an "inability to practice according to the acceptable standards and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills," as that clause is used in R.C. Section 4731.22(B)(19). (Exhibit 1A)

Dr. Taylor does not dispute the long and serious nature of her psychiatric issues. Those are summarized as follows. Appellant's first severe depressive episode was in her third year in medical school beginning in 1986. She received outpatient mental health counseling and antidepressant medication to treat insomnia, fatigue, loss of appetite and weight loss. (St. Exs. 7 and 9) In July 1989, Dr. Taylor was hospitalized at the University of Cincinnati Hospital and diagnosed with severe depression. Continuing in 1989, there were several psychiatric hospitalizations for Major Depressive Disorder and Appellant was prescribed various psychiatric medications. (State Exhibits 7 and 9) In January 1990, Dr. Taylor began experiencing symptoms of PTSD which appear to have been based on her recall of childhood sexual abuse. Further psychiatric hospitalization occurred 1990. Again in July 1991, Dr. Taylor was hospitalized for severe depression and PTSD. Appellant returned from Texas in 1991 to complete her residency in Cincinnati and

then work in pediatrics in Texas. Appellant has a two month hospitalization in early 1993 and again in 1995. From 1995 to 2003 Appellant suffered no further hospitalizations, but she did continue with mental health treatment. Between March 2003 and February 2004, Appellant was hospitalized eleven times for psychiatric related admissions. She was diagnosed with Major Depressive Disorder, Bipolar Disorder II, PTSD, and Borderline Personality Disorder. Appellant has made at least two suicide attempts in the past, with the first occurring in 1993 on an overdose of the medication Elavil and in January 2004, with an overdose on medications and 1.5 liters of wine. Appellant was approved for Social Security Disability Income benefits starting January 2004. She identified Major Depressive Disorder and PTSD on her application for benefits. Her psychiatrist at that time, Dr. Kay, opined that Appellant "suffers from severe episodic bouts of depression which are frequently disabling and sometimes life threatening." (State Exhibit 4)

Appellant, despite struggling with Herculean demons, has been able to avoid since 2004, the severe bouts of depression which have lead to her earlier hospitalizations. The evidence of record reinforces that she has been able to do so with the help of outpatient treatment. The Board's examining physician and expert, Dr. Noffsinger opined on two separate occasions that Appellant would need to have outpatient counseling at least once weekly with medication management. He also concluded that the medication would continue to include antidepressant and mood stabilizing medications. The doctor also believed that Appellant's treating physicians should provide information to the Board for future monitoring of Appellant's condition. Contrary to the position taken by Appellant, Dr. Noffsinger was not of the opinion that she could practice medicine without the precaution of treatment and counseling.

Appellant's current treating physician, Dr. Melchiode did offer a letter and an affidavit that stated his opinion that Appellant did not have any need to have conditions, limitations, restrictions, monitoring, or treatment in order to practice medicine. The Hearing Officer and the Board rejected his position in this regard. As noted in *Bharmota v. State Medical Bd.*⁶, the Board has extensive authority to review and resolve independently evidentiary conflicts in the record.⁷ Appellant contends that the Board is without authority to base limitations against her current practice based upon past mental illness. In numerous cases before the Court involving physicians and the Board, the review is almost universally done of past actions committed by the doctors. While the Courts have limited the use of circumstances that predate the imposition of discipline or limitations when they bear no legitimate and rational relation to more current actions, the instant matter is not of that category. The evidence of record reflects that beginning in Appellant's late twenties, past events and other triggers set Appellant on the course of depression and post traumatic stress from childhood abuse. Appellant has been hospitalized more than a dozen times and attempted suicide in two documented events. Only one physician, not subject to inquiry, has opined that Appellant can meet the defined level of the practice of medicine without necessary treatment, by way of medication and counseling. The Board's cumulative expertise in the area of bi-polar disorder, depression, and PTSD should be granted substantial discretion in determining if a physician, under the scenario presented in this appeal, should have limitations or conditions placed upon their license. Upon full review of the record and evidence offered, the Court finds that there is reliable, probative and substantial evidence to

⁶ (December 7, 1993), Franklin App. No. 93AP-630

⁷ Citing to *In re Williams* (1991), 60 Ohio St.3d 85, 87, 573 N.E.2d 638

support the Board's Order.

The second error raised by Appellant concerns the notice given by the Board pursuant to R.C. 119.07. As pointed out by Appellant, O.A.C. 4731-28-01 (the rule) was not promulgated by the Board until 2007, some three years after Appellant was requested to have an examination concerning her mental state. Further exacerbating the consideration is that the January 9, 2009 notice of opportunity (States Exhibit 1A) did not include any reference to the rule. Appellant posits that it is unfair to have a hearing using an expanded parameter for defining "inability to practice" as the rule appears to create.

The specific language of R.C. 4731.22(B)(19) "Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills.*** If the board finds an individual unable to practice because of the reasons set forth in this division, the board shall require the individual to submit to care, counseling, or treatment by physicians approved or designated by the board, as a condition for initial, continued, reinstated, or renewed authority to practice. An individual affected under this division shall be afforded an opportunity to demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards under the provisions of the individual's certificate.***"

O.A.C. 4731-28-01 uses the following language "Mental or physical impairment.

(A) "Mental illness" includes, but is not limited to, mental disorder; and

(B) "Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills", includes

inability to practice in accordance with such standards without appropriate treatment, monitoring, or supervision.” Effective: 06/30/2007

The phrase, “includes inability to practice in accordance with such standards without appropriate treatment, monitoring, or supervision” delineates a distinct group of individuals who have the ability to practice but only with treatment, monitoring, or supervision. The Board has had the ability to place conditions, restrictions or limitations on such individuals but the rule specifically addressing such consideration was put in place in 2007.

Appellant argues that the failure to specifically include the rule in the notice of appeal denied her due process. The Court in *Gross v. Ohio State Med. Bd.*⁸, addressed the concept of due process in administrative appeals, particularly the division of due process consideration between procedural due process and substantive due process. The *Gross* Court, quoted from *Lassiter v. Dept. of Social Servs. of Durham Cty., N. Carolina* “* * * due process 'is not a technical conception with a fixed content unrelated to time, place and circumstances.' * * * Rather, the phrase expresses the requirement of 'fundamental fairness,' a requirement whose meaning can be as opaque as its importance is lofty.”⁹ The above decisions, as well as countless others, look to the proceeding to consider whether under the circumstances a party is given notice of the action and an opportunity to offer his or her evidence and voice objection. The Court in *LTV Steel Co. v. Indus. Comm.*¹⁰ reaffirmed that the Federal and the Ohio Courts used the test as set

⁸ Franklin App. No. 08AP-437, 2008-Ohio-6826

⁹ (1981), 452 U.S. 18, 24, 101 S.Ct. 2153, 68 L. Ed. 2d 640, rehearing denied, 453 U.S. 927, 102 S. Ct. 889, 69 L. Ed. 2d 1023

¹⁰ (2000), 140 Ohio App.3d 680, 688, 748 N.E.2d 1176

forth in *Mathews v. Eldridge* ¹¹***the court must weigh the following three factors to determine whether the process granted in the administrative proceeding is constitutionally adequate (1) the private interest at stake, (2) the risk of an erroneous deprivation of that interest and the probable value of additional procedural safeguards, and (3) the government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirements would entail." The *Gross* decision reiterated that a doctor's licensure required application of that test.

The Court agrees that the first specific reference to the rule was in the Hearing Officer's Report and Recommendation. Appellant can not argue that the notice of opportunity for hearing did not apprise her that Dr. Noffsinger has qualified her ability to practice upon continued treatment. While it would have been preferable to have had the rule identified in the notice of opportunity for hearing, the notice was sufficiently detailed to provide adequate advance knowledge that the Board would consider restrictions or conditions on her practice. A review of the evidence from the hearing does not support Appellant's contention that she could resume her Ohio practice without her continued weekly counseling sessions and continued intake of psychotropic medicines. While it is admirable that Appellant has been able to bring her life back into focus, the general welfare of potential patients demands that the state be assured of Appellant's continued treatment. The Court finds no denial of due process under the *Mathews* balancing test.

The Court also finds that the dispute rule is simply an amplification or clarification of considerations that existed under R.C. 4731.22. For this reason as well, the claim of denial of due process fails.

¹¹ (1976), 424 U.S. 319, 335, 96 S.Ct. 893, 903, 47 L.Ed.2d 18, 33-34.

The final assigned error is that the Board denied due process to Appellant by failure to timely commence the administrative action. Appellant admits that there is no specific timeline by which the Board must commit its actions. The Court in *Griffin v. State Med. Bd. of Ohio*¹² held before a finding of violation of due process can be concluded, some material prejudice must be shown due to the delay in bringing formal accusations. P11 Appellant offers that the lengthy investigation period from 2005 to 2008 required her to apprise other licensing authorities that she was being investigated during that interval. Appellant also maintains that the delay allowed the Board to enact a rule under which she was charged. As to the first issue, Appellant has shown no negative consequences from reporting the investigation. As remarked by the Franklin County trial courts in other administrative proceedings, some offer or basis propounded by the state as to situations of lengthy delay would be helpful in judicial review. The Board has stated that Appellant brought suit against it in 2007, but that fails to explain why nothing occurred in 2006 or in the months preceding the lawsuit.

