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

March 12, 2008

Robert S. Coleman, Jr., M.D.
11469 Aquilla Road
Chardon, OH 44024

Dear Dr. Coleman:

Please find enclosed a certified copy of the **CORRECTED** Order and Entry in the above matter approved and confirmed by the State Medical Board of Ohio meeting in regular session on March 12, 2008. This **CORRECTED** Order and Entry documents the Medical Board's reconsideration of the penalty in Dr. Coleman's case in accordance with the instruction of the Tenth District Court of Appeals.

Section 119.12, Ohio Revised Code, may but does not necessarily, authorize an appeal from this Order. 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 with the Franklin County Court of Common Pleas within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO

Lance A. Talmage MD RW

Lance A. Talmage, M.D.
Secretary

LAT:bar
Enclosures

CERTIFIED MAIL RECEIPT NO. 91 7108 2133 3934 3688 8704
RETURN RECEIPT REQUESTED

cc: Kevin P. Byers, Esq.

CERTIFIED MAIL RECEIPT NO. 91 7108 2133 3934 3688 8711
RETURN RECEIPT REQUESTED

Original Order Mailed: Effective on 4/16/08
Corrected Order mailed 4/28/08

CERTIFICATION

I hereby certify that the attached copy of the **CORRECTED** Order and Entry of the State Medical Board of Ohio; attached copy of the Report and Recommendation of Patricia A. Davidson, Attorney Hearing Examiner, State Medical Board; March 12, 2008, Entry of Order in the matter of Robert S. Coleman, Jr., M.D.; and attached excerpt of draft Minutes of the State Medical Board, meeting in regular session on March 12, 2008, including a Motion approving and amending the Findings of Fact, amending the Conclusions of Law, and adopting an amended Order, constitute a true and complete copy of the Order and Entry of the State Medical Board in the Matter of Robert S. Coleman, Jr., M.D., 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 MD RW

Lance A. Talmage, M.D.
Secretary

(SEAL)

March 12, 2008
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

In the Matter of :

:

Robert S. Coleman, Jr., M.D. :

CORRECTED ORDER AND ENTRY

On January 11, 2006, the State Medical Board of Ohio issued its Findings and Order in the Matter of Robert S. Coleman, Jr., M.D., whereby Dr. Coleman's license to practice medicine and surgery in the State of Ohio was suspended for an indefinite period of time, but not less than 180 days and conditions were established for reinstatement of said license. A copy of those Findings and Order are attached hereto and incorporated herein.

Pursuant to 119.12, Ohio Revised Code, Dr. Coleman appealed the Medical Board's Order to the Franklin Court of Common Pleas, which affirmed the Medical Board's decision in November 2006. Thereafter, Dr. Coleman appealed to the Tenth District Court of Appeals. By Opinion on September 25, 2007, the Court of Appeals issued a decision that affirmed the Board's decision in part and reversed the Board's finding that Dr. Coleman had violated Sections 4731.22(A) and 4731.22(B)(5) of the Revised Code, in regard to his responses on a 2003 renewal application submitted to the Ohio State Medical Board. By Entry on January 17, 2008, the Franklin County Court of Common Pleas remanded the case to the State Medical Board for consideration.

WHEREFORE, pursuant to the instructions of the Tenth District Court of Appeals and upon approval and confirmation by vote of the Board on March 12, 2008, the following Order is hereby entered on the Journal of the State Medical Board of Ohio for that date.

It is hereby ORDERED that:

A. **REPRIMAND**: Robert S. Coleman, Jr., M.D., is REPRIMANDED.

B. **SUSPENSION:** The certificate of Robert S. Coleman, Jr., M.D., to practice medicine and surgery in the State of Ohio shall be SUSPENDED for an indefinite period of time, but not less than sixty (60) days.

C. The Board shall not consider reinstatement or restoration of Dr. Coleman's certificate to practice medicine and surgery until all of the following conditions have been met:

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

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

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

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

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

1. **Obey the Law**: Dr. Coleman shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.

2. **Declarations of Compliance**: Dr. Coleman shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which this Order becomes effective. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

3. **Personal Appearances**: Dr. Coleman shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which this Order becomes effective, or as otherwise directed by the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

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

5. **Violation of Terms of Probation**: If Dr. Coleman violates probation in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.

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

F. **REQUIRED REPORTING TO EMPLOYERS AND HOSPITALS**: Within thirty days of the effective date of this Order, Dr. Coleman shall provide a copy of this Order to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Coleman shall provide a copy of this Order to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments.

G. **REQUIRED REPORTING TO OTHER STATE LICENSING AUTHORITIES**: Within thirty days of the effective date of this Order, Dr. Coleman shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Dr. Coleman shall also provide a copy of this Order by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement or restoration of any professional license. Further, Dr. Coleman shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

EFFECTIVE DATE: This Order shall become effective thirty days from the date of mailing of notification of approval by the Board.

Lance A. Talmage MD

Lance A. Talmage, M.D. RW
Secretary

(SEAL)

March 12, 2008
Date

OF ROBERT ALAN KNOX, D.P.M. DR. MADIA SECONDED THE MOTION. A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Madia	- aye
	Mr. Browning	- aye
	Dr. Amato	- aye
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye
	Dr. Varyani	- aye

The motion carried.

REMAND IN THE MATTER OF ROBERT STANLEY COLEMAN, JR., M.D.

Dr. Varyani directed the Board's attention to the matter of Robert Stanley Coleman, Jr. He advised that this matter was initially considered by the Board at its meeting of January 11, 2006. Dr. Coleman appealed the Board's order. The 10th District Court of Appeals affirmed in part and reversed in part the January 2006 Board Order suspending the doctor's license. The matter was remanded to the Board for reconsideration of an appropriate sanction in light of the Court's decision.

Dr. Varyani advised that a request to address the Board has been timely filed by Dr. Coleman's attorney. Five minutes will be allowed for that address.

Kevin P. Byers, Dr. Coleman's attorney, addressed the Board on behalf of Dr. Coleman. Mr. Byers stated that, by his calculations, probably a third of the nine Board members present today were not on the Board when Dr. Coleman first came before the Board, so he thinks a brief thumbnail sketch of procedural history might be helpful, particularly for those members.

Mr. Byers stated that this was a case where Dr. Coleman was charged with fraud, deception and misrepresentation against the Ohio Board when he renewed his application because, prior to his renewal, he had suffered a license denial in the state of North Carolina. Mr. Byers stated that what is really critical is that the Section 4731.22(A) and (B)(5) charges, the fraud , deception and misrepresentation charges, are precisely what the unanimous Board of Appeals reversed on. Mr. Byers stated that, for the Board members who remember this case, this is like asking them to unring the bell; but, by law, those issues, or any aspect of Dr. Coleman's renewal, cannot be considered. What is before the Board today is another (B)(5) allegation, which the Court upheld, saying that Dr. Coleman was less than accurate, or, actually committed fraud, deception or misrepresentation when he applied for a North Carolina license in 2001. Linked to that is a (B)(22) violation, which is the bootstrap, that gives this Board clear authority to do something to Dr. Coleman's license just because of the North Carolina denial. Those are the two issues before the Board at this point.

Mr. Byers advised that Dr. Coleman initially suffered a minimum 180-day suspension with some pre-

requisites to reinstatement from this Board. Mr. Byers stated that, looking at this case on a very basic level, the Board might conclude that half the case is gone, there were four allegations and now there are two, and it should halve the suspension. Mr. Byers stated that there are two logical reasons that shouldn't be done. First, the (B)(5) allegation relative to Dr. Coleman's North Carolina application is premised upon the very same information the Board had when it licensed Dr. Coleman in 1999. Dr. Coleman applied for a license in 1998, he said he had withdrawn from medical school because he left in a "snit" when he got suspended. Dr. Coleman thought it was a withdrawal and that's what he told the Board. The Board then inquired, as it typically does when there's some blemish in the residency training period, and received a letter from the training program that said that Dr. Coleman had been suspended, though he never served the suspension because he left. Dr. Coleman didn't even formally withdraw, he just left. Mr. Byers stated that this Board had that information. To use that information against Dr. Coleman because that was the basis for a (B)(5) in the state of North Carolina seems like double punishment. Mr. Byers again stated that this Board had the information and decided to license Dr. Coleman. He added that Dr. Coleman said the same thing to Georgia and got a license, later he said the same thing to North Carolina and didn't get a license, and that's what caused this problem. That's relative to the (B)(5) in the state of North Carolina.

Mr. Byers continued that he can't argue about the (B)(22) in North Carolina. There is an action this Board can use to take discipline in Ohio against Dr. Coleman's Ohio license, but he hopes that this Board will bear in mind that Dr. Coleman has paid the price for that. North Carolina dealt with it; they flat-out denied Dr. Coleman a license. Dr. Coleman didn't appeal or contest that decision, thinking that it was just a denial, and he just went on about his business. He was actually back in Ohio, practicing, at that point. That has been dealt with effectively by the North Carolina Board.

Mr. Byers stated that it is important that the Board also bear in mind that the 10th District Court of Appeals has the authority, on a partial reversal, to go ahead and uphold the sanction, and it has done it in past cases. The Court didn't do that in this case. He stated that he thinks that the Court expects a meaningful reconsideration, and that's why they sent it back to the Board to exercise its discretion. Mr. Byers stated that Dr. Coleman can only hope that the Board looks at the totality of the circumstances, realizes that Dr. Coleman has an otherwise unblemished career. Dr. Coleman serves as an emergency department physician and has done so since he was licensed in 1999. Mr. Byers stated that he believes that the Board will have fulfilled its duty if it takes a lesser action. He added that he would respectfully submit that a reprimand or a reprimand with a period of probation would sufficiently protect the public and put the public on notice that Dr. Coleman had some blemish in his history.

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

Mr. Wilcox stated that he would agree with what Mr. Byers said, procedurally, as to how this case has made its way through the system and then come back. The Board originally levied a stayed permanent revocation, with a minimum 180 day suspension. That Order was stayed by the Court. Dr. Coleman has never served any of that suspension. The Board is still left with two of the four penalties: the (B)(5) and the (B)(22). Mr. Wilcox stated that this Board can penalize one of its licensees for lying to another Board. He added that he thinks that that is appropriate. In this case, it would be appropriate to, perhaps, split the penalty. Mr. Wilcox stated that his recommendation would be for 90 days.

DR. STEINBERGH MOVED TO RECONSIDER THE MATTER OF ROBERT STANLEY COLEMAN, JR., M.D., ON REMAND FROM THE 10TH DISTRICT COURT OF APPEALS. MR. BROWNING SECONDED THE MOTION. All members voted aye. The motion carried.

Dr. Steinbergh stated that she appreciates the arguments made by Dr. Coleman, but there are certain facts that can't be changed. Dr. Coleman initially applied for a license in North Carolina. He inappropriately filled out the FCVS application, and they took that, investigated, and found that he had fraudulently applied for licensure. The North Carolina Board subsequently denied Dr. Coleman's license, so this Board knows that he has a denial of a license. Part of the Board's previous action was based on that denial.
Dr. Steinbergh noted that the 10th District Court of Appeals decision says that the Board's consideration on whether or not Dr. Coleman had fraudulently applied in Ohio was not to be considered. Dr. Steinbergh stated that she may disagree with that Court's ruling. Noting the Board's deliberations of January 11, 2006, she indicated that she felt at that time that Dr. Coleman had fraudulently applied in Ohio. Nevertheless, the Board is directed to not consider that piece and to consider the North Carolina action.

Dr. Steinbergh stated that Dr. Coleman had been suspended from an osteopathic medical school, and he walked away from that. There had been questions about his cheating on a virology examination. In order to be potentially readmitted to that school, they gave Dr. Coleman a suspension. Also, he had to admit that he had cheated on the examination. Dr. Steinbergh stated that, for this Board, that was a real concern. The Board's discussion led to the Order it entered, which was that Dr. Coleman would be suspended for an indefinite period of time, but not less than 180 days, and probationary terms.

Dr. Steinbergh stated that, not considering the parts of the case dealing with application to Ohio, she still feels that, because of his denial in North Carolina and the fraudulent application there, the Board does need to take action.

