BEFORE THE STATE MEDICAL BOARD

IN THE MATTER OF	:	
	:	**Case No. 08-CRF-134**
JEFFREY EUGENE WHITE, M.D.	:	

ENTRY NUNC PRO TUNC

On May 13, 2009, the Board entered an Order suspending the certificate of Dr. White for thirty days with a subsequent probationary period for at least one year. The Order was mailed and became effective May 26, 2009.

Prior to issuance of the Order, Dr. White filed a Motion for Reconsideration. At its June 10, 2009, meeting, the Board denied the Motion for Reconsideration and affirmed its Order of May 13, 2009. The Order denying the Motion for Reconsideration was mailed June 17, 2009. However, the terms of the Order mailed June 17, 2009, did not recognize the period of suspension that commenced on May 26, 2009.

WHEREFORE, it is hereby ORDERED that Paragraph A of the Final Order of the State Medical Board of Ohio issued on June 17, 2009, in the matter of Jeffrey Eugene White, M.D. be and hereby is CORRECTED to read as follows:

> REVOCATION, STAYED; SUSPENSION: The certificate of Jeffrey E. White, M.D., to practice medicine and surgery in the State of Ohio shall be REVOKED. Such revocation is STAYED, and Dr. White's certificate shall be SUSPENDED for a period of thirty (30) days. Such suspension shall commence on May 26, 2009, and shall terminate on June 26, 2009.

So Ordered this 26st day of June 2009.

(SEAL)

Lance A. Talmage MD RW

Lance A. Talmage, M.D.
Secretary

State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
med.ohio.gov

June 10, 2009

Jeffrey E. White, M.D.
174 Buckeye Court
Westerville, OH 43081

RE: Case No. 08-CRF-134

Dear Doctor White:

Please find enclosed certified copies of the Entry of Order Upon Motion for Reconsideration; the Report and Recommendation of Siobhan R. Clovis, Esq., Hearing Examiner, State Medical Board of Ohio; and an excerpt of the Minutes of the State Medical Board, meeting in regular session on May 13, 2009, including motions affirming the Findings and Amended Order of the State Medical Board of Ohio and on June 10, 2009, denying the Motion for Reconsideration.

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, MD baj

Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

CERTIFIED MAIL NO. 91 7108 2133 3936 3184 0194
RETURN RECEIPT REQUESTED

Cc: Paul-Michael LaFayette, Esq.
CERTIFIED MAIL NO. 91 7108 2133 3936 3184 0200
RETURN RECEIPT REQUESTED

Mailed 6-17-09

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order Upon Motion for Reconsideration of the State Medical Board of Ohio; Report and Recommendation of Siobhan R. Clovis, State Medical Board Attorney Hearing Examiner; and excerpt of Minutes of the State Medical Board, meeting in regular session on May 13, 2009, affirming the Findings of Fact, Conclusions of Law and Amended Entry of Order and on June 10, 2009, denying the Motion for Reconsideration; constitute a true and complete copy of the Findings and Entry of Order Upon Motion for Reconsideration of the State Medical Board in the matter of Jeffrey E. White, M.D., Case No. 08-CRF-134, 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
baj

Lance A. Talmage, M.D.
Secretary

(SEAL)

June 10, 2009
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF	*	
	*	CASE NO. 08-CRF-134
JEFFREY E. WHITE, M.D.	*	

ENTRY OF ORDER UPON MOTION FOR RECONSIDERATION

This matter came on pursuant to a Motion for Reconsideration before the State Medical Board of Ohio on June 10, 2009. Said Motion was denied by vote of the Board.

Upon the Report and Recommendation of Siobhan R. Clovis, 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, the following Order is hereby entered on the Journal of the State Medical Board of Ohio on June 10, 2009.

It is hereby ORDERED that:

A. **REVOCATION, STAYED; SUSPENSION:** The certificate of Jeffrey E. White, M.D., to practice medicine and surgery in the State of Ohio shall be REVOKED. Such revocation is STAYED, and Dr. White's certificate shall be SUSPENDED for a period of thirty (30) days.

B. **PROBATION**: Upon reinstatement or restoration, Dr. White's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least one year:

1. **Personal Appearances**: Dr. White shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which Dr. White's certificate is restored or reinstated, or as otherwise directed by the Board. Subsequent personal appearances must occur every six 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.

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

the first day of the third month following the month in which Dr. White's certificate is restored or reinstated. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

C. **REQUIRED REPORTING WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS ORDER.**

1. **Required Reporting to Employers and Others**: Within 30 days of the effective date of this Order, Dr. White shall provide a copy of this Order to all employers or entities with which he is under contract to provide health-care services (including but not limited to third-party payors), or is receiving training, and the chief of staff at each hospital or health-care center where he has privileges or appointments.

   In the event that Dr. White provides any health-care services or health-care direction or medical oversight to any emergency medical services organization or emergency medical services provider, Dr. White shall provide a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services.

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

   Dr. White further shall provide a copy of this Order at the time of application to the proper licensing authority of any State or jurisdiction in which he applies for any professional license or reinstatement/restoration of any professional license. This requirement shall continue until Dr. White receives from the Board written notification of the successful completion of the probation.

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

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

(SEAL)

Lance A. Talmage, MD baj

Lance A. Talmage, M.D.
Secretary

June 10, 2009
Date

STATE MEDICAL BOARD
OF OHIO

BEFORE THE STATE MEDICAL BOARD OF OHIO 2009 APR 16 A 10: 10

In the Matter of	*	
		Case No. 08-CRF-134
Jeffrey E. White, M.D.,	*	
		Hearing Examiner Clovis
Respondent.	*	

REPORT AND RECOMMENDATION

Basis for Hearing

By letter dated November 12, 2008, the State Medical Board of Ohio [Board] notified Jeffrey E. White, M.D., that it intended to determine whether to take disciplinary action against his certificate to practice medicine and surgery in Ohio, based on the allegation that Dr. White had committed sexual misconduct with a patient. The Board further alleged that Dr. White's conduct constituted "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board," as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-26-02(A), Ohio Administrative Code. Pursuant to Rule 4731-26-03(A), Ohio Administrative Code, a violation of Rule 4731-26-02, Ohio Administrative Code, also violates Section 4731.22(B)(6), Ohio Revised Code, which is "a departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established." (State's Exhibit [St. Ex.] 1)

The Board advised Dr. White of his right to request a hearing, and received his request on December 9, 2008. (St. Ex. 1)

Appearances

Richard Cordray, Attorney General, by William C. Greene, Assistant Attorney General, on behalf of the State of Ohio.