The second issue is that of the enactment of the rule during the pendency of the investigation. The Court has already determined that the rule did not expand the statute, to do so would have been improper and the objective of the statute is not altered by the rule. In order to find that due process has been denied Appellant by the delay in the administrative proceedings, the Court must have a showing of material prejudice because of the delay. The circumstances of this action do not support such a finding.

The assignments of error raised by Appellant are not supported by the evidence in the record or by applicable law. The assigned errors are therefore overruled.

¹² (Franklin App. No. 09AP-276) 2009-Ohio-4849

CONCLUSION

Upon careful review of the record and arguments of counsel the Court finds the Board's Order to be supported by reliable, probative, and substantial evidence and the Court further finds that it is in accordance with law. Counsel for the Board shall prepare a Judgment Entry pursuant to Local Rule 25.01.



Judge Charles Schneider

Appearances:

Jeffrey J. Jurca
Jason P. Grable
6797 North High Street, Suite 314
Columbus, Ohio 43085
Attorneys for Appellant

Kyle C. Wilcox
Assistant Attorney General
30 East Broad Street, 26th Floor
Columbus, OH 43215-3400
Attorney for Appellee

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

JULIE A. TAYLOR, M.D.

Appellant,

v.

STATE MEDICAL BOARD OF OHIO

Appellee

Case No. 09CVF-9-14524

JUDGE SCHNEIDER

AGREED AMENDED ENTRY GRANTING A STAY OF THE STATE MEDICAL BOARD'S SEPTEMBER 9, 2009 ORDER

On September 28, 2009, this Court granted a stay of the Board Order in the above captioned case. The stay was granted pursuant to motion filed by the Appellant on September 28, 2009. Upon discussion between counsel for both parties, the September 28, 2009 Stay Order is incorporated herein and amended as follows:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Appellant shall be granted a stay of the Board Order during these appellate proceedings as long as she agrees to limit her medical practice to jurisdictions outside the State of Ohio. Any unauthorized attempt to practice medicine in Ohio by the Appellant during the appellate process shall be considered a violation of this stay order.

IT IS SO ORDERED.

Date

JUDGE SCHNEIDER

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FRANKLIN CO. OHIO
2009 OCT 16 PM 3:59
CLERK OF COURTS

APPROVED:

Jeff Jurca

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Attorney for Appellant,
Julie A. Taylor, M.D.

*Via E-mail
Authorization
K.W.*

RICHARD CORDRAY (0038034)
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Attorney for Appellee,
State Medical Board of Ohio

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

Julie A. Taylor, M.D.,

Appellant,

vs.

State Medical Board of Ohio,

Appellee.

Case No. 09CVF 9 14524

Judge _____

ENTRY

IT IS ORDERED, ADJUDGED AND DECREED that having reviewed Appellant's Motion for Stay, this Court finds Appellant's Motion for Stay well-taken and hereby GRANTS Appellant's Motion to Stay.

The decision of Appellee, State Medical Board of Ohio to limit Appellant's license, as set forth in the September 9, 2009 Entry of Order, is stayed. Further, all attendant conditions set forth in the Entry of Order including, but not limited to, submitting to psychiatric assessment/treatment and reporting the Order to employers and other licensing authorities, are also hereby stayed.

IT IS SO ORDERED.

9/28/09
Date



JUDGE

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care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills.”

It is clear from the report and recommendation of the Hearing Examiner as well as the Order, that the Medical Board’s case was largely based upon Ohio Administrative Code § 4731-28-01, mental or physical impairments. Notwithstanding the fact that this particular Administrative Code was promulgated nearly three years after Dr. Taylor was advised of her alleged violation of Revised Code §4731.22(B)(19), Dr. Taylor was never given notice, pursuant to Revised Code § 119.07, that this separate and distinct rule was being used in the case against her. Dr. Taylor’s due process rights were violated as a result. Further, the Medical Board imposed a condition on Dr. Taylor’s license that she submit to psychiatric assessment and treatment. Revised Code § 4731.22(B)(19) does not authorize this restriction on her license.

The Order was not issued in accordance with Ohio law as Revised Code §4731.22(B)(19) requires that before any conditions can be placed upon a medical license, the Board must find that the licensee is unable to practice because of mental illness. The statute is clearly written in the present tense and statutes must be given their plain and ordinary meaning in the absence of any ambiguity. Appellant asserts that the statute is very clear and direct in that any mental illness must be present before imposing conditions on a medical license. The record is clear that the Board’s own expert does not opine that Dr. Taylor is currently unable to practice due to a mental illness. In both his 2005 report and his testimony at Dr. Taylor’s hearing, the Medical Board’s expert, Dr. Steven Noffsinger, states that Dr. Taylor was last unable to practice due to a mental illness in early 2004. There is no evidence in the record which demonstrates that Dr. Taylor is currently unable to practice. Only when a determination is made that a physician is unable to practice, then conditions may be imposed upon her medical license under Revised

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2 STATE MEDICAL BOARD OF OHIO

Code §4731.22(B)(19). The Medical Board must conduct itself in accordance with its governing statutes and may not alter or modify them for their desired purpose and affect.

The Medical Board's Order was not issued in accordance with Ohio law as the various members of the Medical Board who presided over Dr. Taylor's case exhibited prejudice and preconceived notions prior to the conclusion of this matter. As will be shown when the Medical Board provides this Court with a full audio transcript, not the edited and redacted summary of evidence, the prejudice of the Board members is clear. Specifically, one member of the Board calls the absence of Dr. Taylor at the hearing "shameful." Ohio Revised Code §119.07 states that the "notice shall also inform the party that at the hearing the party may appear in person, by the party's attorney, or by such other representative as is permitted to practice before the agency, or may present the party's position, arguments, or contentions in writing and that at the hearing the party may present evidence and examine witnesses appearing for and against the party."

The statute clearly allows a party to appear through counsel. Nowhere in the Revised Code or Administrative Code does it require a person against whom a complaint has been filed to personally appear before the Board. The fact that at least one Board member found it necessary to express her disdain for Dr. Taylor despite Dr. Taylor's compliance with Revised Code §119.07 and for fully exercising her rights in this matter is another factor as to why the Medical Board's Order should be reversed. At all relevant times, Dr. Taylor was represented by counsel, who timely and appropriately responded to all notices by the Medical Board and appeared on Dr. Taylor's behalf at any and all hearings. This method of representation is clearly prescribed by the Revised Code.

Yet another Board member stated, "We look at evidence we're not supposed to all the time." While Appellant concedes that the Rules of Evidence are relaxed in administrative

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hearings, such a statement shows a disregard for even the relaxed standards. The last comment continues the underlying tone or objective of the Board: "We have evidence of mental illness, that's why we're here." Such a preconceived notion before all evidence is properly before the Board clearly shows prejudice against Dr. Taylor, as well as a misunderstanding of the applicable legal standard, and is yet another reason why the decision of the Medical Board should be reversed.

Appellant's due process rights were violated by the extreme delay between the date the notice was sent to Appellant indicating the Medical Board's intention to conduct an investigation (September 27, 2004) and the date of the hearing (November 6, 2008). Ostensibly, it is believed that the alleged event which prompted the Medical Board's investigation occurred in February, 2004. Regardless of whether the inquiry is from the date of notice to Appellant to the hearing (4 years and 1 month) or from the date of alleged wrongdoing to the hearing (4 years and 9 months), the delay is a clear violation of Appellant's due process rights. The Order of the Medical Board should be reversed as a result of this violation as well as the doctrine of laches.

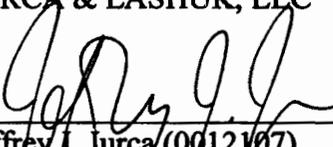
Lastly, Appellant appeals any other errors of law and/or fact that are obvious on the face of the record.

As set forth above, the Order of the Medical Board of Ohio in suspending Dr. Taylor's license as well as imposing conditions on her license is not supported by reliable, probative, and substantial evidence and/or was not issued in accordance with Ohio law, and should be reversed by this Court.

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Respectfully submitted,

JURCA & LASHUK, LLC

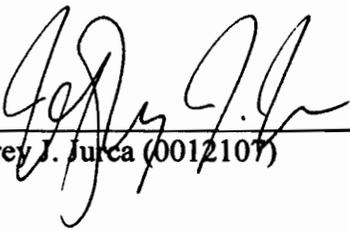


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Attorneys for Appellant
Julie A. Taylor, M.D.