DR. STEINBERGH MOVED TO ENTER THE FOLLOWING ORDER AND EFFECTIVE DATE IN THE MATTER OF ROBERT STANLEY COLEMAN, JR., M.D.:

It is hereby ORDERED that:

A. **REPRIMAND AND SUSPENSION**: Robert S. Coleman, Jr., M.D., is REPRIMANDED, and his certificate to practice medicine and surgery in the State of Ohio shall be SUSPENDED for an indefinite period of time, but not less than sixty (60) days.

B. The Board shall not consider reinstatement or restoration of Dr. Coleman's certificate to practice medicine and surgery until all of the following conditions have been met:

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

2. **Professional/Personal Ethics Course**: At the time he submits his application

for reinstatement or restoration, Dr. Coleman shall provide acceptable documentation of successful completion of a course or courses dealing with professional and personal ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.

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

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

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

1. **Obey the Law**: Dr. Coleman shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.

2. **Declarations of Compliance**: Dr. Coleman shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which this Order becomes effective. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

3. **Personal Appearances**: Dr. Coleman shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which this Order becomes effective, or as otherwise directed by the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

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

5. **Violation of Terms of Probation**: If Dr. Coleman violates probation in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.

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

E. **REQUIRED REPORTING TO EMPLOYERS AND HOSPITALS**: Within thirty days of the effective date of this Order, Dr. Coleman shall provide a copy of this Order to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Coleman shall provide a copy of this Order to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments.

F. **REQUIRED REPORTING TO OTHER STATE LICENSING AUTHORITIES**: Within thirty days of the effective date of this Order, Dr. Coleman shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Dr. Coleman shall also provide a copy of this Order by certified mail, return receipt requested, at the time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement or restoration of any professional license. Further, Dr. Coleman shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

EFFECTIVE DATE OF ORDER: This Order shall become effective thirty days from the date of mailing of the notification of approval by the Board.

DR. ROBBINS SECONDED THE MOTION.

Dr. Varyani stated that he would now entertain discussion in the above matter.

There was no further discussion of this matter.

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

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Madia	- aye
	Mr. Browning	- aye
	Dr. Amato	- aye
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye
	Dr. Varyani	- aye

The motion carried.

PROPOSED FINDINGS AND PROPOSED ORDERS

LON A. CASTLE, M.D.

Dr. Varyani directed the Board's attention to the matter of Lon A. Castle, M.D. He advised that by letter of June 14, 2007, the Board notified Lon A. Castle, M.D., that it had proposed to take disciplinary action against his certificate to practice medicine and surgery in Ohio, based on the following allegations: that Dr. Castle, when randomly selected for an audit of his continuing medical education [CME], failed to respond to the Board's initial audit notice, and that, when he eventually responded, he was not able to document that he had in fact earned the required number of Category 1 CME hours during the 2003-2005 period; that Dr. Castle had certified, in his 2005 licensure-renewal application, that he had completed the required CME for the 2003-2005 period, including at least 40 hours of Category 1 C.M.E.; that Dr. Castle's conduct in certifying to the Board that he had completed the required CME when, in fact, he had not, constitutes "[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine or surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certification of registration issued by the board," as that language is used in Ohio Revised Code Section [R.C.] 4731.22(B)(5); and that Dr. Castle's "failure to respond to the audit notices, to obtain the requisite CME, and/or to submit documentation of same * * * constitutes 'violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate, any provisions of this chapter or any rule promulgated by this board'" as that language is used in R.C. 4731.22(B)(20), with respect to Dr. Castle's violation of R.C. 4731.281 and Rules 4731-10-02, 4731-10-05, and 4731-10-08.

Dr. Varyani advised that the notice was mailed to Dr. Castle's address of record and proper service was documented. A hearing request was received from Dr. Castle, but it was not received in a timely manner. More than thirty days have elapsed since the mailing of the notice. The matter was reviewed by Hearing Examiner Davidson, who prepared Proposed Findings and a Proposed Order, and is now before the Board for final disposition.

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

ROBERT S. COLEMAN, JR., M.D.	:	
Appellant,	:	**Case No. 06CVF-2026**
v.	:	**JUDGE CONNOR**
STATE MEDICAL BOARD OF OHIO	:	
Appellee	:	

FILED
COMMON PLEAS COURT
FRANKLIN CO. OHIO
2008 JAN 17 PM 3:03
CLERK OF COURTS

ENTRY REMANDING THE STATE MEDICAL BOARD'S JANUARY 11, 2006 ORDER SUSPENDING APPELLANT'S LICENSE TO PRACTICE MEDICINE AND SURGERY IN OHIO

On September 25, 2007, the Tenth Appellate District issued an order remanding this case to this Court with instructions to further remand this matter to the Appellee State Medical Board of Ohio to reconsider an appropriate sanction. Pursuant to the September 25, 2007 Judgment Entry and order of remand issued by the Tenth Appellate District Court it is hereby:

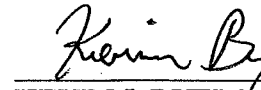
ORDERED, ADJUDGED AND DECREED that this case is remanded to the State Medical Board of Ohio for the purposes ordered by the Tenth Appellate District Court.

IT IS SO ORDERED.

_____ _____
Date **JUDGE CONNOR**

APPROVED:

per telephone
authorization to K.W.



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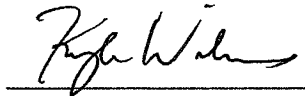
MARC DANN (0039425)
Attorney General



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Attorney for Appellee,
State Medical Board of Ohio

FILED
COURT OF APPEALS
FRANKLIN COUNTY
2007 SEP 25 PM 1:57
CLERK OF COURTS

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

Robert S. Coleman, Jr., M.D.,	:	
Appellant-Appellant,	:	
v.	:	No. 06AP-1299 (C.P.C. No. 06CVF02-2026)
State Medical Board of Ohio,	:	(REGULAR CALENDAR)
Appellee-Appellee.	:	

JUDGMENT ENTRY

For the reasons stated in the opinion of this court rendered herein on September 25, 2007, appellant's first assignment of error is sustained in part and overruled in part. The second assignment of error is overruled. It is the judgment and order of this court that the judgment of the Franklin County Court of Common Pleas is affirmed in part and reversed in part, and this cause is remanded to that court with instructions to remand the matter to the appellee to reconsider an appropriate sanction in light of this court's decision. Costs shall be equally assessed against the parties.

KLATT, J., SADLER, P.J., & McGRATH, J.

By William A. Klatt
Judge William A. Klatt

HEALTH & HUMAN
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SERVICES SECTION

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2007 SEP 25 PM 1:50
CLERK OF COURTS

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

Robert S. Coleman, Jr., M.D.,	:	
Appellant-Appellant,	:	
v.	:	No. 06AP-1299 (C.P.C. No. 06CVF02-2026)
State Medical Board of Ohio,	:	(REGULAR CALENDAR)
Appellee-Appellee.	:	

O P I N I O N

Rendered on September 25, 2007

Kevin P. Byers Co., L.P.A., and *Kevin P. Byers*, for appellant.

Marc Dann, Attorney General, and *Kyle C. Wilcox*, for appellee.

APPEAL from the Franklin County Court of Common Pleas.

KLATT, J.

{¶1} Appellant, Robert S. Coleman, Jr., M.D., appeals from a judgment of the Franklin County Court of Common Pleas affirming the order of the appellee, State Medical Board of Ohio ("board"), suspending his medical license. For the following reasons, we affirm the judgment in part and reverse in part.

{¶2} Appellant graduated from the Ross University School of Medicine ("Ross") in 1995. Before attending Ross, however, appellant attended the University of Health Services in Missouri ("UHS"). While attending UHS, appellant was accused of academic

HEALTH & HUMAN
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SERVICES SECTION

dishonesty. As a result, the interim dean for academic affairs at UHS dismissed appellant from the school. Appellant appealed his dismissal to the school's president, who reduced the dismissal to a suspension for the remainder of the school year. Appellant then immediately left the school and transferred to Ross.

{¶3} In 1998, appellant applied for and received a license to practice medicine in Ohio. He disclosed in his application that he had transferred from UHS to Ross. The board investigated appellant's time at UHS and received a letter from the school's registrar explaining the circumstances surrounding appellant's suspension from the school.

{¶4} In 2001, appellant applied for a license to practice medicine in North Carolina. In the application, he answered "NO" when asked if he had "ever been denied admission to, suspended, placed on scholastic or disciplinary probation, expelled or requested to resign from any school, medical school, or other similar institution?" By a letter dated January 10, 2002, the North Carolina Medical Board informed appellant that it denied his application. The Board set forth five reasons for its decision, including: engaging in immoral or dishonorable conduct; making false statements or representations or willfully concealing material information from the board in connection with an application; and, engaging in unethical conduct. The letter informed appellant that he could request a hearing concerning his application. Appellant moved back to Ohio shortly thereafter, so he did not request a hearing and took no further action with respect to his North Carolina application.

{¶5} In 2003, appellant applied to renew his Ohio medical license. In the renewal form, he answered "NO" when asked if "any board, bureau, department, agency,

or other body, including those in Ohio, **other than this board**, filed any charges, allegations or complaints against you?" (Emphasis sic.) The board renewed appellant's medical license.

{¶6} However, by a notice dated July 13, 2005, the board informed appellant that it would determine whether it should sanction his medical license. Specifically, the board alleged that appellant made a false, fraudulent, deceptive, or misleading statement in securing or attempting to secure any certificate to practice or certificate of registration issued by the board, sanctionable pursuant to R.C. 4731.22(B)(5). This allegation concerned appellant's answer in his 2001 North Carolina application that he had never been denied admission to, suspended, placed on scholastic or disciplinary probation, expelled or requested to resign from any school, medical school, or other similar institution. The board also alleged that the North Carolina Medical Board's denial of his 2001 application was sanctionable pursuant to R.C. 4731.22(B)(22).

{¶7} Lastly, the board alleged that appellant made a false, fraudulent, deceptive, or misleading statement in securing or attempting to secure any certificate to practice or certificate of registration issued by the board, sanctionable pursuant to R.C. 4731.22(B)(5). This allegation concerned appellant's answer in his 2003 Ohio renewal application that no board, bureau, department, agency, or other body, including those in Ohio, other than the board, had filed any charges, allegations or complaints against him since his last application. The board alleged that his answer was false because the letter from North Carolina alleged a number of violations against appellant. The board alleged that appellant's conduct constituted fraud, misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the board,

sanctionable pursuant to R.C. 4731.22(A). Appellant requested a hearing concerning his license.

{¶8} At the hearing, appellant testified that in the North Carolina application, he answered no when asked if he had ever been suspended from a medical school because he immediately transferred to another school, and therefore, never served his suspension. He testified that in the Ohio renewal application, he answered no when asked if another board had ever filed any charges, allegations or complaints against him because he interpreted the question to pertain to charges regarding patient care. He also explained that because the letter informed him that his application had been denied, he did not think the letter constituted an action or allegation against him, just that it was the North Carolina board's explanation of why it denied his application.

{¶9} The hearing officer found that appellant's explanation for his "patently untrue" answer in the North Carolina application was not credible. The hearing officer noted that appellant's explanation for his false answer in the Ohio renewal application might have been plausible, but for his "egregious misrepresentation" in the North Carolina application. Thus, the hearing officer concluded that appellant engaged in the conduct alleged in the board's notice, which was sanctionable pursuant to R.C. 4731.22(A) and (B)(5).[1] However, recognizing appellant's "convincing commitment to the profession" and his "potential benefit to the profession and the public," the hearing officer recommended that his license be suspended for an indefinite period of time not less than 180 days.

[1] Appellant does not contest the hearing examiner's conclusion that, pursuant to R.C. 4731.22(B)(22), his North Carolina application was denied by that state's medical board. Thus, the only issues in this appeal involve his 2001 North Carolina application and his 2003 Ohio renewal, and he still is subject to sanctions based on R.C. 4731.22(B)(22), regardless of this court's conclusions regarding the other violations.