Paul-Michael LaFayette, Esq., on behalf of the Respondent

Hearing Date: March 16, 2009

SUMMARY OF THE EVIDENCE

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

1. Jeffrey E. White, M.D., received his medical degree in 1997 from the Medical College of Ohio. He completed a residency in Family Medicine at Ohio State University and a fellowship in Sports Medicine at the University of Kentucky. He had previously been board-certified in Family Medicine, but is not currently, because he failed to pass the re-examination in December 2008. He has been licensed to practice medicine in Ohio since 1999. (Hearing Transcript [Tr.] at 15-17)

2. Dr. White currently practices family medicine, along with three other physicians, in Worthington, Ohio. He has been practicing there for the last three-and-a-half years. Prior to joining this practice, he had been with two other private practices in central Ohio. (Tr. at 15, 17-18)

3. Patient 1 testified that Dr. White and Patient 1 had first become acquainted by corresponding in internet chat rooms. Patient 1 had been contemplating a move from West Virginia to Ohio, and had sought out information about living in Columbus from participants in the chat rooms, including Dr. White. Patient 1 moved to Ohio in August 2006. (Tr. at 31-32, 44)

4. Patient 1 testified that he had first met and socialized with Dr. White in person in September 2006, and that each of them had had "significant others" at the time. Patient 1 and Dr. White each testified that the two of them continued to socialize after their initial meeting, both with and without their significant others. Patient 1 explained that his relationship with Dr. White became more "personal" as the two of them "developed a rapport with each other" in late fall of 2006 through early the next winter. (Tr. at 22-23, 32-33, 44, 46, 53) (Tr. at 31-32)

5. Patient 1 and Dr. White each testified that Patient 1, who has diabetes, had approached Dr. White to ask if he would be willing to see Patient 1 as a patient, since Patient 1 was new in town and did not yet have a physician. Dr. White agreed to see Patient 1. (Tr. at 20-21, 33)

6. Dr. White initially saw Patient 1 as a patient on November 14, 2006. Dr. White testified that it was a standard visit for establishing a new patient, including a check of Patient 1's feet and pulses, due to the fact that he had diabetes. Dr. White saw Patient 1 in a clinical setting on only one other occasion, on May 22, 2007, for a "physical and follow up." In the meantime, Patient 1 came to Dr. White's office on two occasions for laboratory work and urinalysis, but he did not see Dr. White during those visits. Dr. White testified that his medical treatment of Patient 1 was standard and strictly clinical. (St. Ex. 3 at 9-11, 14-19; Tr. at 21, 33, 36, 54-58)

7. Patient 1 testified that his relationship with Dr. White had become sexual in spring of 2007, and that he and Dr. White had had sex about six to eight times between March and June of 2007. When asked who had initiated the sexual relationship, Dr. White and Patient 1 each responded that it had been mutual. (Tr. at 23-24, 38-39, 46)

8. In his answers to the Board's interrogatories, submitted during the Board's investigation of this case, Dr. White admitted to initial sexual contact with Patient 1 on December 20, 2006. Dr. White explained that the physical contact in December 2006 had consisted of a non-sexual massage, but such contact constituted "sexual conduct" as defined for purposes of the interrogatories, so Dr. White had answered accordingly. Dr. White confirmed that he did not have sex, in the layperson's sense of the term, with Patient 1 until spring of 2007. Patient 1 denied having any sexual contact with Dr. White in December 2006. (St. Ex. 2 at 10; Tr. at 38, 59-60)

9. Patient 1 testified that he and his significant other, with whom he was living during the time that Patient 1 had developed a relationship with Dr. White, had had an open relationship, and that the significant other "knew about" Dr. White. However, the significant other became upset when Dr. White and Patient 1 began contemplating a monogamous relationship with each other. (Tr. at 47-51)

10. Dr. White testified that he had terminated the physician-patient relationship with Patient 1 on May 24, 2007, which is documented in his office notes. The two of them terminated their personal relationship in June 2007. The reason for the breakup was not clearly articulated, but it apparently involved the reaction of Patient 1's significant other to the relationship between Patient 1 and Dr. White. Dr. White said that their breakup was due to a "lot of things" related to Patient 1's significant other, and that Patient 1 had felt "too much pressure to continue." When Patient 1 was asked why the relationship terminated, he said that Dr. White had ended it when Patient 1's significant other had reacted negatively to the increasing seriousness of Patient 1's relationship with Dr. White. Dr. White testified that he and Patient 1 no longer socialize. (St. Ex. 3 at 12; Tr. at 26-29, 47, 75)

11. Patient 1 testified that there was nothing out of the ordinary about his clinical appointments with Dr. White. There was no sexual contact or discussion of their personal lives. He further testified that the two did not discuss any of Patient 1's medical matters outside of Dr. White's office. Patient 1 affirmed that there was no overlapping of his personal relationship and his clinical relationship with Dr. White. He further testified that he had not felt exploited by Dr. White, or injured in any way. He said that he had considered Dr. White's professional treatment to have been superb, compared to his treatment by previous physicians. Patient 1 also advised that he did not believe that Dr. White should be disciplined for their relationship. (Tr. at 35-41)

12. Dr. White testified that Patient 1 had never confided any personal matters to him in a clinical setting, other than clinical matters. He denied that Patient 1 had developed any emotional dependence on him due to the professional relationship, and denied that he had exploited Patient 1. (St. Ex. 11; Tr. at 62)

13. Dr. White testified that he had known, from other physicians and from television shows, that sexual relationships with patients were "looked down upon", but he said that he had not known of the specific consequences, such as the possibility of disciplinary action against his medical license. He further testified that he had never had a sexual relationship with any other patient. (Tr. at 24-25, 29, 63, 72)

14. Dr. White submitted a letter stating that he had attended a three-day Continuing Medical Education course entitled "Maintaining Proper Boundaries" at Vanderbilt University on February 18-20, 2009. The letter describes the course as follows:

> The content of our course includes components dealing with improving practice management, dealing with problem patients, and exploration of personality traits that influence boundary issues. Held in a small group format, this course works toward getting physicians to look deeply within themselves to better determine how their own vulnerabilities may lead to boundary violations.

(Respondent's Exhibit A)

15. At hearing, the Assistant Attorney General questioned Dr. White about what he had learned from the course:

> Q. What is it that you took away from that course? What did you learn at that course?
>
> A. What I learned is that, you know, basically what defines one -- you know, what are the boundaries between patients and doctors.
>
> Q. What are those boundaries? Describe them, please.
>
> A. I'm sorry?
>
> Q. Please describe those.
>
> A. Those boundaries: One is you don't take on personal matters, meaning outside the clinical aspect of treating a patient. You don't go out and socialize with them. You don't go out and take -- you know, a baseball game, go to the movies, anything of that sort. That's what -- that's what that -- basically boundaries -- you got to keep that separate.
>
> Q. Why?
>
> A. Well, because then you have a clouding of judgment between patient and doctor, so where, you know, you may -- if you have a personal relationship with someone, that may cloud your judgment in regards to treating that patient.
>
> Q. Okay. Why don't you go ahead? I interrupted, so please explain about what you took away from that course. Besides what the boundaries are, what else?

A. Just focusing on what can I do in my scope of practice to help me deal with any type of boundary issues I may have.

Other aspects, they did a little bit of counseling there. They kind of went through some exercises in regards to knowing that -- knowing how -- not to set yourself up to where you may -- people may see it differently than what you may see it, and to kind of recognize those clues in regards to crossing the boundary between doctor/patient relationship.