CERTIFICATE OF SERVICE

The undersigned does hereby certify that the foregoing was sent via ordinary U.S. Mail, postage prepaid, this 28th day of September, 2009, to the following:

Kyle C. Wilcox, Esq.
Assistant Attorney General
Health & Human Services Section
30 East Broad Street, 26th Floor
Columbus, Ohio 43215
(614) 466-6090 fax
kwilcox@ag.state.oh.us



Jeffrey J. Jurca (0012107)

STATE MEDICAL BOARD
OF OHIO
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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

September 9, 2009

Julie A. Taylor, M.D.
7006 CR 1215
Walnut Hill Drive
Flint, TX 75762

RE: Case No. 08-CRF-005

Dear Doctor Taylor:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation on Remand of Paul Stehura, Esq., Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on September 9, 2009, including motions approving and confirming the Report and Recommendation on Remand as the Findings and Order of the State Medical Board of Ohio.

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

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

THE STATE MEDICAL BOARD OF OHIO

A handwritten signature in black ink that reads "Lance A. Talmage, M.D." with a circled "D" at the end.

Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

CERTIFIED MAIL NO. 91 7108 2133 3936 3071 0573
RETURN RECEIPT REQUESTED

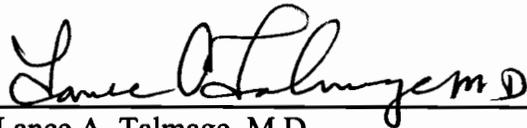
Cc: Jeffrey J. Jurca, Esq.
CERTIFIED MAIL NO. 91 7108 2133 3936 3071 0580
RETURN RECEIPT REQUESTED

Mailed 9-11-09

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation on Remand of Paul Stehura, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on September 9, 2009, including motions approving and confirming the Findings of Fact, Conclusions and Proposed Order of the Hearing Examiner as the Findings and Order of the State Medical Board of Ohio; constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Julie A. Taylor, M.D., Case No. 08-CRF-005, 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)

September 9, 2009

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

CASE NO. 08-CRF-005

*

JULIE A. TAYLOR, M.D.

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on September 9, 2009.

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

It is hereby ORDERED that:

- A. **TEMPORARY LIMITATION:** The certificate of Julie A. Taylor, M.D., to practice medicine and surgery in the State of Ohio shall be placed under a TEMPORARY LIMITATION for an indefinite period of time in which Dr. Taylor will not be permitted to practice in Ohio until the TEMPORARY LIMITATION is removed.
- B. **CONDITIONS TO REMOVE TEMPORARY LIMITATION:** The Board shall not consider removing the temporary limitation on Dr. Taylor's certificate to practice medicine and surgery until all of the following conditions have been met:
1. **Notice of Intent to Practice in Ohio:** Dr. Taylor shall provide the Secretary to the Board written notice of her intent to resume practicing medicine or surgery in the State of Ohio at least 60 days in advance of the date she intends to resume her practice in Ohio. At the time Dr. Taylor submits any notice of intent to practice in Ohio, she also shall submit a request to remove the temporary limitation.
 2. **Psychiatric Assessment/Treatment:** Prior to submitting her notice of intent to practice in Ohio, Dr. Taylor shall submit to the Board for its prior approval the name and curriculum vitae of a psychiatrist of Dr. Taylor's choice. Upon approval by the Board, Dr. Taylor shall obtain from the approved psychiatrist an assessment of Dr. Taylor's current mental and psychiatric status. Prior to

the initial assessment, Dr. Taylor shall furnish the approved psychiatrist copies of the Board's Order, including the Summary of the Evidence, Findings of Fact, Conclusions of Law, and Order, and any other documentation from the hearing record which the Board may deem appropriate or helpful to that psychiatrist.

Upon completion of the initial 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 mental and psychiatric status and condition;
- b. A detailed plan of recommended psychiatric treatment, if any, based upon the psychiatrist's informed assessment of Dr. Taylor's current needs; and
- c. Any reports upon which the treatment recommendation is based, including reports of physical examination and psychological or other testing.

Should the Board-approved psychiatrist recommend treatment, and upon approval by the Board, Dr. Taylor shall undergo and continue treatment at a minimum of once per week or as otherwise 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 her treatment plan, including taking medications as prescribed for her disorder(s).

3. **Certification of Compliance with Treatment Plan:** If treatment is recommended pursuant to the psychiatric assessment, upon submission of her notice of intent to practice in Ohio, Dr. Taylor shall provide the Board with certification from the psychiatrist approved by the Board that Dr. Taylor has been in full compliance with the plan of recommended treatment for a period of at least three months immediately preceding the submission of her notice of intent to practice in Ohio.
 4. **Absence from Practice:** In the event that Dr. Taylor has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to the submission of her notice of intent to practice in Ohio, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of Dr. Taylor's fitness to resume practice.
- C. **PROBATIONARY CONDITIONS:** Upon the removal of the temporary limitation on her license, as evidenced by a written notice from the Board, Dr. Taylor's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:

1. **Obey Laws in Ohio:** Dr. Taylor shall obey all federal, state, and local laws; and all rules governing the practice of medicine in Ohio.
2. **Quarterly Declarations:** 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 conditions of this Order. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which the temporary limitation on her license is removed. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
3. **Appearances:** Dr. Taylor shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which the temporary limitation on her license is removed. Dr. Taylor must also appear every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
4. **Continue Psychiatric Treatment:** If the psychiatrist approved by the Board prior to Dr. Taylor's resuming her practice in Ohio recommends that Dr. Taylor undergo treatment, Dr. Taylor shall continue in treatment until such time as the Board determines that no further treatment is necessary. To make this determination, the Board shall require reports from the approved treating psychiatrist. The psychiatric 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; Dr. Taylor's compliance with the treatment plan; Dr. Taylor's mental and psychiatric status; Dr. Taylor's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. 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 her quarterly declaration.

In addition, Dr. Taylor shall ensure that her treating psychiatrist immediately notifies the Board of Dr. Taylor's failure to comply with her treatment plan and/or any determination that Dr. Taylor is unable to practice due to her disorder(s).

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

5. **Practice Plan:** Prior to 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 her practice plan, she shall also submit the name and curriculum vitae of a monitoring physician for prior written approval by the Secretary or Supervising Member of the Board. In approving an individual to serve in this capacity, the Secretary or Supervising Member will give preference to a physician who practices in the same locale as Dr. Taylor and who is engaged in the same or similar practice specialty.

The monitoring physician shall monitor Dr. Taylor and her 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 her 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 quarterly declaration.

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

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

- D. **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.

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

Dr. Taylor shall also provide the Board written consent permitting any psychiatrist, counselor, or other treatment provider from whom Dr. Taylor obtains treatment to notify the Board in the event Dr. Taylor fails to agree to or comply with any recommended treatment. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Order.

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 she is under contract to provide health-care services (including but not limited to third-party payors), or is receiving training, and the chief of staff at each hospital or health-care center where she has privileges or appointments.

In the event that Dr. Taylor provides any health-care services or health-care direction or medical oversight to any emergency medical services organization or emergency medical services provider, Dr. Taylor 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 her probation.

2. **Required Reporting To Other 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 she currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which she currently holds any license or certificate.

Dr. Taylor further shall provide a copy of this Order at the time of application to the proper licensing authority of any State or jurisdiction in which she 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 her probation.

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

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

(SEAL)



Lance A. Talmage, M.D.
Secretary

September 9, 2009

Date

2009 JUN 29 P 3: 54

BEFORE THE STATE MEDICAL BOARD OF OHIO

In the Matter of

*

Case No. 08-CRF-005

Julie A. Taylor, M.D.,

*

Hearing Examiner Stehura

Respondent.

*

**REPORT AND RECOMMENDATION
ON REMAND**

Basis for Hearing

By letter dated January 9, 2008, the State Medical Board of Ohio [Board] notified Julie A. Taylor, M.D. [Respondent] that it proposed to determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate her certificate to practice medicine and surgery, or to reprimand or place her on probation. The Board's proposed action was based on allegations that: (a) in 2004 the Board notified Respondent that it had reason to believe that she was in violation of Ohio Revised Code [R.C.] Section 4731.22(B)(19) and ordered a psychiatric evaluation by a Board-appointed doctor due to Respondent's history of psychiatric conditions, disorders and treatment dating back to 1998, her use of psychiatric medications and her ceasing her medical practice; (b) the 2005 diagnoses of the Board-appointed doctor that Respondent suffered from a number of psychiatric conditions and disorders and that she would only be able to practice medicine in accordance with acceptable and prevailing standards of care so long as she comply with specified treatment, monitoring and supervision recommended by the Board; and (c) during 2004 - 2006, Respondent had practiced medicine on a part-time basis, her psychiatric conditions had increased, she had been receiving Social Security disability income, and that the Board-appointed doctor maintained his opinion that Respondent needed his previously-recommended treatment, monitoring and supervision in order to practice within acceptable and prevailing standards of care. (State's Exhibit [St. Ex.] 1A)

The Board's notice letter stated that Respondent's acts, conduct, and/or omissions as alleged, individually and collectively, constituted an "inability to practice according to the acceptable standards and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills," as that clause is used in R.C. Section 4731.22(B)(19).

