

State Medical Board of Ohio

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Executive Director

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May 13, 2009

Ralph Arden Hugunin, M.D.
8119 Lexington Way
North Ridgeville, OH 44039

RE: Case No. 08-CRF-111

Dear Doctor Hugunin:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Gretchen L. Petrucci, Esq., Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on May 13, 2009, including motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

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

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

THE STATE MEDICAL BOARD OF OHIO

A handwritten signature in black ink that reads "Lance A. Talmage MD". The signature is written in a cursive style.

Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

CERTIFIED MAIL NO. 91 7108 2133 3936 3071 0795
RETURN RECEIPT REQUESTED

Cc: James M. McGovern, Esq.
CERTIFIED MAIL NO. 91 7108 2133 3936 3071 0801
RETURN RECEIPT REQUESTED

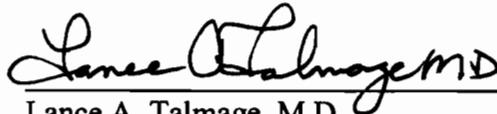
Mailed 5.15.09

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Gretchen L. Petrucci, 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, Conclusions and Proposed Order of the Hearing Examiner as the Findings and Order of the State Medical Board of Ohio; constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Ralph Arden Hugunin, M.D., Case No. 08-CRF-111, 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.

(SEAL)



Lance A. Talmage, M.D.
Secretary

May 13, 2009

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

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CASE NO. 08-CRF-111

RALPH ARDEN HUGUNIN, M.D.

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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 Gretchen L. Petrucci, 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 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. **SUPERSEDE PREVIOUS BOARD ORDER:** This Order shall supersede the terms and conditions set forth in the Corrected Entry of Order dated August 10, 2005, in the previous *Matter of Ralph Arden Hugunin, M.D.*
- B. **PERMANENT REVOCATION, STAYED; SUSPENSION:** The certificate of Ralph Arden Hugunin, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED. Such revocation is STAYED, and Dr. Hugunin's certificate shall be SUSPENDED for an indefinite period of time, but not less than one year.
- C. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Hugunin's certificate to practice medicine and surgery until all of the following conditions have been met:
 1. **Application for Reinstatement or Restoration:** Dr. Hugunin shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
 2. **Professional Ethics Course(s):** At the time he submits his application for reinstatement or restoration, Dr. Hugunin shall provide

acceptable documentation of successful completion of a course or courses dealing with professional ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any 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. Hugunin submits the documentation of successful completion of the course or courses dealing with professional ethics, he shall also submit to the Board a written report describing the course(s), setting forth what he learned from the course(s), and identifying with specificity how he will apply what he has learned to his practice of medicine in the future.

3. **Additional Evidence of Fitness To Resume Practice:** In the event that Dr. Hugunin 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. **PERMANENT LIMITATION/RESTRICTION:** Upon reinstatement or restoration, the certificate of Dr. Hugunin to practice medicine and surgery in the State of Ohio shall be permanently LIMITED and RESTRICTED as follows:

1. **Ban on Prescribing, Administering, or Furnishing Controlled Substance Outside of Hospital Setting:** Dr. Hugunin shall not, without prior Board approval, prescribe, administer, or personally furnish any controlled substances as defined by state or federal law except when providing anesthesia services to patients during their stay in facilities at which Dr. Hugunin works. The term "facility" refers to a hospital registered with the Department of Health pursuant to Section 3701.07, Ohio Revised Code, an emergency department within such a hospital, or an ambulatory surgical facility as defined in Rule 3701-83-15, Ohio Administrative Code.

E. **PROBATION:** Upon reinstatement or restoration, the certificate of Dr. Hugunin to practice medicine and surgery in the State of Ohio shall also be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least four years:

1. **Obey the Law:** Dr. Hugunin 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. Hugunin 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. Hugunin 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 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.
4. **Controlled Substances Log, Including Disposal:** Dr. Hugunin shall keep a log of all controlled substances he prescribes, administers, or personally furnishes. Moreover, Dr. Hugunin shall dispose of all excess or unused controlled substances properly, and shall assure that such disposal is witnessed and countersigned by a person who is permitted under State law to administer controlled substances and who is employed by or has privileges in the hospital(s) or institution(s) in which Dr. Hugunin is practicing. The witness shall sign the controlled substance log indicating that Dr. Hugunin has properly disposed of any excess or unused controlled substance.