Over appellant's objections, the board approved and adopted the hearing officer's recommendation.

{¶10} Appellant appealed the board's order to the Franklin County Court of Common Pleas, which affirmed the board. Appellant appeals and assigns the following errors:

> FIRST ASSIGNMENT OF ERROR: THE TRIAL COURT ABUSED ITS DISCRETION AND ERRED TO APPELLANT'S PREJUDICE WHEN IT FOUND THE ORDER OF THE STATE MEDICAL BOARD OF OHIO IS SUPPORTED BY RELIABLE, PROBATIVE, AND SUBSTANTIAL EVIDENCE.
>
> SECOND ASSIGNMENT OF ERROR: THE TRIAL COURT ABUSED ITS DISCRETION AND ERRED TO APPELLANT'S PREJUDICE WHEN IT FOUND THE ORDER OF THE STATE MEDICAL BOARD OF OHIO IN ACCORDANCE WITH LAW.

{¶11} In an administrative appeal pursuant to R.C. 119.12 , the trial court reviews an order to determine whether it is supported by reliable, probative and substantial evidence and is in accordance with law. *Huffman v. Hair Surgeon, Inc.* (1985), 19 Ohio St.3d 83, 87. On appeal to this court, the standard of review is more limited. Unlike the court of common pleas, a court of appeals does not determine the weight of the evidence. *Rossford Exempted Village School Dist. Bd. of Edn. v. State Bd. of Edn.* (1992), 63 Ohio St.3d 705, 707. In reviewing the court of common pleas' determination as to whether the commission's order was supported by reliable, probative and substantial evidence, this court's role is limited to determining whether the court of common pleas abused its discretion. *Roy v. Ohio State Med. Bd.* (1992), 80 Ohio App.3d 675, 680. 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. However, on the question of whether the commission's order was in accordance with law, this court's review is plenary. *Univ. Hosp., Univ. of Cincinnati College of Medicine v. State Emp. Relations Bd.* (1992), 63 Ohio St.3d 339, 343.

{¶12} In his first assignment of error, appellant contends that the evidence did not support the conclusion that he intentionally misled, deceived or defrauded either North Carolina or Ohio in his applications. In order to sanction a physician for violations of R.C. 4731.22(A) or 4731.22(B)(5), the board is required to find that the physician intended to mislead the board. *Webb v. State Med. Bd. of Ohio*, 146 Ohio App.3d 621, 2001-Ohio-3991, at ¶35; *Instanbooly v. Ohio State Med. Bd.*, Franklin App. No. 04AP-76, 2004-Ohio-3696, at ¶15. Intent may be inferred from the surrounding circumstances, such as when a licensee clearly has information which he fails to disclose in a response to a direct question. Id.

{¶13} We will address appellant's North Carolina application first. Appellant did not disclose that he had been suspended from UHS. He claims that he did not disclose the suspension because he did not serve it. The hearing officer found appellant's explanation not credible. The board agreed. The application's question is clear and direct: it asks whether the applicant had ever been suspended from any medical school. Appellant was suspended from UHS, a fact appellant does not dispute. The fact that appellant transferred to another school after UHS imposed the suspension is irrelevant to a reasonable, honest answer to the question. The question does not ask whether appellant ever served a suspension. Given these circumstances, the trial court did not abuse its discretion in finding that reliable, probative, and substantial evidence supports

the board's determination that appellant intended to mislead with this false answer. See id. at ¶18-19 (false answer to clear and unambiguous question supported finding of violation).

{¶14} We next address appellant's Ohio renewal application. In that application, appellant denied that another regulatory body had filed allegations, charges, or a complaint against him. The board claimed that North Carolina's letter informing appellant that his application was denied, and stating the reasons for the denial, constituted allegations or charges filed against him that appellant should have disclosed. Appellant claimed, in part, that he did not understand the letter to be a charge or allegation filed against him.

{¶15} The question at issue here is less than clear and direct when applied to the facts of this case. North Carolina's letter to appellant advised him that his application had been denied and stated the board's reasons for that denial. It did not charge appellant with anything or require appellant to take any action. Additionally, there is no indication in the letter that any charges had been filed against appellant. Appellant did not contest the denial, and he took no further action after receiving the letter. There is no other evidence that appellant intended to mislead the board when he denied that another regulatory body had filed allegations, charges, or a complaint against him. Given these undisputed facts, we find that the trial court abused its discretion in affirming this aspect of the board's order.

{¶16} Therefore, we overrule that part of appellant's first assignment of error concerning appellant's violation of R.C. 4731.22(B)(5) in connection with his North Carolina application, but we sustain that part of appellant's first assignment of error

concerning his alleged violation of R.C. 4731.22(A) and 4731.22(B)(5) in connection with his Ohio renewal application.

{¶17} Appellant contends in his second assignment of error that the board violated his due process rights. We disagree. The fundamental requirement of procedural due process is notice and hearing, that is, an opportunity to be heard. *Korn v. Ohio State Med. Bd.* (1988), 61 Ohio App.3d 677, 684, citing *Luff v. State* (1927), 117 Ohio St. 102. To comply with due process in an administrative proceeding, involving the potential revocation of an individual's license to practice a profession, notice and a hearing are necessary. *Korn* at 684, citing *Jewell v. McCann* (1917), 95 Ohio St. 191; *Black v. State Bd. of Psychology*, 160 Ohio App.3d 91, 2005-Ohio-1449, at ¶7.

{¶18} Appellant received notice of the board's allegations against him and received a full opportunity to respond to those allegations at a hearing in front of an impartial board. He does not contend otherwise. To the extent he claims that the board's decision violates his due process rights because it was not supported by reliable, probative, and substantial evidence, we have already addressed the evidence supporting the board's decision in appellant's first assignment of error. Appellant's second assignment of error is overruled.

{¶19} An appellate court may remand to the administrative agency for reconsideration of a sanction where the court finds one or more of multiple violations to be unsupported by reliable, probative, and substantial evidence. *Parrish v. Ohio Dept of Agriculture*, Franklin App. No. 06AP-314, 2006-Ohio-6434, at ¶20; *Rossiter v. Ohio State Med. Bd.* (Apr. 25, 2002), Franklin App. No. 01AP-1252. We have determined that the trial court abused its discretion when it found reliable, probative, and substantial evidence

supported the board's decision with respect to alleged violations in appellant's Ohio renewal application. Given the circumstances of this case, we remand the matter to the board for it to reconsider, in its discretion, an appropriate sanction for the remaining violations.

{¶20} In conclusion, appellant's first assignment of error is sustained in part and overruled in part. His second assignment of error is overruled. The judgment of the Franklin County Court of Common Pleas is affirmed in part and reversed in part, and the matter is remanded to that court with instructions to remand the matter to the board to reconsider an appropriate sanction in light of this court's decision.

Judgment affirmed in part and reversed in part;
and cause remanded with instructions.

SADLER, P.J., and McGRATH, J., concur.

IN THE COURT OF ~~APPEALS OF OHIO~~ COMMON PLEAS
~~TENTH APPELLATE DISTRICT~~

Robert S. Coleman, Jr., M.D. 13125 Pearl Road Chardon, Ohio 44024 Appellant-Appellant,	:	Case No. _____
	:	
v.	:	Accelerated Calendar
State Medical Board of Ohio 77 South High Street, 17th Floor Columbus, Ohio 43215-0315 Appellee-Appellee.	:	CPC No. 06CVF-02-2026

Appeal from the common pleas court of Franklin County, Ohio

NOTICE OF APPEAL

Notice is hereby given that Appellant, Robert S. Coleman, Jr., M.D., hereby appeals to the Court of Appeals of Ohio, Tenth Appellate District for Franklin County, from the judgment entry and decision (attached hereto) filed in this action by the lower on December 18, 2006.

Respectfully submitted,

KEVIN P. BYERS CO., LPA

KPByers

Kevin P. Byers 0040253
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Kevin@KPByersLaw.com

Attorney for Appellant,
Robert S. Coleman, Jr., M.D.

FILED
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HEALTH & HUMAN
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SERVICES SECTION

06APE12 1299

Certificate of Service

I certify that a true copy of the foregoing Notice of Appeal was deposited in first class US mail this 29th day of December, 2006, addressed to Sr. AAG Kyle C. Wilcox, Health & Human Services Section, 30 East Broad Street, 26th Floor, Columbus, Ohio 43215-3428.

Kevin P. Byers

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

Robert S. Coleman Jr., MD, **Appellant,**	:	
	:	Case No. 06CV2026
v.	:	
The State Medical Board of Ohio, **Appellee.**	:	Judge John Connor

NUNC PRO TUNC ENTRY

Rendered this 22nd day of December, 2006.

On December 18, this Court entered a final appealable order which included a typographical error. That entry is now adopted in its entirety with the correction made that the Medical Board order "is AFFIRMED" in place of "if AFFIRMED." This entry shall not extend or modify the final appealable order date of December 18, 2006.

IT IS SO ORDERED.

JUDGE J. CONNOR

Copies to:
KP Byers for appellant
KC Wilcox for appellee

FILED
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HEALTH & HUMAN
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SERVICES SECTION

FINAL APPEALABLE ORDER

TERMINATION NO. 18
BY 612 12/15/06

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

Robert S. Coleman Jr., MD,
Appellant,

v.

The State Medical Board of Ohio,
Appellee.

Case No. 06CV2026

Judge John Connor

JUDGMENT ENTRY VACATING THE NOVEMBER 7, 2006, ENTRY, GRANTING APPELLANT'S DECEMBER 15, 2006, MOTION FOR RELIEF PURSUANT TO CIV. R. 60(B)(5), ENTERING JUDGMENT AFFIRMING THE STATE MEDICAL BOARD ORDER OF JANUARY 11, 2006, AND CONTINUING THE FEBRUARY 22, 2006, STAY ORDER

Rendered this 15th day of December, 2006.

This matter is before the Court on unopposed motion of Appellant Robert S. Coleman, Jr., MD, for relief pursuant to Civ. R. 60(B)(5). For good cause shown, the November 7, 2006, entry is hereby VACATED and this entry shall serve as a final appealable order in accord with law and rule and the Medical Board order if AFFIRMED. Furthermore, this Court's stay order of February 22, 2006, shall remain in effect pending further proceedings on appeal.

IT IS SO ORDERED.

JUDGE J. CONNOR

Copies to:
KP Byers for appellant
KC Wilcox for appellee

FILED
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COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO
CIVIL DIVISION

TERMINATION NO. 18
BY 11/7/06

C4736F01

Robert S. Coleman, Jr., M.D.,	:	
Appellant,	:	CASE NO. 06-CVF-2026
-vs-	:	JUDGE JOHN A. CONNOR
The State Medical Board of Ohio,	:	
Appellee.	:	ON CHAPTER 12

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FRANKLIN COUNTY OHIO

DECISION AND ENTRY AFFIRMING THE JANUARY 11, 2006 ORDER OF THE STATE MEDICAL BOARD OF OHIO

Rendered this 7th day of November, 2006

CONNOR, JUDGE

This matter comes before this Court upon an appeal pursuant to R.C. § 119.12 from a January 11, 2006 Order of the State Medical Board of Ohio (hereinafter "the Board"). The Board approved the Proposed Order of the Hearing Officer, as amended, and suspended the Appellant's medical license for an indefinite period of time, but not less than one hundred and eighty days (180) days, imposed conditions for reinstatement, and set forth probationary terms and conditions if reinstatement was granted. See January 11, 2006 Entry of Order. The record certified by the Board can be summarized as follows:

The Appellant's license suspension involves two incidents. First, Appellant stated in response to a question on his application to the North Carolina Medical Board that he had never been suspended from a medical school. However, this statement was false since Appellant was suspended from the University of Health Sciences ("UHS") while he was attending the College of Osteopathic Medicine in Kansas City. The North Carolina Board denied his application for a medical license based on this misrepresentation, and also alleged that Appellant had violated multiple statutes of North Carolina law.