The Board advised Respondent of her right to request a hearing and received her written request for hearing on or about January 25, 2008. (St. Ex. 1B)

Appearances at the Hearing

On behalf of the State of Ohio: Richard Cordray, Attorney General, by Kyle C. Wilcox, Assistant Attorney General.

On behalf of Respondent: William Scott Lavelle and Jeffrey J. Jurca, LAVELLE JURCA & LASHUK, LLC, Columbus, Ohio.

Hearing Date: November 6, 2008.

Remand

Following this Hearing Examiner's issuance of the original Report and Recommendation [R&R] in this matter, on March 19, 2009, Dr. Taylor's counsel filed Objections to the R&R [Dr. Taylor's Objections] which included five exhibits (Exhibits A-E thereto) not offered or considered at the adjudication hearing. In response to this, the Board counsel filed a Motion to Strike Additional Evidence, and Dr. Taylor's counsel filed a Memorandum Contra to the Board's Motion. The Board President ruled that the five exhibits to Dr. Taylor's Objections be stricken and that the portions of her Objections discussing these exhibits be redacted.

At its April 8, 2009 meeting, the Board considered the R&R, Dr. Taylor's Objections, and a motion of Dr. Taylor to permit the introduction of the five exhibits filed with her original objections. The Board voted to remand this matter so that this Hearing Examiner could review the previously-stricken exhibits and materials redacted from Dr. Taylor's Objections and amend the original R&R, if necessary, based on the additional materials. The minutes of the Board meeting set forth the remand order as follows:

DR. AMATO MOVED TO REMAND THE MATTER OF JULIE A. TAYLOR, M.D. TO ATTORNEY HEARING EXAMINER STEHURA, FOR THE PURPOSES OF REVIEWING THE MATERIALS REDACTED FROM THE FILED OBJECTIONS AND AMENDING HIS PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER, SHOULD HE DEEM AMENDMENT IS NECESSARY, BASED ON THOSE ADDITIONAL MATERIALS. DR. STEINBERGH SECONDED THE MOTION.

(St. Ex. 1E)

PROCEDURAL MATTERS

During her opening statement, Respondent's counsel argued that the Board does not have proper jurisdiction in this matter because the State's Notice of Opportunity for Hearing [NOH] in this matter was legally defective on its face (Transcript [Tr.] at 18). Respondent's argument appears to be based in whole or in part upon her assertion that the NOH is not in compliance with the

requirements of R.C. Section 4731.22(B)(19). Upon examination, the NOH (St. Ex. 1A) states that the Board proposed to take action against Respondent's medical license due to Respondent's alleged "inability to practice according to acceptable and prevailing standard of care by reason of mental illness."¹ The NOH further set forth three specific paragraphs in which it provided the background information which allegedly supported its contention that Respondent was unable to practice medicine and surgery according to acceptable and prevailing standards of care due to reasons of mental illness. An agency need not sustain its required burden of proof to take action against a licensee in the NOH but merely, among other things, provide notice of the action contemplated, the statutory basis for action, the underlying basis for the contemplated action, and the licensee's right to request an adjudication hearing to contest the contemplated action. The NOH in the instant matter satisfies the basic notice requirements due Respondent under the instant circumstances. Accordingly, the Hearing Examiner finds that the NOH was legally proper and sufficient according to the requirements of R.C. Chapter 119 and 4731.22(B)(19), and that jurisdiction in the instant matter is proper. Having found that jurisdiction is proper, the Board may determine the substantive issues in this matter.

SUMMARY OF EVIDENCE

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

Background Information

1. Julie A. Taylor, M.D. [Respondent] is a 46 year old female who obtained a bachelor of science degree in Biology from Baylor University in Waco, Texas in 1984 and obtained her medical degree from the University of Texas Southwestern Medical School in Dallas, Texas in 1988. She completed a pediatric internship and residency at Children's Hospital Medical Center in Cincinnati, Ohio from 1988 - 1992. She has been continually licensed to practice medicine in Ohio since December 1993 and is also licensed in Texas. (State's Exhibit [St. Ex.] 7; Respondent's Exhibits [Resp. Exs.] H and I)
2. From mid 1995 - 2002, Dr. Taylor was employed as a doctor in Texas with various clinics, associations and medical practitioners.² From September 2002 to June 2003, Dr. Taylor was employed by Wilmington Medical Associates in Wilmington, Ohio, specializing in pediatrics. (St. Exs. 3 and 7) From December 2004 to April 2006, she also

¹ It is noted that the NOH also stated that Board intended to take action against Respondent's license due to alleged "inability to practice *** by reason of *** physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills"; however, no evidence was presented at the hearing regarding physical illness or physical deterioration. (Tr. at 69)

² See page 2 of Dr. Taylor's curriculum vitae as part of St. Ex. 7.

worked one to four nights per week as a general pediatrician at the Cincinnati Children's Hospital Medical Clinic. Dr. Taylor currently resides in Texas. Since October 27, 2008, Dr. Taylor has been employed as a pediatrician in a hospital-based clinic in Jacksonville, Texas for ETMC Management Services Operations. (St. Ex. 8; Resp. Exs. F and G)

Dr. Taylor's Psychiatric History

3. In her 2004 Board-ordered interview with Stephen G. Noffsinger, M.D., Dr. Taylor indicated that she was mildly depressed in college and at times socially withdrawn. Dr. Taylor had her first severe depressive episode in her third year in medical school beginning in 1986. She received outpatient mental health counseling and antidepressant medication to treat insomnia, fatigue, loss of appetite and weight loss. (St. Exs. 7 and 9)
4. During her internship at Children's Hospital Medical Center in Cincinnati, Dr. Taylor began treatment with Rena L. Kay, M.D., a psychiatrist, for depression. Dr. Taylor was prescribed various psychotropic medications, including an antidepressant (Prozac) and a mood stabilizer (lithium). In July 1989, Dr. Taylor was hospitalized at the University of Cincinnati Hospital diagnosed with severe depression. Beginning in late 1989, Dr. Taylor had several psychiatric hospitalizations for Major Depressive Disorder and again was placed on various psychiatric medications. (St. Exs. 7 and 9)
5. In January 1990, Dr. Taylor had begun to recall instances of childhood sexual abuse by a neighbor and began experiencing symptoms of Posttraumatic Stress Disorder ["PTSD"]. This led to a psychiatric hospitalization in October 1990, at Good Samaritan Hospital in Cincinnati. She experienced flashbacks, nightmares and intrusive recollections of the abuse. She had episodes of dissociation which occurred either daily to several times per day. Dissociation occurs when a person becomes withdrawn and preoccupied with intrusive thoughts going on in his/her mind to the extent that he/she "tunes out" reality. (St. Ex. 9, Hearing Transcript [Tr.] at 40-41)
6. From February - July 1991, Dr. Taylor was hospitalized at Timberlawn in Dallas due to both severe depression and PTSD. In August 1991, she returned to Cincinnati to complete her residency and was able to work at a pediatric center in Texas until late 1992. She left that position in December 1992, after she was again hospitalized for approximately two months. She also had brief psychiatric hospitalizations in Texas in 1993 and 1994. Further, Dr. Taylor was sexually assaulted by a male acquaintance in Texas in April 1996. (St. Ex. 9)
7. Dr. Taylor had no psychiatric hospitalizations from 1995 to 2003. During this time, she was undergoing constant outpatient mental health treatment from Dr. Kay and others. Also during this time, she was experiencing mild depression, occasional episodes of more

severe depression and PTSD symptoms. She continued on various psychotropic medications during this period. (St. Ex. 9)