Q. Did you learn anything about the impact on the patients in that course?

A. Well, yeah. I mean, they basically was -- they described where the -- society views doctors or physicians as virtually a power kind of counter context, where a physician is seen as -- seen as highly regarded in the society, whereas patients are seen as a lower -- not saying that they are inferior, but doctors have a -- basically an influence over the patient, and to kind of understand that dynamic between the patient/doctor relationship and to respect that, and that way you can do undue influence on a patient and that can basically cause harm to a patient.

Q. Do you think that your relationship harmed Patient No. 1?

A. No.

Q. After you've gone through the boundary course and you understand the impacts that the physician/patient relationship -- what that is and what a relationship outside the practice is, you still don't believe there was any injury or any harm to Patient No. 1?

A. No.

Q. When you said you made a mistake, what do you believe your mistake was?

A. Just being, basically, a physician to a friend.

(Tr. at 68-71)

FINDING OF FACT

Jeffrey E. White, M.D., in the routine course of his practice, undertook the treatment of Patient 1, as identified in sealed State's Exhibit 4. Dr. White began treating Patient 1 on November 14, 2006, and he continued to treat the patient until May 24, 2007. Beginning on December 20, 2006, and despite the ongoing physician-patient relationship, Dr. White committed sexual misconduct by engaging in "sexual conduct" as that term is defined in Rule 4731-26-01(G)(3), Ohio Administrative Code, with Patient 1.

CONCLUSION OF LAW

The acts, conduct, and/or omissions set forth in the Finding of Fact, above, individually and/or collectively, constitute "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board," as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-26-02(A), Ohio Administrative Code. Pursuant to Rule 4731-26-03(A), Ohio Administrative Code, a violation of Rule 4731-26-02, Ohio Administrative Code, also violates Section 4731.22(B)(6), Ohio Revised Code, which is a "departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established."

Rationale for the Proposed Order

Jeffery E. White, M.D., showed a significant lack of judgment in beginning a sexual relationship with an individual whom he was already treating as a patient. Dr. White testified that he had not known his medical license could be disciplined for such activity, but that he had known it would be "looked down upon." He should have at least considered more thoughtfully the implications of the relationship, and researched the proper way to handle the situation. However, he has already taken a course on maintaining proper boundaries with patients, and he seems to have found it meaningful and instructive. It is very unlikely that he will never again engage in questionable conduct with a patient.

Further, although all sexual misconduct cases are serious, little actual harm seems to have been done in this case. This is not a case in which a physician used his professional relationship to violate a patient sexually. It is not even a case in which a physician improperly used the physician-patient relationship to his advantage in a consensual sexual relationship with a patient. The professional and personal relationships in this case seem to have been quite distinct from each other. Patient 1 was seen only twice by Dr. White in his professional capacity; once shortly after they had first met and become friends; and once after the sexual relationship had already commenced. Patient 1 testified that he had suffered no harm and had not felt violated. Accordingly, a relatively minimal sanction seems appropriate.

PROPOSED ORDER

It is hereby ORDERED that:

A. **REVOCATION, STAYED; SUSPENSION:** The certificate of Jeffrey E. White, M.D., to practice medicine and surgery in the State of Ohio shall be REVOKED. Such revocation is STAYED, and Dr. White's certificate shall be SUSPENDED for a period of ninety days.

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

1. **Personal Appearances**: Dr. White shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which Dr. White's certificate is restored or reinstated, or as otherwise directed by the Board. Subsequent personal appearances must occur every six 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.

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

C. **REQUIRED REPORTING WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS ORDER.**

1. **Required Reporting to Employers and Others**: Within 30 days of the effective date of this Order, Dr. White shall provide a copy of this Order to all employers or entities with which he is under contract to provide health-care services (including but not limited to third-party payors), or is receiving training, and the chief of staff at each hospital or health-care center where he has privileges or appointments.

   In the event that Dr. White provides any health-care services or health-care direction or medical oversight to any emergency medical services organization or emergency medical services provider, Dr. White shall provide a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services.

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

limited to the Drug Enforcement Agency, through which he currently holds any license or certificate.

Dr. White further shall provide a copy of this Order at the time of application to the proper licensing authority of any State or jurisdiction in which he applies for any professional license or reinstatement/restoration of any professional license. This requirement shall continue until Dr. White receives from the Board written notification of the successful completion of the probation.

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

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

Siobhan R. Clovis
Hearing Examiner

Dr. Madia - aye

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

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

JEFFREY E. WHITE, M.D.

Dr. Madia directed the Board's attention to the matter of Jeffrey E. White, M.D. He advised that objections were filed to Hearing Examiner Clovis' Report and Recommendation and were previously distributed to Board members.

Dr. Madia continued that a request to address the Board has been timely filed on behalf of Dr. White. He reminded both parties that no oral motions may be made at this time. Five minutes would be allowed for that address.

Dr. White was accompanied by his attorney, Paul-Michael LaFayette. Mr. LaFayette stated that on behalf of Dr. White he filed objections to the Hearing Examiner's decision and recommendations. He advised that they have no objections to the Findings of Fact and Conclusions of Law. They believe that the Hearing Examiner did a very good job in recounting the facts of the case and providing the evidence and testimony to the Board. He advised that they do object to the recommended sanction. The Hearing Examiner recommended a stayed revocation and a 90-day suspension.

Mr. LaFayette noted that Ms. Clovis did not find that harm was done to the patient. She found that, while there was a violation, it was done in a fashion that was not taking advantage of the patient or using any undue influence on the patient. Mr. LaFayette stated that the patient, himself, did not feel violated and was happy and satisfied with the care that was received. Mr. LaFayette advised that the Hearing Examiner recommended a minimal sanction.

Mr. LaFayette stated that his objection to this is that, while the Hearing Examiner recommended a minimal sanction, she nonetheless recommended a revocation, stayed, pending a 90-day suspension period. Mr. LaFayette stated that he feels that that is inconsistent with what could be reasonably interpreted as minimal.

Mr. LaFayette stated that he would like to draw the Board's attention to a case that was recently decided by this Board. He referred to the case of a Michigan physician, Dr. Langschwager, which was considered by the Board in March 2009. Dr. Langschwager was accused of very similar conduct. Dr. Langschwager was seeking licensure in Ohio. His certificate was granted, and the Board imposed a reprimand and probation.

Mr. LaFayette stated that when reviewing the Board's Disciplinary Guidelines and identifying the issues, he thinks that Dr. White's behavior was minimal and the minimal sanction is more appropriate and more in line with Dr. White's case. He stated that Dr. White met all of the mitigating standards that are set forth in the Disciplinary Guidelines and within the Board's rules, and a 90-day suspension is excessive under the circumstances, particularly, if you look at the facts of the Langschwager case versus this particular case.

Mr. LaFayette stated that he would respectfully request that the Board reduce the recommended sanction to a reprimand or a minimal sanction.