The suspension now at issue before this Court is based on the second incident. Appellant stated on his 2003 renewal application to the Ohio Medical Board that no board or other body had filed allegations, charges, or a complaint against him since his prior renewal. However, the North Carolina Medical Board notified Appellant that his application for a medical license was denied on alleged violations of North Carolina statutes. See State's Exhibits 2-3.

Thus, the denial of Appellant's application for a medical license by the North Carolina Board was predicated on Appellant's misrepresentation of his 1992 medical school suspension. Whereas, under the facts before this Court, Appellant's Ohio medical license suspension is based on his failure to provide information regarding his being denied a medical license by the North Carolina Medical Board and thus, is not predicated upon the actual 1992 medical school suspension.

The underlying facts are as follows: the University of Health Sciences ("UHS") College of Osteopathic Medicine in Kansas City, notified Appellant by a letter dated January 14, 1992, that he was dismissed from the school following an allegation of cheating. State's Exhibit 4, Tr. 26-32. Appellant appealed and on January 20, 1992, the university modified the dismissal to a suspension. State's Exhibit 4, Tr. 28-33, 73-74. The record reveals that the Appellant did not appeal this decision and left the school without formally withdrawing or serving the suspension. He then enrolled in medical school at Ross University School of Medicine in Roseau, Dominica, from which he graduated in 1995.

Subsequently, in October 2001 Appellant submitted an application to practice medicine to the North Carolina Medical Board. He certified under oath that all the statements he made in the application were true. State's Exhibit 3. Appellant answered "No" to the following question:

Have you ever been denied admission to, suspended, placed on scholastic or disciplinary probation, expelled or requested to resign from any school, medical school or other similar institution?

C4736F03

The North Carolina Medical Board requested a face to face meeting with Appellant. After learning of the 1992 UHS suspension, the North Carolina Board notified Appellant in a January 10, 2002 letter that it was denying his application for a medical license. The letter also informed Appellant that he had committed five violations of North Carolina statutes in the application process. See State's Exhibit 2-3. The January 10, 2002 letter stated that Appellant failed to satisfy the Board of his qualifications for a medical license in the following respect:

1. You have engaged in immoral or dishonorable conduct within the meaning of §90-14(a)(1) of the North Carolina General Statutes;

2. You made false statements or representations to the Board or willfully concealed from the Board material information in connection with your application for a license within the meaning of §90-14(a)(3) of the North Carolina General Statutes;

3. You have engaged in unethical conduct and conduct contrary to honesty, justice, or good morals within the meaning of § 90-14(a)(6) of the North Carolina Statutes;

4. You have by false representations obtained or attempted to obtain something of value within the meaning of § 90-14(a)(8) of the North Carolina General Statutes; and

5. You have not satisfied the Board that you are of good moral character within the meaning of § 90-11 of the North Carolina Statutes.

This letter informed the Appellant that he was entitled to file a timely request for a hearing. However, rather than address these serious charges, Appellant chose not to pursue the matter.

Subsequently, on February 28, 2003 Appellant submitted an application to Appellee to renew his medical license in Ohio. Appellant answered "No" to the following question:

AT ANY TIME SINCE SIGNING YOUR LAST APPLICATION FOR RENEWAL OF YOUR CERTIFICATE:

C4736F04

* * *

Has any board, bureau, department, agency or other body, including those in Ohio, other than this board, filed any charges, allegations or complaints against you?

Appellant's answer was false since the North Carolina Medical Board notified Appellant that his application for a medical license was being denied based on allegations that he violated North Carolina statutes by providing false statements to the North Carolina Medical Board. See State's Exhibits 2-3.

Evidence was presented at the October 31, 2005 hearing where the Board alleged the following against the Appellant:

Appellant failed to disclose to the Ohio Board in his 2003 renewal application that his application for a medical license had been denied by the North Carolina Medical Board. R.C. 4731.22(B)(22) provides, in pertinent part:

> Any of the following actions taken by the agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or the limited branches of medicine in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license surrender; **denial of a license**; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand… (Emphasis added).

The Board further alleged that Appellant violated R.C. § 4731.22(A) and/or R.C. § 4731.22(B)(5). R.C. § 4731.22(A) provides, in pertinent part:

> The state medical board…may revoke or may refuse to grant a certificate a certificate to a person found by the board …to have committed fraud misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the board.

R.C. § 4731.22(B)(5) provides: C4736F05

> **Making a false, fraudulent, deceptive, or misleading statement** in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, or a limited branch of medicine; or **in securing or attempting to secure any certificate to practice or certificate of registration issued by the board...** (Emphasis added).

Appellant argues that there is no direct evidence of an improper intent in completing his Ohio renewal application and thus, the Board did not prove that Appellant had an intent to deceive. Appellant admits that he erred on his 2003 Ohio renewal application by not correctly interpreting Question 4 which asked whether any charges, allegations or complaints had been filed against him. Additionally, Appellant argues that he was never "suspended" from UHS since he left the school rather than serve out the suspension. Appellant also argues that based on the Ohio Board's 1998 follow-up inquiry, it was well aware of his UHS suspension, even though he was not aware that the Ohio Board had these communications with UHS.

Appellee asserts that there is reliable, probative and substantial evidence demonstrating that Appellant intended to mislead the Ohio and North Carolina Medical Boards and that the penalty imposed by the Board is appropriate based upon the evidence in the record. Appellee asserts that Appellant has demonstrated a pattern of deceit by answering questions on important medical licensing forms that misrepresent his past record and that this Court should affirm the Board's January 11, 2006 Order.

Upon a review of the record there is reliable, probative and substantial evidence to support the January 11, 2006 Order of the Board. The trustworthiness of a physician is a central and fundamental component of a doctor-patient relationship and has been recognized as a guiding principle in matters of licensure. *Gipe v. State Med. Bd. of Ohio* Jul. 31, (2003),

Franklin App. No. 02AP-1315, citing *Bouquett v. Ohio Med. Bd.* (1997), 123 Ohio App.3d 466, 473. The Tenth District Court of Appeals has determined that in order to find a 736F06 violation of R.C. § 4731.22, the Board must find that the underlying statements were made with an intent to mislead the Board. *In re Wolfe* (1992), 82 Ohio App.3d 675, 687; *Webb v. State Med. Bd. of Ohio* (2001), 146 Ohio App.3d 621. The Board may infer intent from the surrounding circumstances, such as when a licensee clearly knows something which he or she fails to disclose in response to a direct question. *Hayes v. State Med. Bd. of Ohio* (2000), 138 Ohio App.3d 762, 770. See also *Gipe, supra.*

Appellant's testimony is that he left UHS immediately once the suspension was served upon him, without withdrawing from the school or serving his suspension. Tr. 34 and 54. Thus, it appears to be Appellant's logic that since he didn't serve the suspension, it didn't exist. Appellant's argument is unpersuasive and only bolsters the inference that he intentionally deceived the North Carolina Medical Board. Thus, this Court concludes that Question 15 on the North Carolina application clearly and unambiguously asks the Appellant if he has ever been suspended from any school, medical school or other similar institution. See State's Exhibit 3. The question is direct and straightforward. The evidence clearly demonstrates that Appellant was suspended from UHS in 1992 and should have acknowledged his conduct by answering the question in the affirmative. See State's Exhibits 2 and 3.

Additionally, there is reliable, probative and substantial evidence that Appellant provided false information to the Appellee on his 2003 Ohio renewal application. The Appellant is asked on Question 4 on the renewal application whether the he has had "any charges, allegations, or complaints" filed against him. Appellant testified that he thought the question was in reference to patient care, but acknowledged that the question does not

mention patient care. See Tr. 35-40, 64. He stated that the January 10, 2002 letter from the North Carolina Medical Board did not use the word "allegations" and that he didn't know that allegations meant reasons. Tr. 42.

C4736F07

This Court finds Appellant's argument not only unpersuasive, but nearly implausible. The record indicates that Appellant met, in person, with a member of the North Carolina Medical Board to discuss his application prior to being denied a license to practice medicine in that state. Tr. 57. After this face to face meeting, where ostensibly Appellant had the opportunity to address any issues regarding his application and to clear up any misunderstandings, Appellant received the January 10, 2002 denial letter from the North Carolina Medical Board.

The North Carolina Board denied Appellant's request for a medical license based on the fact that Appellant violated several North Carolina statutes in completing his application when (1) he engaged in immoral or dishonorable conduct, (2) made false statements or representations and/or willfully concealed information from the Board, (3) engaged in unethical conduct, (4) made false representations to obtain something of value, and (5) was not of good moral character as defined by North Carolina law. See State's Exhibts 2-3. The letter provides Appellant an opportunity for a hearing to address these allegations, however, Appellant never responded.

It would seem that a person who believed himself to be innocent of such egregious conduct would not leave the matter unresolved without clearing his good name; or at least responding in some way, if only to find out if the letter was some kind of mistake and was meant for someone else. The record demonstrates that Appellant made no response to this letter, *albeit he* left North Carolina and relocated to Ohio. Tr. 38. Thus, the only inference this Court can make from Appellant's conduct in not challenging or trying to clear his

record is that these allegations may have had some semblance of truth. This inference is bolstered by the fact that Appellant's North Carolina application was denied even after he had a face to face meeting with a North Carolina Medical Board member specifically to address the issues regarding his application. This Court concludes from these surrounding circumstances that Appellant's conduct in deceiving the North Carolina and Ohio Medical Boards was intentional and there is reliable, probative and substantial evidence supporting the Board's January 11, 2006 Order. See *Hayes, supra.*

C4736E08

Based on the foregoing, this Court finds that the January 11, 2006 Order of the Ohio Medical Board is supported by reliable, probative and substantial evidence. The January 11, 2006 Order of the Ohio Medical Board is hereby AFFIRMED.

It is so ordered.

JUDGE JOHN A. CONNOR

Copies to:

Jim Petro, Esq., and Kyle C. Wilcox, Esq., Counsel for Appellee

Kevin P. Byers, Esq., Counsel for Appellant

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

Robert S. Coleman Jr., MD, Appellant,	:	
	:	Case No. 06 CVF02-2026
v.	:	
The State Medical Board of Ohio, Appellee.	:	Judge Conmor

DECISION AND ENTRY GRANTING APPELLANT'S FEBRUARY ____, 2006, MOTION FOR SUSPENSION OF AGENCY ORDER.

Rendered this 21st day of February, 2006.

This matter is before the Court on motion of Appellant Robert S. Coleman, Jr., MD, for a suspension of the agency order against him. Pursuant to RC §119.12, the Court finds that the order will cause Appellant unusual hardship and the public health, safety, and welfare will not be jeopardized by staying execution of the Medical Board order during the pendency of this appeal.

WHEREFORE, the motion for stay is GRANTED and execution of the February 17, 2006, order of the State Medical Board of Ohio is hereby STAYED in its entirety in accord with RC §119.12.

IT IS SO ORDERED.

Conmor
JUDGE

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Copies to:
KP Byers for appellant
KC Wilcox for appellee

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State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: www.med.ohio.gov

January 11, 2006

Robert S. Coleman, Jr., M.D.
13125 Pearl Road
Chardon, OH 44024

Dear Dr. Coleman:

Please find enclosed certified copies of the Entry of Order; CORRECTED Certification; the Report and Recommendation of Patricia A. Davidson, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on January 11, 2006, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order.

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

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

THE STATE MEDICAL BOARD OF OHIO

Lance A. Talmage RW
Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

CERTIFIED MAIL NO. 7003 0500 0002 4329 8371
RETURN RECEIPT REQUESTED

Cc: Kevin P. Byers, Esq.
CERTIFIED MAIL NO. 7003 0500 0002 4329 8364
RETURN RECEIPT REQUESTED

Mailed 3/15/06

CORRECTED CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Patricia A. Davidson, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on January 11, 2006, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order; constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Robert S. Coleman, Jr., M.D., 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 RW
Lance A. Talmage, M.D.
Secretary

(SEAL)

January 11, 2006
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF *

*

ROBERT S. COLEMAN, JR., M.D. *

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on January 11, 2006.

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

It is hereby ORDERED that:

A. **SUSPENSION:** The certificate of Robert S. Coleman, Jr., M.D., to practice medicine and surgery in the State of Ohio shall be SUSPENDED for an indefinite period of time, but not less than one hundred eighty (180) days.