8. Dr. Taylor reported to Dr. Noffsinger that between March 2003 and February 2004, she had eleven psychiatric hospitalizations at either Kettering Medical Center or University of Cincinnati Hospital. (St. Ex. 9) She was admittedly severely mentally ill during that period. She was diagnosed with Major Depressive Disorder, Bipolar Disorder II, PTSD, and Borderline Personality Disorder. (St. Ex. 5, pp. 111, 867, and 887) She also reported many instances of flashbacks to the abuse she experienced as a youth. (St. Ex. 5, p. 355) By April 2004, she felt that her depression had substantially improved. (St. Ex. 9)
9. Dr. Noffsinger reports from his 2004 interview with Dr. Taylor that she made more than two suicide attempts in the past. The first occurred in 1993 when she overdosed on the medication Elavil. In January 2004, Dr. Taylor overdosed on multiple medications and 1.5 liters of wine and was hospitalized by emergency admission at University of Cincinnati Hospital. (St. Ex. 5, p. 571, 709) In late December 2003, there appeared to be a similar suicide attempt and hospitalization (St. Ex. 5, p. 751) as well as other emergency hospital admissions earlier in 2003 and into 2004. (St. Ex. 5, pp. 853 and 15) During the 2003 and 2004 hospitalizations, she also made numerous threats to commit suicide and had also been diagnosed with suicidal ideations. (St. Ex. 9, St. Ex. 5, pp. 63, 493, 767-775, 887, 1117, and 1579)
10. There is no evidence that Dr. Taylor has ever been charged with any crime, had probate court proceedings commenced against her relative to her psychiatric conditions or ever been declared to be legally incompetent by a court of any state. (St. Ex. 7)
11. Dr. Taylor was approved for Social Security Disability Income benefits on her first application beginning in January 2004. Her listed clinical diagnoses for the application were Major Depressive Disorder and PTSD. It is unknown how long such benefits were paid to Dr. Taylor, but she received them at least until July 2004 when she completed her responses to the Board's first set of interrogatories (St. Ex. 7) and also was receiving said benefits when she completed her responses to the Board's second set of interrogatories in November, 2006. (St. Ex. 8) In support of Dr. Taylor's application for benefits, her psychiatrist, Dr. Kay, wrote a letter dated March 16, 2006, in which she stated that Dr. Taylor "suffers from severe episodic bouts of depression which are frequently disabling and sometimes life threatening." (St. Ex. 4, p. 347)
12. Records provided to the Board indicate that, between August 2002 and July 2007, Dr. Taylor has been receiving outpatient counseling and medication from psychiatrist, Rena L. Kay, M.D., of Cincinnati, Ohio. On average, Dr. Taylor has met with Dr. Kay at least once a week, but oftentimes has met with Dr. Kay 2-3 times per week. Dr. Kay consistently prescribed antidepressant and mood stabilizing medication to Dr. Taylor during this period. (St. Exs. 2 and 4)

13. Since July 9, 2007, Dr. Taylor has received individual psychotherapy and medication therapy under the care of Gerald A. Melchiode, M.D., a psychiatrist from Dallas, Texas. (Resp. Ex. E)

Stephen G. Noffsinger, M.D.

14. Stephen G. Noffsinger, M.D., testified that he has been a psychiatrist in the state of Ohio since 1991 and that he has two board certifications - one in psychiatry and one in forensic psychiatry. He is the Chief of Forensic Services for Northcoast Behavioral Healthcare, an Ohio Department of Mental Health hospital. He further testified that he: is an Associate Professor of Psychiatry at Case Western Reserve University in Cleveland, Ohio; is a part-time faculty member at the University of Akron School of Law; works in the court psychiatry clinic in the Cuyahoga County Common Pleas Court; and maintains a part-time psychiatry practice for private clients. He stated that he has testified as an expert witness before the Board "between five and ten" times previously and has testified as an expert witness in Ohio and Pennsylvania courts about 110 times in the past 12 years. (Tr. at 22-24, St. Ex. 11)

2004 Evaluation of Dr. Taylor / January 19, 2005 Report

15. Dr. Noffsinger testified that, at the Board's request (Resp. Ex. B), he conducted his one and only psychiatric evaluation of Dr. Taylor in October 2004. Dr. Noffsinger stated that he obtained from Dr. Taylor information to compile her various medical, psychiatric and substance abuse histories as well as reviewing Dr. Taylor's previous hospitalizations, employment and psychiatric records and Dr. Taylor's responses to the Board's first interrogatories. Dr. Noffsinger completed and submitted a report to the Board containing his evaluation and findings on January 19, 2005. (Tr. at 26-29, St. Ex. 9)
16. At the hearing, Dr. Noffsinger summarized Dr. Taylor's history of psychiatric conditions and hospitalizations, including her several episodes of depression and psychiatric hospitalizations from 1989 - 1994 (see paragraphs 4-6 hereof), the period from 1994 - 2003 where she had no hospitalizations but maintained consistent outpatient treatment and medication for mild and severe depression and PTSD (see paragraph 7 hereof), and her most severe psychiatric episodes from March 2003 to February 2004 during which she had eleven psychiatric hospitalizations and had attempted to commit suicide on two or more occasions and threatened suicide on several other occasions. (see paragraphs 8-9 hereof) (Tr. at 42-46)
17. Dr. Noffsinger further stated that Dr. Taylor elaborated on some of her symptoms. He stated that she told him in her interview that, when she was in the midst of one of her more severe depressive episodes, she was forgetful, could not maintain her train of thought, and

experienced decreased concentration that made it difficult to read. She also stated that she had symptoms of mania in the past which included rapid speech, racing thoughts, irritability, a decreased need for sleep and increased energy. (Tr. at 44-45)

18. Dr. Noffsinger testified that some people with mental illness or mood/psychotic disorders will not recognize they are suffering from the disorder or may not recognize it until the condition is very advanced. (Tr. at 35) Further, he stated that psychiatric hospitalization is an indicator of the severity of an illness and is necessary for patients with mood disorders if the patient is either suicidal, at risk to him/herself or cannot take care of his/her basic physical needs. (Tr. at 39)
19. Dr. Noffsinger opined that Dr. Taylor's likelihood of future depressive episodes was high due to two factors. First, he stated that severe depressive episodes "like (Dr. Taylor's) experiencing tend to be (a) chronic relapsing disorder." Second, the number, frequency, and severity of her previous episodes, as well as the number and length of her hospital stays, indicates that Dr. Taylor has a severe form of depressive illness and she is likely to have future episodes. (Tr. at 52-53, 64-65)
20. Dr. Noffsinger testified that when he interviewed Dr. Taylor in October 2004, she did not display symptoms of mental illness in that "she was not depressed, *** her expression of her emotions was appropriate, *** she wasn't displaying manic or depressive-type outward emotions, and *** she was not experiencing mood or psychotic symptoms." (Tr. at 75-76) Dr. Noffsinger attributed Dr. Taylor's lack of symptoms during the interview to the fact that at that time Dr. Taylor was in treatment with her psychiatrist, Dr. Kay, and taking medication. (Tr. at 74-75) Dr. Noffsinger further opined that Dr. Taylor was at greater risks for future psychiatric episodes without treatment, but that even with treatment, she is still at risk for the episodes to reoccur. (Tr. at 95, 99)
21. In his report, based on his evaluation of Dr. Taylor and a review of her past medical and psychiatric records, Dr. Noffsinger rendered the diagnoses of Bipolar II Disorder, which he found to be in full remission since the Spring of 2004, and PTSD. In his January 19, 2005, report, Dr. Noffsinger stated:

The diagnosis of Bipolar II Disorder is based on the following:

1. Dr. Taylor had recurrent major depressive episodes, beginning in 1989 and continuing on an intermittent basis until early 2004. The symptoms of Dr. Taylor's major depressive episodes included moderate to severely depressed mood, thoughts of and attempts at suicide, insomnia, poor concentration, poor self esteem, fatigue, and lack of interest in activities. Dr. Taylor had been hospitalized many times due to her depressive symptoms,

- and has been in outpatient treatment continuously for many years due to her depressive symptoms.
2. Dr. Taylor had recurrent hypomanic episodes. These hypomanic episodes consisted of rapid speech, racing thoughts, irritability, decreased need for sleep and increased energy.
 3. Dr. Taylor never experienced a full manic episode, and therefore does not meet criteria for Bipolar I Disorder.
 4. Dr. Taylor's Bipolar II Disorder is classified as Most Recent Episode Depressed, due to the major depressive episode she experienced from the fall of 2003 until April 2004.
 5. Dr. Taylor's Bipolar II Disorder is now classified in full remission because her depressive symptoms gradually resolved during the spring of 2004, and for at least the past two months her depressive symptoms have been well controlled with treatment.

The diagnosis of Posttraumatic Stress Disorder is based on the traumatic event of recurrent sexual abuse that Dr. Taylor experienced for many years during her childhood, and subsequent symptoms of intrusive thoughts, nightmares, and flashbacks of the abuse, coupled with other symptoms of hypervigilance and avoidance.

(St. Ex. 9, pp. 8-9)

22. In his January 19, 2005, report, Dr. Noffsinger opined that Dr. Taylor was incapable of practicing medicine due to her Bipolar II Disorder and PTSD as recently as early 2004. Dr. Noffsinger did state that, as of January 2005, Dr. Taylor had become capable of practicing medicine according to acceptable and prevailing standards of care due to:
 1. her depressive symptoms being in remission since April, 2004 and that she was not at that time experiencing any mood swings, insomnia, appetite disturbance, fatigue, or loss of interest in activities; her concentration improving; that she was not suicidal; and that her PTSD were well-controlled for the few months prior to her October, 2004 evaluation;
 2. Dr. Taylor not displaying symptoms of a disabling mental illness, depression, mania or psychotic disorder during her October, 2004 evaluation; and her mood being normal and her range of emotional expression was appropriate during her October, 2004 evaluation; and

3. Dr. Taylor's treating psychiatrist, Dr. Kay, indicating that Dr. Taylor's mental illness had substantially improved in early 2004.