Dr. Madia advised that Dr. White has one more minute to make his statement.

Dr. White apologized to the Medical Board and to his profession for an error in judgment that occurred in the past. He commented that everyone views the medical profession as having high standards. He stated that he has taken steps to assure that his past conduct will not occur again. He attended the Vanderbilt University Borders CME, which allowed him to view what sort of actions he can take to ensure that he's not put in the same situation again.

Dr. White stated that he has also ensured that his practice is run in a way that he will not be placed in undue circumstances that could lead him to be before the Board again.

Dr. White thanked the Board for its time, and added that he hopes that when the Board comes to its decision, he can continue to practice unimpeded.

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

Ms. Unver stated that she does not.

DR. VARYANI MOVED TO APPROVE AND CONFIRM MS. CLOVIS' FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF JEFFREY E. WHITE, M.D. DR. AMATO SECONDED THE MOTION.

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

Dr. Stephens stated that she agrees with Dr. White's attorney that this case does not rise to the level of suspension or revocation. Dr. Stephens suggested a reprimand and limited probation be imposed.

Dr. Mahajan stated that a three-month suspension is too much, and suggested that that be cut down to one month. He stated that Dr. White has already taken precautions to ensure that things don't happen again.

Dr. Suppan stated that she thinks that it's noteworthy in this case that Dr. White was friends with the patient first. The patient then requested Dr. White to see him as a patient, which he was willing to do. There was no preying on the patient or inducing a relationship in that way. She stated that that in no way condones the behavior that happened down the road, but she thinks that the Board does need to take into consideration that both parties were consenting and that the patient went on record saying that he did not

feel harmed.

Dr. Varyani stated that the minimum penalty for sexual misconduct in practice is a stayed revocation, indefinite suspension, a minimum of one year of suspension, with conditions for reinstatement and subsequent probation, as appropriate. That was the minimum. The maximum penalty is permanent revocation of the certificate or permanent denial of an application.

Dr. Varyani stated that he doesn't know whether he would call this "no harm done," but he would recognize the circumstances. There was first friendship, then the friend became the patient and was treated two or three times. Dr. Varyani stated that he doesn't know that there was no harm done, but there was definitely a sexual relationship between the doctor and the patient.

Dr. Amato stated that he agrees with Dr. Varyani, but he also agrees with Dr. Stephens. Historically, a revocation is imposed for sexual misconduct. He stated that he thinks some suspension is in order, although three months might be a bit long. He would go along with a one-month suspension, and certainly the probation period should be at least nine months.

Dr. Varyani noted that the Proposed Order calls for a two-year probation.

Dr. Amato stated that the total time of suspension and probation should be close to one year.

Dr. Stephens stated that that's not what the Board did before. This physician was friends with the patient before he was a patient. She stated that in the case of Dr. Langschwager, it was a totally different situation and Dr. Langschwager did get what she felt was an appropriate light sanction of reprimand and probation. She stated that she doesn't see how this case rises to the level of any type of suspension. She commented that if Board members want a suspension, they could stay it. She stated that she thinks that the Board is being unfair.

Dr. Varyani again referred to the Disciplinary Guidelines, which call for a stayed revocation, at least.

Dr. Stephens stated that those Guidelines were in effect last time, and the Board didn't do it.

Dr. Varyani stated that he understands it, but he's sure that the circumstances were different. Dr. Varyani stated that he would like to maintain the stayed revocation. He added that he doesn't mind lessening the suspension period to one month. If the Board felt lenient in the past, he's sure that there were different circumstances, although he doesn't remember the circumstances.

Dr. Stephens stated that she does. The circumstances in the Langschwager case were worse. Two months ago the Board had a similar case that was worse, and it imposed a reprimand and probation. The same guidelines were in place and nobody talked about them. She asked why the Board has to stick to them today.

Dr. Madia stated that he agrees with Dr. Varyani's comments. He stated that he doesn't buy the argument that there was no harm done. Dr. Madia recommended a one-month suspension with a one-year probation.

Dr. Stephens stated that the Board didn't give Dr. Langschwager a one-month suspension.

DR. VARYANI MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF DR. WHITE BY CHANGING THE PERIOD OF SUSPENSION FROM THREE MONTHS TO ONE MONTH, AND THE PERIOD OF PROBATION FROM TWO YEARS TO ONE YEAR. DR. MAHAJAN SECONDED THE MOTION.

Mr. Jacobson asked to be reminded of the details of the other case.

Dr. Madia asked that the Board address the matter before it now.

Mr. Jacobson stated that he does think that there's a valid concern that the proposed order in this case is not consistent with what the Board decided in the Langschwager case. He stated that absent further information about the Langschwager case, he will abstain in this case. He stated that precedent is always relevant. If you have different precedents for different people, you find yourselves in front of a court explaining why it is that one person got one treatment and another got another. Sometimes the facts are similar and sometimes they're not. He thinks that it is always relevant to ask.

Dr. Stephens stated that she doesn't think that Mr. Jacobson should abstain. She stated that it would take one minute to answer his question. She stated that the Assistant Attorney General could answer the question, or the attorney for Dr. White could provide the information.

Ms. Debolt asked whether any attorneys present know the facts of the Langschwager case.

Ms. Unver stated that the Langschwager case was actually a bootstrap case. There was action in the State of Michigan by the Michigan Medical Board. Dr. Langschwager had filed an application with the State Medical Board of Ohio, but ultimately got a job in Michigan. That was an application case, but he had been disciplined in Michigan for sexual misconduct. He was an OB at the time; he got involved with a patient, and had sexual relations with the patient. Ms. Unver stated that she can't recall all of the facts of the Michigan action, but Dr. Langschwager did have to complete a boundaries course, and he did probation. She can't recall what his suspension there was.

Mr. Jacobson thanked Ms. Unver for the explanation, and stated that, based on that explanation, he does think that this case is distinguishable from the Michigan case.

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

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

Dr. Stephens	- nay
Dr. Mahajan	- aye
Dr. Madia	- aye

The motion carried.

MR. JACOBSON MOVED TO APPROVE AND CONFIRM MS. CLOVIS' FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF JEFFREY E. WHITE, M.D. DR. SUPPAN SECONDED THE MOTION. A vote was taken:

ROLL CALL:

Mr. Albert	- abstain
Dr. Suppan	- aye
Dr. Varyani	- aye
Mr. Jacobson	- aye
Mr. Hairston	- aye
Dr. Amato	- aye
Dr. Stephens	- nay
Dr. Mahajan	- aye
Dr. Madia	- aye

The motion carried.

RANDALL JAY BOLAR, M.D.

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

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

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

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

Dr. Bolar read the following statement:

> I'm Randall Bolar. Thank you for letting me speak to you.
>
> I want to, quickly as I can, summarize the issue in the renewal of my license in October of 2003, as well as in January of 2007. At the time I was practicing in Kentucky, and the summer of 2002 I'd agreed, on advice from counsel, to settle out of a malpractice case. That was late July, early August of 2002. I reported that to the hospital, to my Kentucky

State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.
Executive Director

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EXCERPT FROM THE DRAFT MINUTES OF JUNE 10, 2009

MOTION FOR RECONSIDERATION IN THE MATTER OF JEFFREY E. WHITE, M.D.