The controlled substance log shall be submitted in a format approved by the Board 30 days prior to Dr. Hugunin's personal appearance before the Board or its designated representative, or as otherwise directed by the Board. Further, Dr. Hugunin shall make his patient records with regard to such prescribing, administering or furnishing available for review by an agent of the Board upon request.

5. **Tolling of Probationary Period While Out of State:** In the event that Dr. Hugunin should leave Ohio for three consecutive months, or reside or practice outside the State, Dr. Hugunin must notify the Board in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of this probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that the purposes of the probationary monitoring are being fulfilled.

6. **Violation of Terms of Probation:** If Dr. Hugunin 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.

- F. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Hugunin's certificate will be fully restored, but shall remain subject to the permanent restriction/limitation set forth in Paragraph D above.

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

Dr. Hugunin shall also promptly provide a copy of this Order to all employers or entities with which he applies for employment or training, and the chief of staff at each hospital or health-care facility where he applies for or obtains privileges or appointments. This requirement shall continue until Dr. Hugunin receives from the Board written notification of the successful completion of the probation.

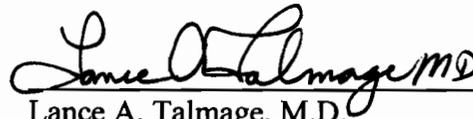
 2. **Required Reporting to Other Licensing Authorities:** Within 30 days of the effective date of this Order, Dr. Hugunin shall provide a copy of this Order to the proper licensing authority of any State or jurisdiction in which he currently holds any professional license, as well as any federal agency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

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

3. **Required Documentation of the Reporting Required by Paragraph G:** Dr. Hugunin 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: (a) the return receipt of certified mail within 30 days of receiving that return receipt, (b) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Order was hand delivered, (c) the original facsimile-generated report confirming successful transmission of a copy of the Order to the person or entity to whom a copy of the Order was faxed, or (d) an original computer-generated printout of electronic mail communication documenting the e-mail transmission of a copy of the Order to the person or entity to whom a copy of the Order was e-mailed.

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

(SEAL)



Lance A. Talmage, M.D.
Secretary

May 13, 2009
Date

2009 MAR 24 P 2:55

BEFORE THE STATE MEDICAL BOARD OF OHIO

In the Matter of

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Case No. 08-CRF-111

Ralph Arden Hugunin, M.D.,

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Hearing Examiner Petrucci

Respondent.

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REPORT AND RECOMMENDATION

Basis for Hearing

By letter dated September 10, 2008, the State Medical Board of Ohio [Board] notified Ralph Arden Hugunin, M.D., that it intended to take disciplinary action against his certificate to practice medicine and surgery in the State of Ohio. The Board based its proposed action on allegations that Dr. Hugunin: (a) had inappropriately issued three prescriptions for controlled-substance medications under two fictitious patient names and addresses, and for use by a female family member; (b) personally had presented the prescriptions and picked up the medications; (c) had failed to keep accurate medical records related to those prescriptions; and (d) had made false statements to the Board about two of the prescriptions. The Board alleged that Dr. Hugunin's conduct constitutes:

- (a) "Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed," as set forth in Section 4731.22(B)(10), Ohio Revised Code, to wit:
 - (1) Section 2925.22, Ohio Revised Code, Deception to Obtain a Dangerous Drug.
 - (2) Section 2925.23, Ohio Revised Code, Illegal Processing of Drug Documents.
 - (3) Section 2913.31, Ohio Revised Code, Forging Identification Cards or Selling or Distributing Forged Identification Cards.
 - (4) Section 2925.03, Ohio Revised Code, Trafficking, Aggravated Trafficking in Drugs.

- (b) "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 set forth in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rules 4731-11-02(D) and 4731-11-08, Ohio Administrative Code. In addition, the Board noted that, pursuant to Rule 4731-11-02(F), Ohio Administrative Code, violation of Rule 4731-11-02(D), Ohio Administrative Code, also constitutes a violation of Sections 4731.22(B)(2) and (6), Ohio Revised Code.