(St. Ex. 9, p. 9)

23. Finally, in his January 19, 2005, report, Dr. Noffsinger opined that Dr. Taylor's mental disorders were treatable and that, with reasonable medical certainty, certain conditions should be placed on Dr. Taylor's practice in order for her to be able to practice according to acceptable and prevailing standards of care. Dr. Noffsinger stated that Dr. Taylor's ability to practice medicine in Ohio according to acceptable and prevailing standards of care is contingent upon Dr. Taylor complying with the following conditions:
 - a. she continue to see her then-current psychiatrist, Rena L. Kay, M.D., or another psychiatrist, for medication management and Dr. Kay, or another qualified psychotherapist, for outpatient counseling at least once weekly;
 - b. she continue to receive antidepressant and mood stabilizing medications and that she remain compliant with all prescribed medications;
 - c. she continue to authorize her treating mental health professionals to release her records to the Board for future monitoring;
 - d. Dr. Taylor's mental health professionals should provide the Board with quarterly reports describing her symptoms and compliance with appointments and medication; and
 - e. since it is foreseeable that Dr. Taylor will experience future disabling episodes of her mental illness, she should agree to temporarily stop practicing medicine if she is psychiatrically hospitalized, if her treating psychiatrist advises her to stop practicing medicine, or if she experiences another exacerbation of her mental disorders and further not resume her medical practice until she has informed the Board that she has temporarily stopped practicing and the Board has approved her return to practice.

(St. Ex. 9, pp. 9-10)

December 27, 2007 Update of 2005 Report

24. In August 2007, the Board contacted Dr. Noffsinger to request whether the diagnoses, opinions, conclusions or recommendations contained in his January 19, 2005, report had

changed. Along with this request the Board provided Dr. Noffsinger copies of Dr. Taylor's responses to the Board's second set of interrogatories, records from Dr. Taylor's treating psychiatrist from September 2004 to July 2007 and Dr. Taylor's 2003-2004 medical records from the University of Cincinnati Hospital. (Resp. Ex. C) Dr. Noffsinger reviewed this information, but did not conduct an additional interview with Dr. Taylor.

25. In a report to the Board dated December 27, 2007, Dr. Noffsinger made the same conclusions as in his January 19, 2005, report. He continued to hold the opinion that, although at times in the past she was unable to practice medicine within the acceptable and prevailing standards due to her mental disorders, Dr. Taylor was able to practice medicine according to acceptable and prevailing standards so long as she complies with the treatment recommendations and conditions contained in Dr. Noffsinger's January 19, 2005, report. (Tr. at 59-61, St. Ex. 10)

Affidavit of Gerald A. Melchiode, M.D.

26. Pursuant to Dr. Taylor's responses to the Board's first set of interrogatories, Dr. Taylor was treated by Gerald A. Melchiode, M.D., a psychiatrist located in Dallas, Texas, on an outpatient basis for an unspecified period in 2002. Dr. Taylor submitted an affidavit of Dr. Melchiode dated October 30, 2008, in which Dr. Melchiode states that he examined Dr. Taylor on October 21, 2008, and is of the opinion that Dr. Taylor "has the ability to practice medicine according to acceptable and prevailing standards of care" and that Dr. Taylor "is fully capable of doing so without need of any conditions, limitations, restrictions, monitoring or treatment." (Resp. Ex. A)

Additional Exhibits Considered on Remand

March 16, 2009 Letter of Gerald A. Melchiode, M.D.

27. Dr. Melchiode states that he has seen Dr. Taylor weekly in individual psychotherapy and medication therapy since July 9, 2007. He states that Dr. Taylor "has practiced pediatric medicine at a high level" during this time and that "(s)he provides appropriate and safe care to her patients ***." Dr. Melchiode further states that he has done psychiatric evaluations and treatment for "many years" for the Texas State Board of Medical Examiners, and that "a similar physician with Dr. Taylor's mental state and abilities would be able to practice unrestricted." (Resp. Ex. E)

Letters from Dr. Taylor's Employer

28. Kim Pearson-Wahl of ETMC Management Services Operations ["ETMC"], a physician's organization located in Tyler, Texas, provided a letter dated March 16, 2009, in which she

states that Dr. Taylor has been employed as a pediatrician in ETMC's clinics since October 27, 2008. Ms. Pearson-Wahl states that Dr. Taylor is "an outstanding pediatrician" and "demonstrates excellent clinical knowledge and judgment" in that position. (Resp. Ex. F)

29. Jack R. Endes, Administrator of ETMC, provided a letter dated March 18, 2009, in which he states that Dr. Taylor is a full time employee for EMTC who has "ably handled all aspects of her pediatric practice from routine clinic visits to newborn emergencies." (Resp. Ex. G)

Licensure Records/Status With the Texas Medical Board

30. Dr. Taylor has been continually licensed to practice medicine in the state of Texas since 1992, and her Texas medical license status currently is active and expires on May 31, 2010. There is no evidence of any complaints filed against Dr. Taylor by the Texas Medical Board ["Texas Board"], and the Texas Board is aware of the instant charges with the Board pending against Dr. Taylor. Dr. Taylor reported to the Texas Board that she has held a specialty certification in pediatrics from the American Board of Pediatrics since August 10, 2000 and currently has hospital privileges at two hospitals located in Dallas, Texas. (Resp. Ex. I)
31. On or about April 11, 2008, Dr. Taylor submitted her most recent license renewal application with the Texas Board. In that application, Dr. Taylor answered "no" to the question of whether she had any condition or behavior, including "any physical, mental or emotional condition, which has or could impair or is impairing or limiting her from her ability to practice as a physician in a competent manner. She further answered "none" to whether there has been any disciplinary action taken against her by a medical board of any other state and answered "yes" to whether there are any "pending investigations, pending disciplinary matters, or final disciplinary actions against (her) by any licensing agency or health-care entity." A separate reporting form to explain her affirmative answer was not provided as evidence. (Resp. Ex. H)

FINDINGS OF FACT

1. Julie A. Taylor, M.D., was licensed by the Board to practice medicine and surgery in Ohio in December 1993, and has been continually licensed since that time. She is also licensed to practice medicine in Texas. Dr. Taylor has been employed as a physician in Ohio on at least two (2) occasions, most recently as a part-time pediatrician for the Cincinnati Children's Hospital Medical Clinic from December 2004 to April 2006. Dr. Taylor is not currently practicing medicine or surgery in Ohio. Since October 27, 2008, Dr. Taylor has been employed as a pediatrician in a hospital clinic in Texas.

2. Beginning in approximately 1989, Dr. Taylor has had numerous instances of inpatient psychiatric hospitalizations in both Ohio and Texas. During 1989 to 1991, Dr. Taylor was diagnosed with Major Depressive Disorder and Posttraumatic Stress Disorder ["PTSD"] and was prescribed various antidepressants and mood stabilizing drugs. During this period, Dr. Taylor was experiencing flashbacks, nightmares and episodes of dissociation relative to childhood sexual abuse. She also had psychiatric hospitalizations in Texas in 1993 and 1994.
3. Dr. Taylor had no psychiatric hospitalizations from 1995 to 2003. During this time, she maintained a constant outpatient relationship with a Cincinnati psychiatrist and others for treatment of mild depression, occasional episodes of more severe depression and PTSD. She continued to take various psychotropic medication during this period.
4. Between March 2003 and February 2004, Dr. Taylor had eleven psychiatric hospitalizations in Ohio, several of which were emergency admissions, with the diagnoses of Major Depressive Disorder, Bipolar Disorder II, PTSD and Borderline Personality Disorder. She also had many instances of flashbacks during this period due to the abuse she experienced as a youth.
5. Dr. Taylor has made more than two suicide attempts in the past. The first occurred in 1993 when she overdosed on the medication Elavil. In December 2003 and in January 2004, Dr. Taylor overdosed on prescription medications and alcohol and was hospitalized by emergency admissions at University of Cincinnati Hospital. During the 2003 and 2004 hospitalizations, Dr. Taylor made numerous threats to commit suicide and had also been diagnosed with suicidal ideations.
6. In October, 2004, Dr. Taylor submitted to a psychiatric evaluation by Stephen G. Noffsinger, M.D., a Board-appointed psychiatrist. Upon interviewing Dr. Taylor and a review of her various medical and psychiatric records, Dr. Noffsinger issued a report dated January 19, 2005, in which his diagnoses of Dr. Taylor were Bipolar II Disorder (in full remission) and PTSD. As opined by Dr. Noffsinger, based on the nature of Dr. Taylor's depressive episodes as well as the number, frequency and severity of those episodes, Dr. Taylor has a chronic and severe form of depressive illness and her depressive symptoms are likely to reoccur in the future regardless of whether Dr. Taylor continues to obtain regular psychiatric treatment. Further, as also opined by Dr. Noffsinger, the impact of Dr. Taylor's depressive symptoms has prevented her from practicing medicine and surgery in Ohio within the acceptable and prevailing standards of care since early 2004 without the continued appropriate psychiatric treatment and monitoring recommended by Dr. Noffsinger.
7. As initially noted in Dr. Noffsinger's January 19, 2005, report and confirmed in his December 27, 2007, report, Dr. Taylor's diagnosed conditions are treatable and Dr. Taylor

is capable of practicing medicine and surgery in Ohio according to acceptable and prevailing standards of care provided that she comply with the following treatment and monitoring conditions:

- a. she continue to see her then-current psychiatrist, Rena L. Kay, M.D., or another psychiatrist, for medication management, and see Dr. Kay, or another qualified psychotherapist, for outpatient counseling at least once weekly;
 - b. she continue to receive antidepressant and mood stabilizing medications and that she remain compliant with all prescribed medications;
 - c. she continue to authorize her treating mental health professionals to release her records to the Board for future monitoring;
 - d. Dr. Taylor's mental health professionals provide the Board with quarterly reports describing her symptoms and compliance with appointments and medication; and
 - e. since it is foreseeable that Dr. Taylor will experience future disabling episodes of her mental illness, she should agree to temporarily stop practicing medicine if she is psychiatrically hospitalized, if her treating psychiatrist advises her to stop practicing medicine, or if she experiences another exacerbation of her mental disorders and further not resume her medical practice until she has informed the Board that she has temporarily stopped practicing and the Board has approved her return to practice.
8. Since July 9, 2007, Dr. Taylor has received individual psychotherapy and medication therapy under the care of Gerald A. Melchiode, M.D., a psychiatrist from Dallas, Texas.