Dr. Madia announced that the Board would now consider the matter of Jeffrey E. White, M.D. At its meeting on May 13, 2009, the Board considered the matter of Dr. White. The Board adopted an Order of a revocation, stayed subject to suspension for 30 days and subsequent probationary terms, conditions, and limitations for at least one year. Subsequent documents filed were: Dr. White's Motion, or request, for Reconsideration of the Board's Order; the Assistant Attorney General's Memorandum Contra the Motion for Reconsideration; a Reply in Support of Respondent's Motion for Reconsideration; and the Amended Memorandum Contra in Behalf of the State.

Dr. Madia advised that the Board will consider the request in two steps. The first vote will be on the question of whether to grant the request so that the Board may reconsider the Order issued in May. If the vote is to deny reconsideration, the matter is finished and the Board will move on to the next agenda item. If the vote is to grant reconsideration, the Board will discuss the May order and decide whether to amend it or re-issue the same Order.

Dr. Madia asked whether there is a motion to either grant or deny Dr. White's request for reconsideration and modification.

DR. STEINBERGH MOVED TO DENY DR. WHITE'S REQUEST FOR RECONSIDERATION AND MODIFICATION. DR. AMATO SECONDED THE MOTION.

.....

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

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

The motion carried.

State Medical Board of Ohio

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May 13, 2009

Jeffrey E. White, M.D.
174 Buckeye Court
Westerville, OH 43081

RE: Case No. 08-CRF-134

Dear Doctor White:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Siobhan R. Clovis, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on May 13, 2009, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order.

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

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

THE STATE MEDICAL BOARD OF OHIO

Lance A. Talmage MD

Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

CERTIFIED MAIL NO. 91 7108 2133 3936 3160 5519
RETURN RECEIPT REQUESTED

Cc: Paul-Michael LaFayette, Esq.
CERTFIED MAIL NO. 91 7108 2133 3936 3160 5526
RETURN RECEIPT REQUESTED

Mailed 5-26-09

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Siobhan R. Clovis, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on May 13, 2009, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order; constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Jeffrey E. White, M.D., Case No. 08-CRF-134, 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

Lance A. Talmage, M.D.
Secretary

(SEAL)

May 13, 2009
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF	*	
	*	CASE NO. 08-CRF-134
JEFFREY E. WHITE, M.D.	*	

ENTRY OF ORDER

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

Upon the Report and Recommendation of Siobhan R. Clovis, 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. **REVOCATION, STAYED; SUSPENSION:** The certificate of Jeffrey E. White, M.D., to practice medicine and surgery in the State of Ohio shall be REVOKED. Such revocation is STAYED, and Dr. White's certificate shall be SUSPENDED for a period of thirty (30) days.

B. **PROBATION**: Upon reinstatement or restoration, Dr. White's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least one year:

1. **Personal Appearances**: Dr. White shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which Dr. White's certificate is restored or reinstated, or as otherwise directed by the Board. Subsequent personal appearances must occur every six 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.

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

C. **REQUIRED REPORTING WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS ORDER.**

1. **Required Reporting to Employers and Others**: Within 30 days of the effective date of this Order, Dr. White shall provide a copy of this Order to all employers or entities with which he is under contract to provide health-care services (including but not limited to third-party payors), or is receiving training, and the chief of staff at each hospital or health-care center where he has privileges or appointments.

   In the event that Dr. White provides any health-care services or health-care direction or medical oversight to any emergency medical services organization or emergency medical services provider, Dr. White shall provide a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services.

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

   Dr. White further shall provide a copy of this Order at the time of application to the proper licensing authority of any State or jurisdiction in which he applies for any professional license or reinstatement/restoration of any professional license. This requirement shall continue until Dr. White receives from the Board written notification of the successful completion of the probation.

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

communication documenting the e-mail transmission of a copy of the Order to the person or entity to whom a copy of the Order was e-mailed.

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

(SEAL)

Lance A. Talmage, M.D.
Secretary

May 13, 2009
Date

STATE MEDICAL BOARD
OF OHIO

BEFORE THE STATE MEDICAL BOARD OF OHIO 2009 APR 16 A 10: 10

In the Matter of	*	
		Case No. 08-CRF-134
Jeffrey E. White, M.D.,	*	
		Hearing Examiner Clovis
Respondent.	*	

REPORT AND RECOMMENDATION

Basis for Hearing

By letter dated November 12, 2008, the State Medical Board of Ohio [Board] notified Jeffrey E. White, M.D., that it intended to determine whether to take disciplinary action against his certificate to practice medicine and surgery in Ohio, based on the allegation that Dr. White had committed sexual misconduct with a patient. The Board further alleged that Dr. White's conduct constituted "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board," as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-26-02(A), Ohio Administrative Code. Pursuant to Rule 4731-26-03(A), Ohio Administrative Code, a violation of Rule 4731-26-02, Ohio Administrative Code, also violates Section 4731.22(B)(6), Ohio Revised Code, which is "a departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established." (State's Exhibit [St. Ex.] 1)

The Board advised Dr. White of his right to request a hearing, and received his request on December 9, 2008. (St. Ex. 1)

Appearances

Richard Cordray, Attorney General, by William C. Greene, Assistant Attorney General, on behalf of the State of Ohio.

Paul-Michael LaFayette, Esq., on behalf of the Respondent

Hearing Date: March 16, 2009

SUMMARY OF THE EVIDENCE

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

1. Jeffrey E. White, M.D., received his medical degree in 1997 from the Medical College of Ohio. He completed a residency in Family Medicine at Ohio State University and a fellowship in Sports Medicine at the University of Kentucky. He had previously been board-certified in Family Medicine, but is not currently, because he failed to pass the re-examination in December 2008. He has been licensed to practice medicine in Ohio since 1999. (Hearing Transcript [Tr.] at 15-17)

2. Dr. White currently practices family medicine, along with three other physicians, in Worthington, Ohio. He has been practicing there for the last three-and-a-half years. Prior to joining this practice, he had been with two other private practices in central Ohio. (Tr. at 15, 17-18)

3. Patient 1 testified that Dr. White and Patient 1 had first become acquainted by corresponding in internet chat rooms. Patient 1 had been contemplating a move from West Virginia to Ohio, and had sought out information about living in Columbus from participants in the chat rooms, including Dr. White. Patient 1 moved to Ohio in August 2006. (Tr. at 31-32, 44)

4. Patient 1 testified that he had first met and socialized with Dr. White in person in September 2006, and that each of them had had "significant others" at the time. Patient 1 and Dr. White each testified that the two of them continued to socialize after their initial meeting, both with and without their significant others. Patient 1 explained that his relationship with Dr. White became more "personal" as the two of them "developed a rapport with each other" in late fall of 2006 through early the next winter. (Tr. at 22-23, 32-33, 44, 46, 53) (Tr. at 31-32)