B. The Board shall not consider reinstatement or restoration of Dr. Coleman's certificate to practice medicine and surgery until all of the following conditions have been met:

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

2. **Professional/Personal Ethics Course**: At the time he submits his application for reinstatement or restoration, Dr. Coleman shall provide acceptable documentation of successful completion of a course or courses dealing with professional and personal ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision

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

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

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

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

1. **Obey the Law**: Dr. Coleman shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.

2. **Declarations of Compliance**: Dr. Coleman shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which this Order becomes effective. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

3. **Personal Appearances**: Dr. Coleman shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which this Order becomes effective, or as otherwise directed by the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

4. **Absence from Ohio**: Dr. Coleman shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising

Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed.

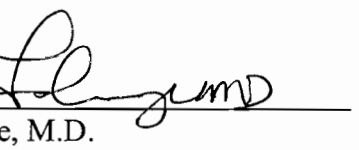
5. **Violation of Terms of Probation**: If Dr. Coleman violates probation in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.

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

E. **REQUIRED REPORTING TO EMPLOYERS AND HOSPITALS**: Within thirty days of the effective date of this Order, Dr. Coleman shall provide a copy of this Order to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Coleman shall provide a copy of this Order to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments.

F. **REQUIRED REPORTING TO OTHER STATE LICENSING AUTHORITIES**: Within thirty days of the effective date of this Order, Dr. Coleman shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Dr. Coleman shall also provide a copy of this Order by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement or restoration of any professional license. Further, Dr. Coleman shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

EFFECTIVE DATE OF ORDER: This Order shall become effective thirty days from the date of mailing of notification of approval by the Board.



Lance A. Talmage, M.D.
Secretary

(SEAL)

January 11, 2006
Date

STATE MEDICAL BOARD
OF OHIO
2005 DEC -9 P 1: 15

REPORT AND RECOMMENDATION
IN THE MATTER OF ROBERT S. COLEMAN, JR., M.D.

The Matter of Robert S. Coleman, Jr., M.D., was heard by Patricia A. Davidson, Hearing Examiner for the State Medical Board of Ohio, on October 31, 2005.

INTRODUCTION

I. Basis for Hearing

A. By letter dated July 13, 2005, the State Medical Board of Ohio [Board] notified Robert S. Coleman, Jr., M.D., that it had proposed to take disciplinary action against his certificate to practice medicine and surgery in Ohio. The Board's action was based on allegations that Dr. Coleman had failed to provide truthful information to the North Carolina Medical Board [North Carolina Board] when applying for a license and that the license had been denied due to multiple violations of North Carolina law. Further, the Board alleged that Dr. Coleman, when applying for renewal of his Ohio certificate, had failed to disclose that the North Carolina Board had made allegations against him in denying the license. (State's Exhibit 1A)

The Board alleged that the North Carolina Board's denial of a license constituted "'[a]ny of the following actions taken by the agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or the limited branches of medicine in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand,' as that clause is used in R.C. 4731.22(B)(22)."

The Board further alleged that Dr. Coleman's conduct constitutes:

- "'[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board,' as that clause is used in R.C. 4731.22(B)(5)"; and/or

- "'fraud, misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the board,' as that clause is used in R.C. 4731.22(A)." (State's Exhibit 1A)

Accordingly, the Board advised Dr. Coleman of his right to request a hearing in this matter. (State's Exhibit 1A)

B. On August 10, 2005, Kevin P. Byers, Esq., filed a letter requesting a hearing on behalf of Dr. Coleman. (State's Exhibit 1B)

II. Appearances

A. On behalf of the State of Ohio: Jim Petro, Attorney General, by Kyle C. Wilcox, Assistant Attorney General.

B. On behalf of the Respondent: Kevin P. Byers, Esq.

EVIDENCE EXAMINED

I. Testimony Heard

Robert S. Coleman, Jr., M.D.

II. Exhibits Examined

A. Presented by the State

1. State's Exhibits 1A through 1K: Procedural exhibits.

2. State's Exhibit 2: Certified copy of letter dated January 10, 2002, from the North Carolina Board to Dr. Coleman.

3. State's Exhibit 3: Certified copies of documents maintained by the North Carolina Board regarding Dr. Coleman. (Following the hearing, the Hearing Examiner numbered the pages of this exhibit.)

4. State's Exhibit 4: Certified copies of documents maintained by the Board regarding Dr. Coleman. (Following the hearing, the Hearing Examiner redacted the Social Security number on page 37.)

5. State's Exhibit 5: Copy of Dr. Coleman's 2001 Ohio renewal application.

B. Presented by the Respondent

1. Respondent's Exhibit A: Dr. Coleman's curriculum vitae.

2. Respondent's Exhibit B: Copy of a letter from Dr. Coleman regarding the North Carolina Board's denial of his license application.

3. Respondent's Exhibits C through E: Letters to the Board in support of Dr. Coleman.

SUMMARY OF THE EVIDENCE

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

Background

1. According to his curriculum vitae and testimony, Robert S. Coleman, Jr., M.D., received his Ohio paramedic certificate in about 1982 after completing a training program at Youngstown State University, where he also obtained an associate degree. He worked as a paramedic in several Ohio locations, including Youngstown, the Cortland-Bazetta Joint EMS District, and Austintown. Dr. Coleman stated that he pursued his undergraduate premedical studies at Kent State University and Youngstown State University, finishing in 1990. (Respondent's Exhibit [Resp. Ex.] A; Transcript [Tr.] at 15-16; State's Exhibit [St. Ex.] 4 at 8)

   In August 1990, Dr. Coleman entered medical school at the University of Health Sciences, College of Osteopathic Medicine, in Kansas City, Missouri. As described more fully below, Dr. Coleman was suspended from that program in January 1992. Several months later, he resumed his medical training at Ross University School of Medicine in Roseau, Dominica, where he received his medical degree in 1995. (Tr. at 18; St. Ex. 4 at 17-18, 44-45, 49)

   Dr. Coleman then engaged in more than three years of residency training at Akron General Medical Center, graduating from the internal medicine program in 1999. He stated that he had done an extra eight months of residency because he loved to teach and was preparing for his board examinations but that he had left the program four months early upon receiving a job offer. (Tr. at 19-20, 47, 58)

   Dr. Coleman stated that he worked for two years with Community Health Partners in Moraine, Ohio, providing emergency and critical-care services while studying for board examinations. Dr. Coleman testified that in 2000 he had received board certification in internal medicine. (Tr. at 20)

   Dr. Coleman and his family then moved to Aiken, South Carolina, near the Georgia border. He testified that he had obtained a Georgia medical license and worked for a year in Augusta, Georgia. He also applied for a North Carolina license, which was denied, as explained more fully below. (Tr. at 14, 20-21; Resp. Ex. A)

   Dr. Coleman stated that, after about a year in South Carolina, he and his family had moved back to Ohio, where he was hired by "University Service, Case-Western Reserve, the main campus in Cleveland in the emergency department." (Tr. at 21) In 2002, University Emergency Specialists hired him to do emergency medicine at three hospitals in the University Hospitals Health System: Bedford Medical Center in Bedford, Ohio; Richmond Heights Hospital in Richmond Heights, Ohio; and Geauga Regional Hospital in Chardon, Ohio. (Tr. at 20-22; Resp. Ex. A)

Dr. Coleman testified that Richmond Heights Hospital had named him to be the medical director of the EMS Institute and that he would begin his duties as Chairman of Emergency Medicine at Richmond Heights Hospital on November 1, 2005. He explained that he would continue to work at all three hospitals, however. With respect to his teaching duties, Dr. Coleman explained that he trains paramedics, working to improve the continuity of patient care. He stated that it is fairly rare for doctors to go to fire stations to give lectures, but he does it because he has not forgotten his roots and wants to help improve paramedic performance. (Tr. at 22-23)

Departure from the University of Health Sciences, College of Osteopathic Medicine

2. In August 1990, Dr. Coleman entered the College of Osteopathic Medicine at the University of Health Sciences [UHS] in Kansas City, Missouri. On or about January 10, 1992, the Promotion and Graduation Committee recommended that Dr. Coleman be dismissed immediately due to academic dishonesty. (Tr. at 17-18, 26-32; St. Ex. 4 at 3, 6)

3. By letter dated January 14, 1992, the Interim Dean for Academic Affairs, Robert E. Arnold, D.O., notified Dr. Coleman that he was upholding the committee's recommendation for immediate dismissal. (St. Ex. 4 at 4; Tr. at 26-32)

4. Dr. Coleman appealed to the University President, John P. Perrin. On January 20, 1992, Dr. Coleman met with the President, who agreed to modify the sanction, reducing it from a dismissal to a suspension, upon Dr. Coleman's admitting that he had cheated on a virology examination. (St. Ex. 4 at 6; Tr. at 28-33, 73-74)

5. By letter dated January 20, 1992, Mr. Perrin gave formal notice to Dr. Coleman regarding the suspension, stating in part:

> I write to advise you of my decision with respect to your appeal * * *.
>
> Based on a full review of the facts and circumstances which brought you before the Promotion and Graduation Committee and further predicated on your acknowledgement, during our conversation of this date, that you have a problem which needs to be addressed, I am modifying the action of the Committee to provide that you be "suspended" from the University of Health Sciences – College of Osteopathic Medicine, effective immediately.
>
> It is also my decision that, based upon your reporting to me and my ultimate satisfaction that you have addressed the issues which have necessitated this action, that you may, upon your request and my sole decision, be reinstated in good standing in next year's second-year class.

(St. Ex. at 6)

6. Dr. Coleman did not seek reinstatement at UHS. Instead, after several months, he resumed his medical training at a different school. In March 1992, he entered Ross University School of Medicine in Roseau, Dominica, from which he graduated in 1995. (St. Ex. 4 at 41; Tr. at 18, 54)

Federation Credentials Verification Service

7. In filing with the Federation Credentials Verification Service (FCVS), Dr. Coleman answered "No" to the following questions about his attendance at UHS:

Were you ever placed on probation?	No.
Were you ever disciplined or placed under investigation?	No.
Were any negative reports ever filed regarding you?	No.
Were any limitations or special requirements imposed on you because of academic incompetence, disciplinary problems, or for any other reasons?	No.

(St. Ex. 4 at 39)

However, Dr. Coleman answered "Yes" when asked whether he had taken a "leave of absence or break" from medical school. He explained the affirmative response as follows: "Transferred from this Medical school into Ross University." (St. Ex. 4 at 39)

8. The FCVS documents include a statement from the University of Health Sciences that Dr. Coleman had attended the medical school until January 20, 1992, when he was suspended. In addition, FCVS generated a Physician Information Report stating that Dr. Coleman had been disciplined at UHS, taken a leave of absence, had negative reports, and been subject to limitations/special requirements. (St. Ex. 4 at 49, 55)

9. To assist him in applying for a medical license, Dr. Coleman employed the services of Doctors Licensure Group, Inc., to which he gave power of attorney. (Tr. at 51; Ex. 4 at 13-16, 18) In his FCVS application, Dr. Coleman provided a statement regarding his departure from UHS, signed on his behalf by Pam Mathis of Doctors Licensure Group. In it, Dr. Coleman stated:

> I began at University of Health Sciences in Kansas City, Missouri. There were differences of opinion between a Virology professor and myself. I felt it would benefit myself and my Medical Education to transfer into Ross University School of Medicine.

(St. Ex. 4 at 37; Tr. at 50-51) Dr. Coleman testified that this statement served as his disclosure to the Ohio Board regarding the circumstances of his departure from UHS, when he applied for his Ohio certificate to practice medicine, as described below. (Tr. at 50)

1998 Application for Ohio Medical Certificate

10. In October 1998, Dr. Coleman submitted his application for an Ohio certificate to practice medicine. (St. Ex. 4 at 23) He answered "No" to the following question:

> Have you ever resigned from, withdrawn from, or have you ever been warned by, censured by, disciplined by, been put on probation by, been requested to withdraw from, dismissed from, been refused renewal of a contract by, or expelled from, a medical school * * * ?