CONCLUSIONS OF LAW

1. R.C. 4731.22, in pertinent parts, states as follows:

(B) The board, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend an individual's certificate to practice, refuse to register an individual, refuse to reinstate a certificate, or reprimand or place on

probation the holder of a certificate for one or more of the following reasons:

(19) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills.

(Emphasis added).

2. Ohio Administrative Code 4731-28-01, in pertinent parts, states as follows:

For the purposes of *** division (B)(19) of section 4731.22 of the Revised Code, *** the following definitions apply:

(A) "Mental illness" includes, but is not limited to, mental disorder; and

(B) "Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills", **includes inability to practice in accordance with such standards without appropriate treatment, monitoring, or supervision.**

(Emphasis added).

3. R.C. 4731.22(B)(19) permits the Board to take various action against a licensee's license to practice medicine and surgery in the event the licensee displays an "inability to practice according to acceptable and prevailing standards of care by reason of mental illness." OAC 4731-28-01(B) further specifically defines the quoted statutory language to include an "inability to practice in accordance with such standards without appropriate treatment, monitoring, or supervision." As noted in the findings of the instant case, the Board-appointed psychiatrist who evaluated Dr. Taylor found that her mental condition rendered her incapable of practicing medicine in accordance with acceptable and prevailing standards of care in early 2004 due to diagnosed mental disorders. The same psychiatrist, in 2005 and 2007, further opined that Dr. Taylor was able to practice in accordance with acceptable and prevailing standards only if Dr. Taylor received the treatment, monitoring and supervision set forth in the January 19, 2005 report. Despite considering the additional evidence on remand from Dr. Taylor's current Texas psychiatrist, nothing suggests that Dr. Taylor could practice according to acceptable and prevailing standards of

care without the necessary treatment and medication provided by a licensed psychiatrist. Accordingly, it remains this Hearing Examiner's finding after considering the additional evidence on remand that the Board has met its burden under R.C. 4731.22(B)(19) that Dr. Taylor is unable to practice medicine and surgery in accordance with acceptable and prevailing standards due to her mental illness, and thus may institute the appropriate action thereunder.

Rationale for the Proposed Order

Part of the additional evidence this Hearing Examiner was directed to consider on remand was a letter from Dr. Taylor's current psychiatrist in Texas who states that he has provided psychotherapy and medication therapy to Dr. Taylor since July 2007. The letter of Dr. Taylor's psychiatrist provides little or no additional information regarding the nature or extent of Dr. Taylor's mental and emotional condition or the treatment and/or medication required for her to practice medicine within acceptable and prevailing standards in Ohio. In many regards, such information does not rebut but supports the specific findings, conclusions and opinions of the Board expert, Dr. Noffsinger, that the only manner in which Dr. Taylor can practice in accordance with acceptable and prevailing standards is to comply with the treatment, monitoring and supervision set forth in Dr. Noffsinger's January 19, 2005 report. The unrefuted evidence remains that Dr. Taylor has suffered from various mental illnesses for many years. These illnesses included long-term severe depressive and PTSD symptoms such as severe depression, mood swings, concentration issues, more than two suicide attempts and many more suicide threats. Dr. Taylor's mental illness has resulted in psychiatric hospitalizations over a period spanning at least three decades and constant, undisputed outpatient psychiatric treatment, counseling and use of psychiatric prescription drugs.

Due to the severity and frequency of Dr. Taylor's previous episodes, Dr. Noffsinger concluded that her likelihood for future psychiatric episodes was high if she did not maintain appropriate psychiatric treatment and medication. Accordingly, even though Dr. Noffsinger found Dr. Taylor's Bipolar II Disorder to be in full remission in his January 2005 report, he reasonably concluded that Dr. Taylor was only capable of practicing medicine and surgery within the acceptable and prevailing standards provided that she comply with the various treatment, monitoring and supervision requirements delineated in the 2005 report. Accordingly, the Proposed Order provides for such treatment and monitoring in the event Dr. Taylor returns to practice in Ohio.

The additional evidence considered on remand, namely that Dr. Taylor has been receiving psychotherapy and medication since July 2007, has been employed as a pediatrician in Texas since October 2008 and remains licensed without restriction by the Texas Medical Board, does not change the Proposed Order of this Hearing Examiner. Indeed, it would appear that Dr. Taylor already may be taking steps to attempt to comply with some of the restrictions set forth in Dr. Noffsinger's 2005 report, that is to continue to work with a psychiatrist for appropriate

psychotherapy and medication. This Hearing Examiner feels that such treatment and the other monitoring and supervision requirements of Dr. Noffsinger's 2005 report are necessary for the Board to ensure that Dr. Taylor is able to practice within the acceptable and prevailing standards in view of her psychiatric condition.

PROPOSED ORDER

It is hereby ORDERED that:

- A. **TEMPORARY LIMITATION:** The certificate of Julie A. Taylor, M.D., to practice medicine and surgery in the State of Ohio shall be placed under a TEMPORARY LIMITATION for an indefinite period of time in which Dr. Taylor will not be permitted to practice in Ohio until the TEMPORARY LIMITATION is removed.
- B. **CONDITIONS TO REMOVE TEMPORARY LIMITATION:** The Board shall not consider removing the temporary limitation on Dr. Taylor's certificate to practice medicine and surgery until all of the following conditions have been met:
 1. **Notice of Intent to Practice in Ohio:** Dr. Taylor shall provide the Secretary to the Board written notice of her intent to resume practicing medicine or surgery in the State of Ohio at least 60 days in advance of the date she intends to resume her practice in Ohio. At the time Dr. Taylor submits any notice of intent to practice in Ohio, she also shall submit a request to remove the temporary limitation.
 2. **Psychiatric Assessment/Treatment:** Prior to submitting her notice of intent to practice in Ohio, Dr. Taylor shall submit to the Board for its prior approval the name and curriculum vitae of a psychiatrist of Dr. Taylor's choice. Upon approval by the Board, Dr. Taylor shall obtain from the approved psychiatrist an assessment of Dr. Taylor's current mental and psychiatric status. Prior to the initial assessment, Dr. Taylor shall furnish the approved psychiatrist copies of the Board's Order, including the Summary of the Evidence, Findings of Fact, Conclusions of Law, and Order, and any other documentation from the hearing record which the Board may deem appropriate or helpful to that psychiatrist.

Upon completion of the initial 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 mental and psychiatric status and condition;

- b. A detailed plan of recommended psychiatric treatment, if any, based upon the psychiatrist's informed assessment of Dr. Taylor's current needs; and
- c. Any reports upon which the treatment recommendation is based, including reports of physical examination and psychological or other testing.

Should the Board-approved psychiatrist recommend treatment, and upon approval by the Board, Dr. Taylor shall undergo and continue treatment at a minimum of once per week or as otherwise 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 her treatment plan, including taking medications as prescribed for her disorder(s).

3. **Certification of Compliance with Treatment Plan:** If treatment is recommended pursuant to the psychiatric assessment, upon submission of her notice of intent to practice in Ohio, Dr. Taylor shall provide the Board with certification from the psychiatrist approved by the Board that Dr. Taylor has been in full compliance with the plan of recommended treatment for a period of at least three months immediately preceding the submission of her notice of intent to practice in Ohio.
 4. **Absence from Practice:** In the event that Dr. Taylor has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to the submission of her notice of intent to practice in Ohio, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of Dr. Taylor's fitness to resume practice.
- C. **PROBATIONARY CONDITIONS:** Upon the removal of the temporary limitation on her license, as evidenced by a written notice from the Board, Dr. Taylor's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:
1. **Obey Laws in Ohio:** Dr. Taylor shall obey all federal, state, and local laws; and all rules governing the practice of medicine in Ohio.
 2. **Quarterly Declarations:** 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 conditions of this Order. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which the temporary limitation on her license is removed. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
 3. **Appearances:** Dr. Taylor shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which

the temporary limitation on her license is removed. Dr. Taylor must also appear every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

4. **Continue Psychiatric Treatment:** If the psychiatrist approved by the Board prior to Dr. Taylor's resuming her practice in Ohio recommends that Dr. Taylor undergo treatment, Dr. Taylor shall continue in treatment until such time as the Board determines that no further treatment is necessary. To make this determination, the Board shall require reports from the approved treating psychiatrist. The psychiatric 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; Dr. Taylor's compliance with the treatment plan; Dr. Taylor's mental and psychiatric status; Dr. Taylor's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. 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 her quarterly declaration.