5. Patient 1 and Dr. White each testified that Patient 1, who has diabetes, had approached Dr. White to ask if he would be willing to see Patient 1 as a patient, since Patient 1 was new in town and did not yet have a physician. Dr. White agreed to see Patient 1. (Tr. at 20-21, 33)

6. Dr. White initially saw Patient 1 as a patient on November 14, 2006. Dr. White testified that it was a standard visit for establishing a new patient, including a check of Patient 1's feet and pulses, due to the fact that he had diabetes. Dr. White saw Patient 1 in a clinical setting on only one other occasion, on May 22, 2007, for a "physical and follow up." In the meantime, Patient 1 came to Dr. White's office on two occasions for laboratory work and urinalysis, but he did not see Dr. White during those visits. Dr. White testified that his medical treatment of Patient 1 was standard and strictly clinical. (St. Ex. 3 at 9-11, 14-19; Tr. at 21, 33, 36, 54-58)

7. Patient 1 testified that his relationship with Dr. White had become sexual in spring of 2007, and that he and Dr. White had had sex about six to eight times between March and June of 2007. When asked who had initiated the sexual relationship, Dr. White and Patient 1 each responded that it had been mutual. (Tr. at 23-24, 38-39, 46)

8. In his answers to the Board's interrogatories, submitted during the Board's investigation of this case, Dr. White admitted to initial sexual contact with Patient 1 on December 20, 2006. Dr. White explained that the physical contact in December 2006 had consisted of a non-sexual massage, but such contact constituted "sexual conduct" as defined for purposes of the interrogatories, so Dr. White had answered accordingly. Dr. White confirmed that he did not have sex, in the layperson's sense of the term, with Patient 1 until spring of 2007. Patient 1 denied having any sexual contact with Dr. White in December 2006. (St. Ex. 2 at 10; Tr. at 38, 59-60)

9. Patient 1 testified that he and his significant other, with whom he was living during the time that Patient 1 had developed a relationship with Dr. White, had had an open relationship, and that the significant other "knew about" Dr. White. However, the significant other became upset when Dr. White and Patient 1 began contemplating a monogamous relationship with each other. (Tr. at 47-51)

10. Dr. White testified that he had terminated the physician-patient relationship with Patient 1 on May 24, 2007, which is documented in his office notes. The two of them terminated their personal relationship in June 2007. The reason for the breakup was not clearly articulated, but it apparently involved the reaction of Patient 1's significant other to the relationship between Patient 1 and Dr. White. Dr. White said that their breakup was due to a "lot of things" related to Patient 1's significant other, and that Patient 1 had felt "too much pressure to continue." When Patient 1 was asked why the relationship terminated, he said that Dr. White had ended it when Patient 1's significant other had reacted negatively to the increasing seriousness of Patient 1's relationship with Dr. White. Dr. White testified that he and Patient 1 no longer socialize. (St. Ex. 3 at 12; Tr. at 26-29, 47, 75)

11. Patient 1 testified that there was nothing out of the ordinary about his clinical appointments with Dr. White. There was no sexual contact or discussion of their personal lives. He further testified that the two did not discuss any of Patient 1's medical matters outside of Dr. White's office. Patient 1 affirmed that there was no overlapping of his personal relationship and his clinical relationship with Dr. White. He further testified that he had not felt exploited by Dr. White, or injured in any way. He said that he had considered Dr. White's professional treatment to have been superb, compared to his treatment by previous physicians. Patient 1 also advised that he did not believe that Dr. White should be disciplined for their relationship. (Tr. at 35-41)

12. Dr. White testified that Patient 1 had never confided any personal matters to him in a clinical setting, other than clinical matters. He denied that Patient 1 had developed any emotional dependence on him due to the professional relationship, and denied that he had exploited Patient 1. (St. Ex. 11; Tr. at 62)

13. Dr. White testified that he had known, from other physicians and from television shows, that sexual relationships with patients were "looked down upon", but he said that he had not known of the specific consequences, such as the possibility of disciplinary action against his medical license. He further testified that he had never had a sexual relationship with any other patient. (Tr. at 24-25, 29, 63, 72)

14. Dr. White submitted a letter stating that he had attended a three-day Continuing Medical Education course entitled "Maintaining Proper Boundaries" at Vanderbilt University on February 18-20, 2009. The letter describes the course as follows:

> The content of our course includes components dealing with improving practice management, dealing with problem patients, and exploration of personality traits that influence boundary issues. Held in a small group format, this course works toward getting physicians to look deeply within themselves to better determine how their own vulnerabilities may lead to boundary violations.

(Respondent's Exhibit A)

15. At hearing, the Assistant Attorney General questioned Dr. White about what he had learned from the course:

> Q. What is it that you took away from that course? What did you learn at that course?
>
> A. What I learned is that, you know, basically what defines one -- you know, what are the boundaries between patients and doctors.
>
> Q. What are those boundaries? Describe them, please.
>
> A. I'm sorry?
>
> Q. Please describe those.
>
> A. Those boundaries: One is you don't take on personal matters, meaning outside the clinical aspect of treating a patient. You don't go out and socialize with them. You don't go out and take -- you know, a baseball game, go to the movies, anything of that sort. That's what -- that's what that -- basically boundaries -- you got to keep that separate.
>
> Q. Why?
>
> A. Well, because then you have a clouding of judgment between patient and doctor, so where, you know, you may -- if you have a personal relationship with someone, that may cloud your judgment in regards to treating that patient.
>
> Q. Okay. Why don't you go ahead? I interrupted, so please explain about what you took away from that course. Besides what the boundaries are, what else?

A. Just focusing on what can I do in my scope of practice to help me deal with any type of boundary issues I may have.

Other aspects, they did a little bit of counseling there. They kind of went through some exercises in regards to knowing that -- knowing how -- not to set yourself up to where you may -- people may see it differently than what you may see it, and to kind of recognize those clues in regards to crossing the boundary between doctor/patient relationship.

Q. Did you learn anything about the impact on the patients in that course?

A. Well, yeah. I mean, they basically was -- they described where the -- society views doctors or physicians as virtually a power kind of counter context, where a physician is seen as -- seen as highly regarded in the society, whereas patients are seen as a lower -- not saying that they are inferior, but doctors have a -- basically an influence over the patient, and to kind of understand that dynamic between the patient/doctor relationship and to respect that, and that way you can do undue influence on a patient and that can basically cause harm to a patient.

Q. Do you think that your relationship harmed Patient No. 1?

A. No.

Q. After you've gone through the boundary course and you understand the impacts that the physician/patient relationship -- what that is and what a relationship outside the practice is, you still don't believe there was any injury or any harm to Patient No. 1?