(St. Ex. 4 at 32)

11. On or about January 12, 1999, Penny E. Grubb, Chief of Licensure for the Board, sent a letter to UHS inquiring whether Dr. Coleman had left the school in good standing. (St. Ex. 4 at 2)

12. On January 27, 1999, the UHS Registrar responded as follows:

> In response to your inquiry regarding former student Robert S. Coleman * * *, please be advised that Mr. Coleman was suspended from the University of Health Sciences – College of Osteopathic Medicine on January 20, 1992.
>
> * * * [T]he reason for Mr. Coleman's suspension was academic dishonesty. Generally speaking, such a violation of our professional conduct code would have prevented Mr. Coleman from being considered in "good standing" in the event that he was to reapply. However, Mr. Perrin, President of the University at the time of Mr. Coleman's attendance, did indicate that, should Mr. Coleman elect to return to UHS after his suspension, that he would be reinstated "in good standing."

(St. Ex. 4 at 3) The Registrar enclosed copies of the letters that had been sent to Dr. Coleman by the Interim Dean and President in January 1992. (St. Ex. 4 at 3-6)

13. In February 1999, Dr. Coleman was granted an Ohio license to practice medicine. (Tr. at 35; see, also, *www.med.ohio.gov.*) He testified that he had never seen the correspondence between Penny Grubb and the UHS registrar regarding the circumstances of his departure from UHS until it was shown to him at the hearing. (Tr. at 61)

2001 Application to the North Carolina Medical Board

14. On or about October 17, 2001, Dr. Coleman submitted an application to the North Carolina Medical Board [North Carolina Board] for a license to practice medicine through endorsement. He certified under oath that all the statements he made in the application were true. (St. Ex. 3 at 1, 9)

On the application, Dr. Coleman answered "No" to the following question:

> Have you ever been denied admission to, **suspended,** placed on scholastic or disciplinary probation, expelled or requested to resign from any school, medical school or other similar institution?

(Tr. at 25) (Emphasis added.)

15. By certified mail letter dated January 10, 2002, the North Carolina Board notified Dr. Coleman that it had denied his application, stating that he had failed to satisfy the board of his qualifications for a license in five respects, as follows:

    1. You have engaged in immoral or dishonorable conduct within the meaning of § 90-14(a)(1) of the North Carolina General Statutes;

    2. You made false statements or representations to the Board or willfully concealed from the Board material information in connection with your application for a license within the meaning of § 90-14(a)(3) of the North Carolina General Statutes;

    3. You have engaged in unethical conduct and conduct contrary to honesty, justice, or good morals within the meaning of § 90-14(a)(6) of the North Carolina General Statutes;

    4. You have by false representations obtained or attempted to obtain something of value within the meaning of § 90-14(a)(8) of the North Carolina General Statutes; and

    5. You have not satisfied the Board that you are of good moral character within the meaning of § 90-11 of the North Carolina General Statutes.

    (St. Exs. 2-3) Further, the North Carolina Board notified Dr. Coleman that he was entitled to a formal hearing upon timely request. (St. Exs. 2-3)

16. Dr. Coleman acknowledged that he had received the above-quoted notice of opportunity for hearing issued by the North Carolina Board in January 2002. He testified that he did not request a hearing, however, and that he and his family moved back to Ohio. (Tr. at 38)

Dr. Coleman's 2003 Application to Renew His Ohio Certificate

17. On February 28, 2003, Dr. Coleman submitted an application for renewal of his Ohio certificate to practice medicine. Dr. Coleman certified, under penalty of loss of right to practice in Ohio, that the information provided in the renewal application was true and correct in every respect. (St. Ex. 4 at 1; Tr. at 36)

On the renewal application, Dr. Coleman responded "No" to the following question:

> AT ANY TIME SINCE SIGNING YOUR LAST APPLICATION FOR RENEWAL OF YOUR CERTIFICATE:
>
> * * *
>
> 4. Has any board, bureau, department, agency or other body * * * filed any charges, allegations or complaints against you?

(St. Ex. 4)

Dr. Coleman's Testimony Regarding His Departure from the University of Health Sciences

18. Dr. Coleman testified regarding the circumstances surrounding the charge of academic dishonesty against him at UHS, which had occurred after a virology professor accused him of cheating on an examination. (Tr. at 30-34, 72-74) He described the incident as follows:

> * * * I flat out did not pass the exam. So what the professors will allow you to do, at least then, was to look at the exam, formulate an argument, and if you could argue a couple of questions for an extra credit points, then they will argue with you.
>
> If you have a good case in the argument, they'll have you, make you take the exam again, for which I was completely ready to do.
>
> She gave me the test booklet, and I had a pen in my hand, not a pencil, because I knew that pen is not picked up on a scantron sheet, No. 2 pencil is.
>
> And if there were alterations made on the scantron sheet, when they put the scantron sheet back in the computer to regrade, and when they saw changes on the booklet that did not correspond with the initial stuff on the scantron sheet, she immediately raised the question of me cheating on the scantron sheet.
>
> Those changes on the booklet were changes I purposefully made to formulate an argument. And one thing led to the other about going to the P & G Committee * * * .

(Tr. at 30-31) No further explanation was given regarding the changes that Dr. Coleman made on the booklet and how they led to the accusation of academic dishonesty.

19. Dr. Coleman expressed uncertainty as to whether the professor's accusation was motivated by her dislike of him because he had disagreed with her views on virology:

> * * * And it had all started with, you know, vectors for rabies for which I just didn't agree with her, different things for vectors for rabies, and I don't know whether this professor disliked me because of my attitude to begin with, which is a possibility, just I disputed – not disputed, but didn't agree with that.
>
> But I didn't believe that had any bearing on this. * * *

(Tr. at 30)

20. Dr. Coleman testified that, when he appeared before the university's committee regarding the allegations against him, he told the committee that he was "more than happy to come back in the summer and take this exam. It's one exam. It's not going to affect me. I will be more than happy to take the exam again." (Tr. at 31)

    Dr. Coleman further testified that, following the committee's recommendation of dismissal, he had received the letter from the Interim Dean dated January 14, 1992, giving formal notice of immediate dismissal. (Tr. at 27-28, 32; State's Ex. 4 at 4)

21. Dr. Coleman pursued an appeal. In addition, many of his fellow students signed a petition advocating that he not be dismissed, and the petition went to the President, according to Dr. Coleman's testimony. (Tr. at 28-30)

    Dr. Coleman testified that the appeal consisted of a meeting with the UHS President. According to Dr. Coleman, the President explained that he was relatively new at the school and would not go completely against the committee, but, on the other hand, he did not want to go completely against the students. Dr. Coleman testified that the President said that he would modify the dismissal to a suspension but that Dr. Coleman would have to admit that he cheated on the exam. (Tr. at 28-29, 32-33)

    Dr. Coleman admitted to the President that he had cheated, and the President modified the disciplinary action from a dismissal to a suspension. Dr. Coleman stated that he returned to Ohio, where he received the President's letter dated January 20, 1992, giving formal notice of suspension. (Tr. at 32-34, 73-74)

    In his letter, the President referred to "your acknowledgement, during our conversation of this date, that you have a problem which needs to be addressed." Dr. Coleman stated that he had understood that the President was referring to Dr. Coleman's admission, during their meeting, that he had cheated on the virology examination. (Tr. at 72-74)

    Dr. Coleman testified that he did not return to UHS because the atmosphere there was poisoned for him. He maintained that he was never actually suspended because he never "served" the suspension: he quit before the suspension took place. However, he admitted that he never informed the school that he refused to accept the suspension or that he was withdrawing from the program. (Tr. at 34-35, 53-54, 60)

    Dr. Coleman testified that he did not cheat on the virology examination. He explained that he had told the President that he cheated only because it was a means to get the dismissal reduced to a suspension. (Tr. at 72-74)

Dr. Coleman's Testimony Regarding His Statements on the North Carolina Application

22. As set forth above, when Dr. Coleman applied for a North Carolina license in 2001, he answered "No" when asked if he had ever been suspended or expelled from any medical school. At hearing, Dr. Coleman was asked to explain how he could truthfully have told the

North Carolina Board that he had never been suspended when he had admitted receiving the written notice that UHS had suspended him as of January 20, 1992. Dr. Coleman conceded that, when he left the meeting with the UHS President, it was clear in his mind that he was being suspended. However, he later concluded that he had never actually been suspended by UHS because he had resigned before serving the suspension. He stated that he "didn't accept a suspension." He explained that, in his mind, he had not served the school's suspension because he "beat them to the punch and left the program." He acknowledged, however, that he had never notified the school that he did not accept the suspension or that he was withdrawing from the program. (Tr. at 26, 34-35, 53-54, 60)

Dr. Coleman denied that he had deliberately chosen not to tell the North Carolina Board about the suspension. He also denied that he had forgotten about the suspension. He explained that the North Carolina application was "the first application I did on my own." When applying for the Ohio and Georgia licenses, he had used Physicians Licensure Group, a service that assists doctors in submitting their applications, and he stated that he had disclosed the circumstances of his leaving UHS to Georgia and Ohio, which had both granted licenses. (Tr. at 49-53, 59-60)

Dr. Coleman further stated that, when applying for the North Carolina license, he had answered "no" regarding suspension from medical school because he "did not serve" the suspension at UHS. Dr. Coleman asserted that, if the North Carolina application had asked whether he had ever "withdrawn" from a medical school, he would have answered "Yes." (Tr. at 60)

23. With regard to his contact with the North Carolina Board regarding his license application, Dr. Coleman acknowledged that, prior to receiving the denial letter and notice of opportunity for hearing, he had been asked by the North Carolina Board to attend a meeting and answer questions. Dr. Coleman testified that he had met with several people and answered questions before a court reporter regarding his statements on the application. (Tr. at 57)

24. Dr. Coleman acknowledged that he had received the January 2002 letter from the North Carolina Board in which that board had notified him of the license denial and the opportunity for a hearing. When asked why he had not requested a hearing to contest the action against him by the North Carolina Board, Dr. Coleman explained that he and his wife were moving back to Ohio, so there was no reason to contest the license denial because he was not going to practice in North Carolina. (Tr. at 37-38)

Dr. Coleman's Testimony Regarding His 2003 Renewal Application to the Ohio Board

25. Dr. Coleman acknowledged that, when he completed his Ohio renewal card in 2003, he had previously received the 2002 letter from the North Carolina Board denying a license based on alleged violations of North Carolina law. With respect to the question on the renewal card asking whether any board had filed "any charges, allegations, or complaints" against him, Dr. Coleman testified that he thought that the phrase "charges, allegations, or complaints"

meant "charges against you for patient care." Dr. Coleman asserted that he had answered "No" because he had never had charges against him relating to patient care. (Tr. at 35-40)

26. Dr. Coleman also testified that, when he received the denial and notice of opportunity from the North Carolina Board, he did not realize that the board was making allegations against him or that there was a formal administrative action against him. He asserted that the statement offering the opportunity for a formal hearing had not alerted him to the possibility that the North Carolina Board was making formal charges against him. He testified that he thought the letter simply contained a denial and "explanations behind the denial." Dr. Coleman claimed that, because the North Carolina Board had not used the word "allegations" in the letter, he had not known that the letter contained allegations against him. He said he had thought that the North Carolina Board was simply giving its "reasons" for the denial, not making allegations against him. Last, Dr. Coleman asserted that, if the Ohio Board has asked him on the renewal card whether any board had denied him a license since his last renewal, he would have answered "Yes." (Tr. at 35-43, 55-56)

Letters in Support of Dr. Coleman

27. At hearing, Dr. Coleman submitted letters from several people attesting to his character and excellence as a physician, including the following: a letter from Howard Dickey-White, M.D., President of University Emergency Specialists, his employer ; a letter from Daniel Ellenberger EMT-P, of University Hospitals Health Systems, where Dr. Coleman practices; a letter from Phillip J. Cover, M.D., a colleague in Cuyahoga Falls, Ohio; and a letter from Sherrod Brown, Member of the United States Congress, whose mother Dr. Coleman had treated. (Resp. Ex. C-F; Tr. at 66).