- (c) “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 * * *,” as set forth in Section 4731.22(B)(5), Ohio Revised Code.
- (d) “Failure to cooperate in an investigation by the board under division (F) of [Section 4731.22(B)(34), Ohio Revised Code],” as set forth in Section 4731.22(B)(34), Ohio Revised Code.
- (e) “Violation of the conditions of limitation placed by the board upon a certificate to practice,” as set forth in Section 4731.22(B)(15), Ohio Revised Code.

Accordingly, the Board advised Dr. Hugunin of his right to request a hearing in this matter. (State’s Exhibit 1A) Dr. Hugunin filed a hearing request on September 12, 2008. (State’s Exhibit 1B)

Appearances

Richard Cordray, Attorney General, by Barbara J. Pfeiffer, Assistant Attorney General, on behalf of the State of Ohio.

James M. McGovern, Esq., on behalf of Dr. Hugunin.

Hearing Date: February 13, 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.

Background

1. Dr. Hugunin graduated from the Medical College of Wisconsin in 1981 and completed a family-practice residency. He then engaged in family practice for ten years, until he decided to pursue training in anesthesiology. Dr. Hugunin participated in a residency program in anesthesiology at the University of Michigan from 1994 to 1997. Afterward, he entered private practice with Lakewood Anesthesia Associates in Lakewood, Ohio. Dr. Hugunin currently provides surgical anesthesia services for: Lakewood Hospital, Amherst Hospital, Fairview Surgery Center, Cleveland Eye and Laser Surgery Center, and on rare occasions a plastic surgeon’s office. He has been Chief/Chair of the Anesthesiology Department at Lakewood Hospital, and he sits on that hospital’s Medical Executive Committee. (Hearing Transcript [Tr.] at 60, 129-130, 149; State’s Exhibit [St. Ex.] 6 at 8; Respondent’s Exhibit [Resp. Ex.] A)

2. Dr. Hugunin is licensed in the State of Ohio. Dr. Hugunin had also been licensed in Michigan and Illinois, but he allowed those licenses to lapse. (St. Ex. 6 at 8; Ohio E-License Center, State of Ohio, March 17, 2009 <<https://license.ohio.gov/Lookup>>)

Prior Board Action, 2004-2005

3. On November 10, 2004, the Board sent a Notice of Opportunity for Hearing to Dr. Hugunin, alleging that, between 2000 and 2003, Dr. Hugunin had inappropriately issued numerous prescriptions for controlled substances for use by a female family member, had issued those prescriptions in her unmarried name and in the name of a male family member, and had kept no medical records related to those prescriptions. (St. Ex. 6 at 28-30)
4. A summary of the evidence adduced at that hearing is set forth in the Report and Recommendation in the prior action, which is an exhibit admitted in the record in this proceeding. Dr. Hugunin acknowledged that the summary of evidence in the prior action's Report and Recommendation is consistent with his recollection of those events. (St. Ex. 6; Tr. at 18)
5. At the hearing in the prior matter, the female family member did not agree to disclose her identity. The allegations in the instant matter involve that same female family member. During the hearing in the instant matter, she waived her right to patient confidentiality and willingly disclosed that she is Erika Hugunin, Dr. Hugunin's wife. (Tr. at 176-177)
6. In the prior action, Dr. Hugunin admitted the allegations, and presented evidence in mitigation. Among other things, the evidence reflects the following pertinent facts:
 - Mrs. Hugunin is a registered nurse.
 - Between 2000 and 2003, Dr. Hugunin issued 12 prescriptions for controlled-substance medications to help Mrs. Hugunin deal with anxiety, stress and sleep problems. The prescriptions were for Ativan, Ambien, Lorazepam, Tylenol #3,¹ and Vicodin ES.² They were filled and most were refilled.
 - Dr. Hugunin wrote the prescriptions under different names and presented them to different pharmacies so that the pharmacists would not question the amounts or realize that all the medications were going to the same person.
 - Dr. Hugunin knew that he was not allowed to prescribe for Mrs. Hugunin, but he had not known what else to do and he had thought he was helping Mrs. Hugunin.
 - Dr. Hugunin discussed with Mrs. Hugunin that, although the medications seemed to be helping her, he could not continue to prescribe them because it was wrong and illegal.
 - He admitted that, when Mrs. Hugunin began seeing a psychiatrist in 2003, he had informed the psychiatrist about Mrs. Hugunin's medications, but he had