A. No.

Q. When you said you made a mistake, what do you believe your mistake was?

A. Just being, basically, a physician to a friend.

(Tr. at 68-71)

FINDING OF FACT

Jeffrey E. White, M.D., in the routine course of his practice, undertook the treatment of Patient 1, as identified in sealed State's Exhibit 4. Dr. White began treating Patient 1 on November 14, 2006, and he continued to treat the patient until May 24, 2007. Beginning on December 20, 2006, and despite the ongoing physician-patient relationship, Dr. White committed sexual misconduct by engaging in "sexual conduct" as that term is defined in Rule 4731-26-01(G)(3), Ohio Administrative Code, with Patient 1.

CONCLUSION OF LAW

The acts, conduct, and/or omissions set forth in the Finding of Fact, above, individually and/or collectively, constitute "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board," as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-26-02(A), Ohio Administrative Code. Pursuant to Rule 4731-26-03(A), Ohio Administrative Code, a violation of Rule 4731-26-02, Ohio Administrative Code, also violates Section 4731.22(B)(6), Ohio Revised Code, which is a "departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established."

Rationale for the Proposed Order

Jeffery E. White, M.D., showed a significant lack of judgment in beginning a sexual relationship with an individual whom he was already treating as a patient. Dr. White testified that he had not known his medical license could be disciplined for such activity, but that he had known it would be "looked down upon." He should have at least considered more thoughtfully the implications of the relationship, and researched the proper way to handle the situation. However, he has already taken a course on maintaining proper boundaries with patients, and he seems to have found it meaningful and instructive. It is very unlikely that he will never again engage in questionable conduct with a patient.

Further, although all sexual misconduct cases are serious, little actual harm seems to have been done in this case. This is not a case in which a physician used his professional relationship to violate a patient sexually. It is not even a case in which a physician improperly used the physician-patient relationship to his advantage in a consensual sexual relationship with a patient. The professional and personal relationships in this case seem to have been quite distinct from each other. Patient 1 was seen only twice by Dr. White in his professional capacity; once shortly after they had first met and become friends; and once after the sexual relationship had already commenced. Patient 1 testified that he had suffered no harm and had not felt violated. Accordingly, a relatively minimal sanction seems appropriate.

PROPOSED ORDER

It is hereby ORDERED that:

A. **REVOCATION, STAYED; SUSPENSION:** The certificate of Jeffrey E. White, M.D., to practice medicine and surgery in the State of Ohio shall be REVOKED. Such revocation is STAYED, and Dr. White's certificate shall be SUSPENDED for a period of ninety days.

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

1. **Personal Appearances**: Dr. White shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which Dr. White's certificate is restored or reinstated, or as otherwise directed by the Board. Subsequent personal appearances must occur every six 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.

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

C. **REQUIRED REPORTING WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS ORDER.**

1. **Required Reporting to Employers and Others**: Within 30 days of the effective date of this Order, Dr. White shall provide a copy of this Order to all employers or entities with which he is under contract to provide health-care services (including but not limited to third-party payors), or is receiving training, and the chief of staff at each hospital or health-care center where he has privileges or appointments.

   In the event that Dr. White provides any health-care services or health-care direction or medical oversight to any emergency medical services organization or emergency medical services provider, Dr. White shall provide a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services.

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

limited to the Drug Enforcement Agency, through which he currently holds any license or certificate.

Dr. White further shall provide a copy of this Order at the time of application to the proper licensing authority of any State or jurisdiction in which he applies for any professional license or reinstatement/restoration of any professional license. This requirement shall continue until Dr. White receives from the Board written notification of the successful completion of the probation.

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

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

Siobhan R. Clovis
Hearing Examiner

State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.
Executive Director

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EXCERPT FROM THE DRAFT MINUTES OF MAY 13, 2009

REPORTS AND RECOMMENDATIONS AND PROPOSED FINDINGS AND PROPOSED ORDER

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

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

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

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

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

Dr. Mahajan - aye
Dr. Madia - aye

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

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

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

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JEFFREY E. WHITE, M.D.

Dr. Madia directed the Board's attention to the matter of Jeffrey E. White, M.D. He advised that objections were filed to Hearing Examiner Clovis' Report and Recommendation and were previously distributed to Board members.

Dr. Madia continued that a request to address the Board has been timely filed on behalf of Dr. White. He reminded both parties that no oral motions may be made at this time. Five minutes would be allowed for that address.

Dr. White was accompanied by his attorney, Paul-Michael LaFayette. Mr. LaFayette stated that on behalf of Dr. White he filed objections to the Hearing Examiner's decision and recommendations. He advised that they have no objections to the Findings of Fact and Conclusions of Law. They believe that the Hearing Examiner did a very good job in recounting the facts of the case and providing the evidence and testimony to the Board. He advised that they do object to the recommended sanction. The Hearing Examiner recommended a stayed revocation and a 90-day suspension.

Mr. LaFayette noted that Ms. Clovis did not find that harm was done to the patient. She found that, while there was a violation, it was done in a fashion that was not taking advantage of the patient or using any undue influence on the patient. Mr. LaFayette stated that the patient, himself, did not feel violated and was happy and satisfied with the care that was received. Mr. LaFayette advised that the Hearing Examiner recommended a minimal sanction.

Mr. LaFayette stated that his objection to this is that, while the Hearing Examiner recommended a minimal

sanction, she nonetheless recommended a revocation, stayed, pending a 90-day suspension period. Mr. LaFayette stated that he feels that that is inconsistent with what could be reasonably interpreted as minimal.

Mr. LaFayette stated that he would like to draw the Board's attention to a case that was recently decided by this Board. He referred to the case of a Michigan physician, Dr. Langschwager, which was considered by the Board in March 2009. Dr. Langschwager was accused of very similar conduct. Dr. Langschwager was seeking licensure in Ohio. His certificate was granted, and the Board imposed a reprimand and probation. Mr. LaFayette stated that when reviewing the Board's Disciplinary Guidelines and identifying the issues, he thinks that Dr. White's behavior was minimal and the minimal sanction is more appropriate and more in line with Dr. White's case. He stated that Dr. White met all of the mitigating standards that are set forth in the Disciplinary Guidelines and within the Board's rules, and a 90-day suspension is excessive under the circumstances, particularly, if you look at the facts of the Langschwager case versus this particular case.

Mr. LaFayette stated that he would respectfully request that the Board reduce the recommended sanction to a reprimand or a minimal sanction.

Dr. Madia advised that Dr. White has one more minute to make his statement.

Dr. White apologized to the Medical Board and to his profession for an error in judgment that occurred in the past. He commented that everyone views the medical profession as having high standards. He stated that he has taken steps to assure that his past conduct will not occur again. He attended the Vanderbilt University Borders CME, which allowed him to view what sort of actions he can take to ensure that he's not put in the same situation again.

Dr. White stated that he has also ensured that his practice is run in a way that he will not be placed in undue circumstances that could lead him to be before the Board again.

Dr. White thanked the Board for its time, and added that he hopes that when the Board comes to its decision, he can continue to practice unimpeded.

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

Ms. Unver stated that she does not.