FINDINGS OF FACT

1. By letter dated January 14, 1992, the University of Health Sciences, College of Osteopathic Medicine, in Kansas City, Missouri, notified Robert S. Coleman, Jr., M.D., that he was dismissed from the school. On January 20, 1992, the university modified the dismissal to a suspension pursuant to Dr. Coleman's appeal.

2. On or about October 17, 2001, Dr. Coleman submitted an Application for License to Practice Medicine through Endorsement to the North Carolina Medical Board [North Carolina Board]. He certified under oath that all the statements he made in the application were true.

   On the North Carolina application, Dr. Coleman answered "No" to the following question:

   > 15. Have you ever been denied admission to, suspended, placed on scholastic or disciplinary probation, expelled or requested to resign from any school, medical school or other similar institution?

3. By letter dated January 10, 2002, the North Carolina Board informed Dr. Coleman that it had denied his application because he had failed to satisfy the board of his qualifications for a license. In denying the application, the North Carolina Board alleged that Dr. Coleman had committed five violations of the North Carolina law, as follows:

    1. You have engaged in immoral or dishonorable conduct within the meaning of § 90-14(a)(1) of the North Carolina General Statutes;

    2. You made false statements or representations to the Board or willfully concealed from the Board material information in connection with your application for a license within the meaning of § 90-14(a)(3) of the North Carolina General Statutes;

    3. You have engaged in unethical conduct and conduct contrary to honesty, justice, or good morals within the meaning of § 90-14(a)(6) of the North Carolina General Statutes;

    4. You have by false representations obtained or attempted to obtain something of value within the meaning of § 90-14(a)(8) of the North Carolina General Statutes; and

    5. You have not satisfied the Board that you are of good moral character within the meaning of § 90-11 of the North Carolina General Statutes.

    Further, the North Carolina Board notified Dr. Coleman that he was entitled to a formal hearing on this matter, upon timely request.

4. On or about February 28, 2003, Dr. Coleman submitted to the State Medical Board of Ohio an application for renewal of his Ohio certificate to practice medicine and surgery. Under penalty of loss of right to practice in Ohio, Dr. Coleman certified that the information provided in the renewal application was true and correct in every respect. In this renewal application, Dr. Coleman responded "No" to the following question:

    AT ANY TIME SINCE SIGNING YOUR LAST APPLICATION FOR RENEWAL OF YOUR CERTIFICATE:

    * * *

    4. Has any board, bureau, department, agency or other body, including those in Ohio, **other than this board**, filed any charges, allegations or complaints against you? (Emphasis in original)

    This answer was untrue. As set forth above in Finding of Fact 3, the North Carolina Board had previously notified Dr. Coleman that his application for a medical license was denied based on alleged violations of the North Carolina General Statutes.

CONCLUSIONS OF LAW

1. The conduct of Robert S. Coleman, Jr., M.D., as set forth in Findings of Fact 1 and 2 above, constitutes "[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board," as that clause is used in R.C. 4731.22(B)(5).

2. Further, the denial of licensure by the North Carolina Medical Board, as set forth in Finding of Fact 3 above, constitutes an "taken by the agency responsible for regulating the practice of medicine and surgery * * * in another jurisdiction, for any reason other the nonpayment of fees: * * * denial of a license * * *," as that language is used in R.C. 4731.22(B)(22).

3. Further, Dr. Coleman's conduct as set forth above in Finding of Fact 4 constitutes "misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the board," as that clause is used in R.C. 4731.22(A).

4. Further, Dr. Coleman's conduct as set forth in Finding of Fact 4 constitutes "[m]aking a false, fraudulent, deceptive, or misleading statement * * * in securing or attempting to secure any certificate to practice or certificate of registration issued by the board," as that clause is used in R.C. 4731.22(B)(5).

* * * * *

Two incidents are involved in this matter. First, Dr. Coleman stated to the North Carolina Medical Board that he had never been suspended from a medical school, which was patently untrue, and which resulted in the denial of a North Carolina license based on multiple violations of North Carolina law. Second, Dr. Coleman stated to the Ohio Medical Board in his 2003 renewal application that no board or other body had filed allegations, charges or a complaint against him since the prior renewal. That statement was also untrue.

Dr. Coleman's explanation regarding his incorrect answer on his Ohio renewal card (that he had not understood the question) might be plausible if it were the only incident in this matter. Unfortunately, the untrue statement to the Ohio Board follows an egregious misrepresentation of facts to the North Carolina Board.

Dr. Coleman's explanations for his false statement to the North Carolina Board are not credible. For example, he explained that he had denied the suspension because he had never "served" it and had withdrawn instead. However, the school's President had stated plainly in a letter, which Dr. Coleman admits receiving, that the school had suspended him "effective immediately." Following this written notice of suspension, Dr. Coleman did not attend any medical school for several months. He did not inform UHS that he was "withdrawing" or that he refused to accept the suspension, nor did he retract the admission of cheating.

In addition, Dr. Coleman asserted at hearing that, if the North Carolina application had asked whether he had ever "withdrawn" from a medical school, he would have answered "Yes." However, this testimony was directly contradicted by the fact that, when Dr. Coleman completed his Ohio application in 1998, he answered "No" when asked whether he had ever withdrawn from a medical school.

Dr. Coleman argued that he had no reason to lie to the North Carolina Board because he had already disclosed the circumstances to Ohio and Georgia, and both had granted licenses. However, this argument is not fully supported by the record. In his Ohio application, Dr. Coleman had not disclosed a suspension but merely stated obliquely that there had been "differences of opinion" with a professor and he had felt it best to transfer, and the record includes no documentation of disclosures to the Georgia Board. Further, Dr. Coleman admitted that he had not been aware that the Ohio Board had corresponded with UHS and learned the details of his suspension. Therefore, based on what he knew when submitting the North Carolina application, Dr. Coleman had reason to believe that his oblique disclosure to the Ohio Board had successfully masked his suspension for academic dishonesty.

Nonetheless, at the hearing, Dr. Coleman expressed a convincing commitment to the profession. Based on this observation, and on Dr. Coleman's potential benefit to the profession and the public in the future, the Hearing Examiner recommends against permanent revocation.

PROPOSED ORDER

It is hereby ORDERED that:

A. **PERMANENT REVOCATION, STAYED; SUSPENSION:** The certificate of Robert S. Coleman, Jr., M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED. Such permanent revocation is STAYED, and Dr. Coleman's certificate shall be SUSPENDED for an indefinite period of time, but not less than one hundred eighty (180) days.

B. The Board shall not consider reinstatement or restoration of Dr. Coleman's certificate to practice medicine and surgery until all of the following conditions have been met:

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

2. **Professional/Personal Ethics Course**: At the time he submits his application for reinstatement or restoration, Dr. Coleman shall provide acceptable documentation of successful completion of a course or courses dealing with professional and personal ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical

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

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

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

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

1. **Obey the Law**: Dr. Coleman shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.

2. **Declarations of Compliance**: Dr. Coleman shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which this Order becomes effective. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

3. **Personal Appearances**: Dr. Coleman shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which this Order becomes effective, or as otherwise directed by the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

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

5. **Violation of Terms of Probation**: If Dr. Coleman violates probation in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.

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

E. **REQUIRED REPORTING TO EMPLOYERS AND HOSPITALS**: Within thirty days of the effective date of this Order, Dr. Coleman shall provide a copy of this Order to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Coleman shall provide a copy of this Order to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments.

F. **REQUIRED REPORTING TO OTHER STATE LICENSING AUTHORITIES**: Within thirty days of the effective date of this Order, Dr. Coleman shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Dr. Coleman shall also provide a copy of this Order by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement or restoration of any professional license. Further, Dr. Coleman shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

EFFECTIVE DATE OF ORDER: This Order shall become effective thirty days from the date of mailing of notification of approval by the Board.

Patricia A. Davidson
Hearing Examiner

State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: www.med.ohio.gov

EXCERPT FROM THE DRAFT MINUTES OF JANUARY 11, 2006

REPORTS AND RECOMMENDATIONS

Dr. Robbins announced that the Board would now consider the findings and orders appearing on the Board's agenda. He asked whether each member of the Board had received, read, and considered the hearing records, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Rashid Ayyub, M.D.; Robert S. Coleman, Jr., M.D.; and Miguel Angel Marrero, M.D. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye
	Dr. Robbins	- aye

Dr. Robbins 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. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye

Dr. Robbins - aye

Dr. Robbins 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. In the matters before the Board today, Dr. Talmage served as Secretary and Mr. Albert served as Supervising Member.

Dr. Robbins stated that, if there were no objections, the Chair would dispense with the reading of the proposed findings of fact, conclusions and orders in the above matters. No objections were voiced by Board members present.

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

.....

ROBERT S. COLEMAN, JR., M.D.

Dr. Robbins directed the Board's attention to the matter of Robert S. Coleman, Jr., M.D. He advised that objections were filed to Hearing Examiner Davidson's Report and Recommendation and were previously distributed to Board members.

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

Dr. Coleman was accompanied by his attorney, Kevin P. Byers.

Mr. Byers advised that both Dr. Coleman and his wife are present today to appear before the Board. He stated that he hopes that the Board has had a chance to earnestly consider the objections filed and the totality of the record and the Report and Recommendation in this case. Mr. Byers stated that he trusts that the Board will take its time deliberating in this matter and will listen to Dr. Coleman and consider everything that he has to say.

Dr. Coleman at this time addressed the Board. He stated that he appreciates the time the Board has given him today. He stated that it is very humiliating and embarrassing to have to sit before the Board to defend charges of deception against him. He has great pride in his integrity and honesty and to have to defend these qualities in public is quite humbling and stressful.

Dr. Coleman apologized for the misunderstandings that have caused this problem. In no way did he attempt to deceive or mislead either North Carolina or Ohio. He's worked too long and too hard to risk throwing it all away over something that happened over ten years ago. Dr. Coleman stated that he simply answered the question on the renewal card "at face value," and responded as a non-legally trained individual. He commented that the first time the word, "allegation," became part of his vocabulary was

when the Medical Board sent him its initial notice this past July. Dr. Coleman stated that he never thought that answering the question the way that he did would have him in front of the Board three years later.

Dr. Coleman stated that he realizes that the Board has an obligation to fulfill its legal duty by reviewing the details of his North Carolina denial, and his Ohio renewal card information. He added that he's fully aware of the Board's authority to render an adverse action, based solely upon the North Carolina denial. Dr. Coleman stated that he would simply ask for an outcome that is based just on the North Carolina denial and fairly considers all of the circumstances.

Dr. Coleman stated that the issue before the Board today is his fault. He is to blame for the way he answered the question, and for that he is deeply apologetic. However, he did not intend to mislead the Board and he was not trying to hide anything. He and his wife talked about the question when filling out the renewal card, and they could not find where being denied in North Carolina fit into the answer, "yes." He had no idea that a Board could file allegations or charges against him when he did not hold a license in that State. Dr. Coleman stated that he had no idea that the letter from North Carolina was informing him of allegations against him. He interpreted it as reasons he was denied, which is what the letter said. Dr. Coleman stated that he knows that the North Carolina denial was not confidential and that he could not hide or ignore it. After North Carolina denied his application for licensure, he drafted a letter that he has sent in with all applications that ask whether he's ever been denied a license.

Dr. Coleman asked the Board to allow him to continue to practice the profession that he dearly loves with a sincere passion, and without punitive suspension.

Dr. Coleman again thanked the Board for its time, and added that he has received fair and dignified treatment so far. He stated that he is hopeful of leaving today with his ability to practice unencumbered. Dr. Coleman stated that he would answer any questions Board members may have.

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

Mr. Wilcox stated that he believes that the Hearing Examiner in this matter did a thorough job of laying out the facts in this case. The Board has before it the documents in question, and he believes that the Board members can, using their own judgment, decide whether they were open to any other interpretation. Dr. Coleman cannot deny, and he did not deny at hearing, that he'd been dismissed, which was later modified to a suspension, from the University of Health Sciences in Kansas City, MO. Mr. Wilcox noted that Dr. Coleman acknowledged that he received a letter from the president of the school that notified him of this action on January 20, 1992. This letter is part of the record, and he's sure that Board members have examined it. Mr. Wilcox stated that Dr. Coleman's explanation that he never served the suspension because he withdrew from school does not deny the fact that the suspension did, indeed, occur.