In addition, Dr. Taylor shall ensure that her treating psychiatrist immediately notifies the Board of Dr. Taylor's failure to comply with her treatment plan and/or any determination that Dr. Taylor is unable to practice due to her disorder(s).

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

5. **Practice Plan:** Prior to 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 her practice plan, she shall also submit the name and curriculum vitae of a monitoring physician for prior written approval by the Secretary or Supervising Member of the Board. In approving an individual to serve in this capacity, the Secretary or Supervising Member will give preference to a physician who practices in the same locale as Dr. Taylor and who is engaged in the same or similar practice specialty.

The monitoring physician shall monitor Dr. Taylor and her 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 her 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 quarterly declaration.

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

6. **Tolling of Probationary Period While Out of State:** Dr. Taylor shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed.
- D. **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.
 - E. **RELEASES:** Dr. Taylor shall provide continuing authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Dr. Taylor's mental or psychiatric condition and/or related conditions, or for purposes of complying with this Order, whether such treatment or evaluations occurred before or after the effective date of this Order. The above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute.

Dr. Taylor shall also provide the Board written consent permitting any psychiatrist, counselor, or other treatment provider from whom Dr. Taylor obtains treatment to notify the Board in the event Dr. Taylor fails to agree to or comply with any recommended treatment.

Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Order.

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 she is under contract to provide health-care services (including but not limited to third-party payors), or is receiving training, and the chief of staff at each hospital or health-care center where she has privileges or appointments.

In the event that Dr. Taylor provides any health-care services or health-care direction or medical oversight to any emergency medical services organization or emergency medical services provider, Dr. Taylor 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 her probation.

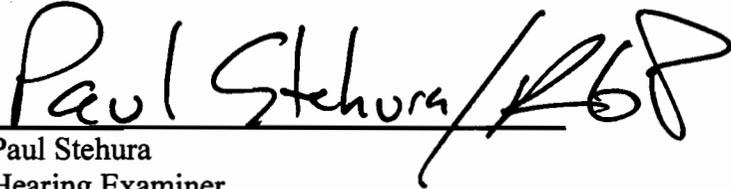
2. **Required Reporting To Other Licensing Authorities:** Within 30 days of the effective date of this Order, Dr. Taylor shall provide a copy of this Order to the proper licensing authority of any State or jurisdiction in which she currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which she currently holds any license or certificate.

Dr. Taylor further shall provide a copy of this Order at the time of application to the proper licensing authority of any State or jurisdiction in which she 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 her probation.

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

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

Respectfully submitted,



Paul Stehura
Hearing Examiner

State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.
Executive Director

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EXCERPT FROM THE DRAFT MINUTES OF SEPTEMBER 9, 2009

REPORTS AND RECOMMENDATIONS

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

Dr. Madia asked whether each member of the Board had received, read and considered the hearing record; the Findings of Fact, Conclusions and Proposed Orders; and any objections filed in the matters of: Atta J. Asef, D.P.M.; Daryl E. Cavin; Mohan S. Chandran, M.D.; Syed Kazmi, M.D.; Jack Mark Levine, D.O.; Douglas S. Moinuddin, M.D.; Alaa M. Nadour, M.D.; and Julie A. Taylor, M.D. A roll call was taken:

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

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

ROLL CALL:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Mr. Ogg	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye

Dr. Madia - aye

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

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

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

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Dr. Talmage left the room during the previous discussion.

.....

JULIE A. TAYLOR, M.D.

.....

DR. STEINBERH MOVED TO APPROVE AND CONFIRM MR. STEHURA'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF JULIE A. TAYLOR, M.D.. MR. HAIRSTON SECONDED THE MOTION.

.....

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

ROLL CALL:	Mr. Albert	- abstain
	Dr. Suppan	- aye
	Mr. Ogg	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

The motion carried.



State Medical Board of Ohio

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

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Executive Director

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January 9, 2008

Case number: 08-CRF- 005

Julie A. Taylor, M.D.
6101 Saintsbury Drive #322
The Colony, TX 75056

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) By letter dated September 27, 2004, the Board notified you of its determination that it had reason to believe that you were in violation of Section 4731.22(B)(19), Ohio Revised Code, and ordered that you submit to a psychiatric evaluation to be conducted by Stephen Noffsinger, M.D. The determination was based upon one or more reasons outlined in such letter, including that you have a history of psychiatric treatment relating back to approximately 1988 for diagnoses that include Post Traumatic Stress Disorder, Major Depressive Disorder, and Bipolar Disorder, including approximately eleven psychiatric inpatient hospitalizations; you had been prescribed a variety of psychiatric medications; you had ceased practicing medicine on or about March 21, 2003, and you had not actively practiced since that time; you were presently under the care of a psychiatrist and that you generally required psychotherapy appointments on a frequent basis; and you had stated in your sworn answers to Interrogatories served upon you by the Board that your most recent psychiatric inpatient hospitalization occurred in February 2004, and you began receiving Social Security disability benefits in January 2004 related to your psychiatric condition.
- (2) By letter dated January 19, 2005, Dr. Noffsinger notified the Board that it was his opinion to a reasonable degree of medical certainty that you suffer from the mental disorder/psychopathology of Bipolar II Disorder (Most Recent Episode Depressed, in Full Remission) and Post Traumatic Stress Disorder, and that you were presently capable of practicing medicine according to acceptable and prevailing standards of care, so long as appropriate treatment, monitoring and supervision are put in place. Dr. Noffsinger also opined with reasonable

Mailed 1-10-08

medical certainty that due to your mental disorders, you were unable to practice medicine according to acceptable and prevailing standards of care in the past (as recently as early 2004). Dr. Noffsinger further determined that your mental disorders were amenable to treatment. His treatment recommendations included that you continue to see a psychiatrist for medication management at least weekly, that you continue to receive antidepressant and mood stabilizing medications, that you remain compliant with all prescribed medications, and that you remain in outpatient counseling with a qualified psychotherapist at least weekly. Dr. Noffsinger further opined with reasonable medical certainty that in order for you to be able to continue to practice medicine according to acceptable and prevailing standards of care, certain conditions needed to be placed on your practice, including that you comply with the treatment recommendations listed above, and that you be monitored by the Board.

- (3) On or about November 21, 2006, the Board received your sworn responses to the Board's second set of Interrogatories, wherein you indicated that since the time that you answered the Board's first set of Interrogatories in or around July 2004, you continued to treat with your psychiatrist on an average of two to four times per week; that you had practiced medicine as a general pediatrician in a medical clinic for approximately one to four night shifts per week from December 2004 until April 2006; that there had been events or stressors that had exacerbated or increased your symptoms or complaints in connection to any mental condition, illness or disorder; that you were not currently practicing; and that you were currently receiving Social Security disability income.

On or around July 2007, the Board received your medical records from your treating psychiatrist concerning your treatment for the time period of September 2004 to July 2007. Those medical records, along with your responses to the Board's second set of Interrogatories and other pertinent records were provided to Dr. Noffsinger. By letter dated December 27, 2007, Dr. Noffsinger notified the Board that the additional materials did not change the opinions he made in his report dated January 19, 2005, and he further indicated that he continued to recommend the treatment and conditions described in his earlier report.

Your acts, conduct, and/or omissions as alleged in paragraphs (1), (2) and (3) above, individually and/or collectively, constitute "[i]nability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills," as that clause is used in Section 4731.22(B)(19), 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.

Julie A. Taylor, M.D.

Page 3

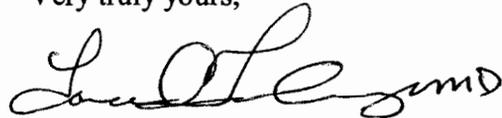
You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at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

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

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

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Lance A. Talmage, M.D.
Secretary

LAT/MRB/flb
Enclosures

CERTIFIED MAIL #91 7108 2133 3934 3873 6232
RETURN RECEIPT REQUESTED

cc: W. Scott Lavelle, Esq.
Lavelle Jurca and Lashuk LLC
6797 North High Street, Suite 314
Worthington, OH 43085

CERTIFIED MAIL #91 7108 2133 3934 3873 6225
RETURN RECEIPT REQUESTED