DR. VARYANI MOVED TO APPROVE AND CONFIRM MS. CLOVIS' FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF JEFFREY E. WHITE, M.D. DR. AMATO SECONDED THE MOTION.

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

Dr. Stephens stated that she agrees with Dr. White's attorney that this case does not rise to the level of suspension or revocation. Dr. Stephens suggested a reprimand and limited probation be imposed.

Dr. Mahajan stated that a three-month suspension is too much, and suggested that that be cut down to one month. He stated that Dr. White has already taken precautions to ensure that things don't happen again.

Dr. Suppan stated that she thinks that it's noteworthy in this case that Dr. White was friends with the patient first. The patient then requested Dr. White to see him as a patient, which he was willing to do. There was no preying on the patient or inducing a relationship in that way. She stated that that in no way condones the behavior that happened down the road, but she thinks that the Board does need to take into consideration that both parties were consenting and that the patient went on record saying that he did not feel harmed.

Dr. Varyani stated that the minimum penalty for sexual misconduct in practice is a stayed revocation, indefinite suspension, a minimum of one year of suspension, with conditions for reinstatement and subsequent probation, as appropriate. That was the minimum. The maximum penalty is permanent revocation of the certificate or permanent denial of an application.

Dr. Varyani stated that he doesn't know whether he would call this "no harm done," but he would recognize the circumstances. There was first friendship, then the friend became the patient and was treated two or three times. Dr. Varyani stated that he doesn't know that there was no harm done, but there was definitely a sexual relationship between the doctor and the patient.

Dr. Amato stated that he agrees with Dr. Varyani, but he also agrees with Dr. Stephens. Historically, a revocation is imposed for sexual misconduct. He stated that he thinks some suspension is in order, although three months might be a bit long. He would go along with a one-month suspension, and certainly the probation period should be at least nine months.

Dr. Varyani noted that the Proposed Order calls for a two-year probation.

Dr. Amato stated that the total time of suspension and probation should be close to one year.

Dr. Stephens stated that that's not what the Board did before. This physician was friends with the patient before he was a patient. She stated that in the case of Dr. Langschwager, it was a totally different situation and Dr. Langschwager did get what she felt was an appropriate light sanction of reprimand and probation. She stated that she doesn't see how this case rises to the level of any type of suspension. She commented that if Board members want a suspension, they could stay it. She stated that she thinks that the Board is being unfair.

Dr. Varyani again referred to the Disciplinary Guidelines, which call for a stayed revocation, at least.

Dr. Stephens stated that those Guidelines were in effect last time, and the Board didn't do it.

Dr. Varyani stated that he understands it, but he's sure that the circumstances were different. Dr. Varyani

stated that he would like to maintain the stayed revocation. He added that he doesn't mind lessening the suspension period to one month. If the Board felt lenient in the past, he's sure that there were different circumstances, although he doesn't remember the circumstances.

Dr. Stephens stated that she does. The circumstances in the Langschwager case were worse. Two months ago the Board had a similar case that was worse, and it imposed a reprimand and probation. The same guidelines were in place and nobody talked about them. She asked why the Board has to stick to them today.

Dr. Madia stated that he agrees with Dr. Varyani's comments. He stated that he doesn't buy the argument that there was no harm done. Dr. Madia recommended a one-month suspension with a one-year probation.

Dr. Stephens stated that the Board didn't give Dr. Langschwager a one-month suspension.

DR. VARYANI MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF DR. WHITE BY CHANGING THE PERIOD OF SUSPENSION FROM THREE MONTHS TO ONE MONTH, AND THE PERIOD OF PROBATION FROM TWO YEARS TO ONE YEAR. DR. MAHAJAN SECONDED THE MOTION.

Mr. Jacobson asked to be reminded of the details of the other case.

Dr. Madia asked that the Board address the matter before it now.

Mr. Jacobson stated that he does think that there's a valid concern that the proposed order in this case is not consistent with what the Board decided in the Langschwager case. He stated that absent further information about the Langschwager case, he will abstain in this case. He stated that precedent is always relevant. If you have different precedents for different people, you find yourselves in front of a court explaining why it is that one person got one treatment and another got another. Sometimes the facts are similar and sometimes they're not. He thinks that it is always relevant to ask.

Dr. Stephens stated that she doesn't think that Mr. Jacobson should abstain. She stated that it would take one minute to answer his question. She stated that the Assistant Attorney General could answer the question, or the attorney for Dr. White could provide the information.

Ms. Debolt asked whether any attorneys present know the facts of the Langschwager case.

Ms. Unver stated that the Langschwager case was actually a bootstrap case. There was action in the State of Michigan by the Michigan Medical Board. Dr. Langschwager had filed an application with the State Medical Board of Ohio, but ultimately got a job in Michigan. That was an application case, but he had been disciplined in Michigan for sexual misconduct. He was an OB at the time; he got involved with a patient, and had sexual relations with the patient. Ms. Unver stated that she can't recall all of the facts of the Michigan action, but Dr. Langschwager did have to complete a boundaries course, and he did

probation. She can't recall what his suspension there was.

Mr. Jacobson thanked Ms. Unver for the explanation, and stated that, based on that explanation, he does think that this case is distinguishable from the Michigan case.

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

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

The motion carried.

MR. JACOBSON MOVED TO APPROVE AND CONFIRM MS. CLOVIS' FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF JEFFREY E. WHITE, M.D. DR. SUPPAN SECONDED THE MOTION. A vote was taken:

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

The motion carried.

State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
med.ohio.gov

November 12, 2008

Case number: 08-CRF-134

Jeffrey E. White, M.D.
174 Buckeye Ct.
Westerville, OH 43081

Dear Doctor White:

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

(1) In the routine course of your practice, you undertook the treatment of Patient 1, as identified on the attached Patient Key. (Patient Key is confidential and shall be withheld from public disclosure.) You began treating Patient 1 on or about November 14, 2006, and you continued to treat the patient until on or about about May 24, 2007. Beginning on or about December 20, 2006, and despite the ongoing physician-patient relationship, you committed sexual misconduct by engaging in "sexual conduct," as that term is defined in Rule 4731-26-01(G)(3), Ohio Administrative Code, with Patient 1.

Your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board," as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-26-02(A), Ohio Administrative Code. Pursuant to Rule 4731-26-03(A), Ohio Administrative Code, a violation of Rule 4731-26-02, Ohio Administrative Code, also violates Section 4731.22(B)(6), Ohio Revised Code, which is "a departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established."

Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must

Mailed 11-13-08

be made in writing and must be received in the offices of the State Medical Board within thirty days of the time of mailing of this notice.

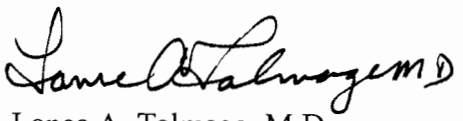
You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at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

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

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

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Lance A. Talmage, M.D.
Secretary

LAT/MRB/flb
Enclosures

CERTIFIED MAIL #91 7108 2133 3934 3683 8051
RETURN RECEIPT REQUESTED