Mr. Wilcox stated that one would think that the trauma involved with being expelled, and then later modified to a suspension from medical school would resonate with a physician for many years. The language in the North Carolina application question was precise and clear regarding whether he had ever been suspended, placed on probation or expelled from medical school. His answer, "no," was clearly

wrong. Mr. Wilcox added that he believes the answer was clearly made with an intent to deceive. Again, with Dr. Coleman's Ohio renewal application, his answer denying any charges being filed by any board is clearly a misrepresentation that Mr. Wilcox believes was intended to mislead the Ohio Board.

Mr. Wilcox stated that he will admit that Dr. Coleman did come across very well at hearing. He seems to be very committed to his profession; and his service regarding training of paramedics, which was his former profession, is commendable. Mr. Wilcox stated that the problem with Dr. Coleman is that his deceptive behavior on important documents has occurred on two separate occasions. Mr. Wilcox stated that he believes that this shows the development of a pattern of deception that needs to be addressed by this Board. Mr. Wilcox stated that suspension is warranted in this case, and he believes that Hearing Examiner Davidson's proposed suspension of six months is appropriate.

DR. KUMAR MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF ROBERT S. COLEMAN, JR., M.D. DR. STEINBERGH SECONDED THE MOTION.

Dr. Robbins stated that he would now entertain discussion in the above matter.

Dr. Kumar stated that there are a couple of facts that are indisputable. The first is that Dr. Coleman did not answer a question correctly on his Ohio renewal application, pertaining to his North Carolina action. It's also undisputed that Dr. Coleman was suspended from medical school, although Dr. Coleman did try to wordsmith it by calling it a transfer and leave of absence.

Dr. Kumar stated that, at the same time, the Board had that information when it granted Dr. Coleman a license. The Board knew that Dr. Coleman had been suspended from medical school, and did grant him a license without taking any other action. Dr. Kumar stated that that could very easily lead someone who is not in the legal profession to understand and recognize that that answer was acceptable.

Dr. Kumar stated that one thing is very clear to him: Dr. Coleman does need to be given a sanction including, at least, probation, professional and personal ethics courses, and some degree of suspension. Dr. Kumar stated that he does not support imposing a stayed, permanent revocation in this case, and he added that a six-month suspension is a little bit lengthy for this case. Dr. Kumar suggested a suspension of about three months, and the probationary terms proposed by the Hearing Examiner.

Dr. Steinbergh stated that it's very difficult for this Board to understand how a physician, who is going to make life and death decisions about patient care, can misinterpret, not understand, or not accept responsibility for a fraudulent application. There was no question that Dr. Coleman was suspended from medical school. Once you're suspended, you're suspended. You can leave, but the suspension always follows. You can never erase that. You can never erase the fact that the application to North Carolina was fraudulent, and you can't erase the fact that North Carolina denied licensure. Once you are denied licensure, you can't walk away from that. That has legal implications. Dr. Steinbergh stated that the Report then goes on to demonstrate fraud on application for renewal of a license. Dr. Steinbergh stated that those who deal with this day after day do understand this. She stated that she also understands that

there are times when young people clearly don't understand the ramifications, or that, with current technological developments, the Board knows about these things very shortly after. It's the Board's responsibility to find these things. Dr. Steinbergh stated that it's always very sad when a young person gets caught up like this.

Dr. Steinbergh stated that she agrees that this is a person who has been dishonest. There's no question in her mind that Dr. Coleman will learn by this experience. Dr. Steinbergh stated that, in general, she does agree with the Proposed Order; however, she does agree that it would be appropriate to remove the language of stayed permanent revocation, because she thinks that that is severe in this case.

Dr. Steinbergh continued that, in regard to the suspension, she would agree with either proposal. She added that she doesn't think a suspension of 180 days is unreasonable in this case. She added that the probationary terms are appropriate. Dr. Coleman will get a sense of the activity of the Board through this probation, as well as of his personal responsibility to licensure. Dr. Steinbergh stated that getting a medical degree is something a physician achieves academically, but practicing medicine is a responsibility to a license that you have. It does not come automatically with a degree. One has to demonstrate professionalism in all areas, and to date this young man has not.

Dr. Steinbergh again stated that she would support an amendment removing the permanent revocation language.

Dr. Buchan stated that he has to take a different tack from his colleagues who wish to be more lenient in this case. He stated that he believes that there is a pattern represented here. The Board members understand as a licensing body that GPA and MEDCAT scores matter, but they're not the number one issue of what determines a good physician. The number one criterion by which the Board evaluates physicians and understands them to be good is character. When he read this case, he was disturbed that the Board did not reflect on how it dealt with that biology exam back in medical school. Then the Board proceeded to hit another strike in North Carolina. It was blatant; there was no misunderstanding. Then Ohio went and took a third strike. Dr. Buchan stated that the pattern of behavior is disturbing to him, and leniency is not in his heart today. Dr. Buchan stated that he thinks that the Proposed Order, as written, is appropriate. He added that he could, quite honestly, move in another direction. Dr. Buchan stated that he's not convinced that this behavior won't be repeated.

Dr. Egner stated that she believes she is in agreement with Dr. Buchan on this case. Her difficulty is that this all starts with something that happened in medical school. She stated that she's always hesitant to brand somebody for life for what they did when they were younger and less mature; but since that time, Dr. Coleman's falsely answering the questions on the North Carolina and Ohio applications does show a pattern of behavior that is questionable. Dr. Egner stated that this does go to Dr. Coleman's case. She noted that today he presented himself extremely well and seems very remorseful. She stated that she does believe that he will learn from this and she doesn't want to take away his experience of practicing forever, but she does think that what he's done is serious.

Dr. Kumar stated that one of the reasons he felt some degree of leniency is appropriate is that when

Dr. Coleman initially applied, he answered the question very vaguely. The Board then granted him a license. The Board did investigate and it did have the correct information, and it didn't take any action at that time. Dr. Kumar stated that that could make someone feel that the way he answered the question was appropriate. Dr. Kumar added that there is no question that there was a pattern of deceit, but since the Board didn't take any action before, the stayed permanent revocation is too harsh.

DR. KUMAR MOVED TO AMEND PARAGRAPH A OF THE PROPOSED ORDER BY REMOVING THE PERMANENT REVOCATION LANGUAGE. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- nay
	Dr. Talmage	- abstain
	Dr. Varyani	- nay
	Dr. Buchan	- nay
	Dr. Kumar	- aye
	Mr. Browning	- abstain
	Ms. Sloan	- nay
	Dr. Davidson	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye
	Dr. Robbins	- aye

The motion carried.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF ROBERT S. COLEMAN, JR., M.D. DR. KUMAR SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- nay
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- abstain
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye
	Dr. Robbins	- aye

The motion carried.

State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: www.med.ohio.gov

July 13, 2005

Robert Stanley Coleman, Jr., M.D.
13125 Pearl Road
Chardon, Ohio 44024

Dear Doctor Coleman:

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

(1) On or about October 15, 2001, you submitted an Application for License to Practice Medicine through Endorsement to the North Carolina Medical Board (North Carolina Board).

You were asked to circle the questions in the application with "yes" or "no." For the below question, you circled "no."

* * *

15. Have you ever been denied admission to, suspended, placed on scholastic or disciplinary probation, expelled or requested to resign from any school, medical school or other similar institution?

* * *

You certified under oath that all of the statements in the above Application you have made are true.

In fact, on or about January 10, 1992, you were dismissed from the University of Health Sciences—College of Osteopathic Medicine, Kansas City, Kansas, a medical school. Further, subsequent to your appeal, on or about January 20, 1992, the dismissal was "modified" to a suspension.

(2) On or about January 10, 2002, the North Carolina Board notified you that your application for a license, paragraph one (1) above, was denied. This notification contained five (5) numbered paragraphs of allegations of violations of North Carolina General Statutes. A copy of the above North Carolina Board notification correspondence is attached hereto and incorporated herein.

(3) On or about February 28, 2003, you submitted an application for renewal of your certificate of registration to practice medicine and surgery to the State Medical Board of Ohio (Ohio Board). You certified, under penalty of loss of right to practice in the State

Mailed 7-14-05

of Ohio, that the information provided in that application for renewal is true and correct in every respect.

Subsequently, on or about March 7, 2003, in reliance upon the truthfulness of your statement, the Ohio Board renewed your certificate of registration to practice medicine and surgery in Ohio.

In the above Ohio Board Application, you responded "No" to the below question:

* * *

AT ANY TIME SINCE SIGNING YOUR LAST APPLICATION FOR RENEWAL OF YOUR CERTIFICATE:

4.) Has any board, bureau, department, agency or other body, including those in Ohio, **other than this board**, filed any charges, allegations or complaints against you? [Emphasis in the original.]

In fact, as provided in paragraph two (2) above, the North Carolina Board denial of licensure notification correspondence contained five (5) numbered paragraphs of allegations of violations of North Carolina General Statutes.

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

Further, the North Carolina Board Denial of Licensure, as alleged in paragraph two (2) above, constitutes "[a]ny of the following actions taken by the agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or the limited branches of medicine in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand," as that clause is used in R.C. 4731.22(B)(22).

Further, your acts, conduct, and/or omissions, as alleged in paragraph three (3) above, constitute "fraud, misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the board," as that clause is used in R.C. 4731.22(A).

Further, your acts, conduct, and/or omissions, as alleged in paragraph three (3) above, constitute "[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or

attempting to secure any certificate to practice or certificate of registration issued by the board," as that clause is used in R.C. 4731.22(B)(5).

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

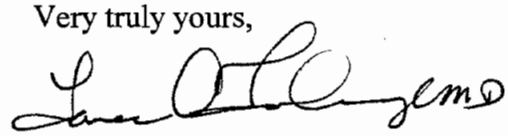
You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at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

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

Please note that, whether or not you request a hearing, R.C. 4731.22(L), 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/cw
Enclosures

CERTIFIED MAIL # 7003 0500 0002 4340 6479
RETURN RECEIPT REQUESTED

NORTH CAROLINA
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1201 FRONT STREET, SUITE 100
RALEIGH, NORTH CAROLINA 27609
TELEPHONE: (919) 326-1100
FAX: (919) 326-1131

January 10, 2002

Personal and Confidential

By Certified Mail – Return Receipt Requested

Robert Stanley Coleman, Jr., M.D.
198 Gadwall Lane
Aiken, SC 29803

Re: License Application

Dear Dr. Coleman:

This is to inform you that the North Carolina Medical Board has denied your application for a license. You have failed to satisfy the Board of your qualifications for a license in the following respects:

1. You have engaged in immoral or dishonorable conduct within the meaning of § 90-14(a)(1) of the North Carolina General Statutes;

2. You made false statements or representations to the Board or willfully concealed from the Board material information in connection with your application for a license within the meaning of § 90-14(a)(3) of the North Carolina General Statutes;

3. You have engaged in unethical conduct and conduct contrary to honesty, justice, or good morals within the meaning of § 90-14(a)(6) of the North Carolina General Statutes;

4. You have by false representations obtained or attempted to obtain something of value within the meaning of § 90-14(a)(8) of the North Carolina General Statutes; and

5. You have not satisfied the Board that you are of good moral character within the meaning of § 90-11 of the North Carolina General Statutes.

NORTH CAROLINA
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RALEIGH, NORTH CAROLINA 27609
TELEPHONE: (919) 326-1100
FAX: (919) 326-1131

You are entitled to a formal hearing before the Board upon your request filed with or mailed by certified mail to the Executive Director of the Board at the address shown hereon within 10 days after you receive this letter. You must state the reasons for your request. The Board shall within 20 days of receipt of your request notify you of the date, time, and place of this public hearing. The burden of satisfying the Board of your qualifications for licensure shall be upon you.

Sincerely,

Andrew Watry
Executive Director

AW/WHB/le

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