¹Tylenol #3 contains 30 milligrams of codeine per tablet. (Tr. at 101)

²“ES” stands for extra strength. The Vicodin ES contains 7.5 milligrams of hydrocodone and 500 milligrams of acetaminophen. (Tr. at 122, 132; St. Exs. 3, 4)

not disclosed that he had prescribed them because he had known it was wrong. He had felt that the psychiatrist “might be duty-bound to report it,” and he did not want to lose his medical license.

- Although Mrs. Hugunin’s psychiatrist wanted her to taper off Tylenol #3 in 2003, Dr. Hugunin prescribed Tylenol #3 for Mrs. Hugunin in order to allow her “to safely taper off of it,” because he was concerned that “she was mildly addicted to the narcotic.” Dr. Hugunin took physical control of the Tylenol #3 and set out a plan of decreasing the amount made available to Mrs. Hugunin. He acknowledged that there were times that she “just felt so terrible that, probably out of compassion more than anything else, [he] would increase it.”
- Dr. Hugunin testified that he had understood that the law prohibits not only prescribing for a family member but also prescribing for anyone with whom the physician has an emotional tie, and that “the rule is a necessary rule.” Dr. Hugunin stated that he had used to think the rule was foolish, that a physician could deal with these problems, but acknowledged that “You can’t separate being a physician from being a spouse or closely related person [with whom] you have emotional ties * * *.”
- Dr. Hugunin cooperated with the Board’s investigation.

(St. Ex. 6 at 8-17)

7. On August 10, 2005, the Board: (a) suspended Dr. Hugunin’s certificate to practice medicine and surgery in Ohio for one year, (b) stayed all by 60 days of that suspension, and (c) imposed probationary terms for at least three years, including a controlled substance prescribing course and a professional/personal ethics course. (St. Ex. 6 at 3-5)

Dr. Hugunin testified that he had completed the required controlled substance prescribing course in May 2006, and began a medical ethics course in October 2006 and completed it in May 2007. He wrote a summary of what he learned from the medical ethics course in June or July 2007. (Tr. at 19-21, 105-108; Resp. Exs. G-J)

Stipulations of the Parties Regarding the Instant Allegations

8. The parties submitted stipulations in this matter, in which Dr. Hugunin admitted nearly all of the allegations set forth in the Board’s September 10, 2008, Notice of Opportunity for Hearing. (St. Ex. 7) The stipulations are set forth below, and the provisions to which the parties stipulated that are not contained in the Board’s notice are italicized:

1. On or about August 10, 2005, the Board issued an Order suspending Dr. Hugunin’s medical license for one year, all but 60 days stayed and imposed subsequent probationary terms, conditions and limitations for at least three years based on his inappropriate prescribing of controlled substances in other names for intended use by a family member and failure to keep medical records related to such prescribing, in violation of Sections 4731.22(B)(10) and (B)(20), Ohio Revised Code. Paragraph

B.1 of the Order requires Dr. Hugunin to obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio. Dr. Hugunin remains subject to the probationary terms of the [2005] Order to date.

2. From in or about July 2006 through May 2007, Dr. Hugunin again prescribed controlled substances that he intended for use by the same female family member by issuing prescriptions in the name of fictitious patients, listed as Patients 1 and 2 (as identified on the confidential Patient Key attached to the Notice of Opportunity for Hearing dated September 10, 2008). Such prescribing included prescriptions in the quantities written on or about the dates indicated below:

<u>Patient Number</u>	<u>Date</u>	<u>Prescription</u>	<u>Quantity</u>
1	03/05/07	Vicodin ES	60
1	05/11/07	Vicodin ES	60
2	07/26/06	Tylenol #3	20

Further, Dr. Hugunin created fictitious patient names and fictitious patient addresses for the prescriptions listed above.

3. Dr. Hugunin created fictitious medical records for the prescriptions listed in paragraph 2 above. *Dr. Hugunin maintained those records in a folder on his computer named "Medical Records" that contained a separate file in the name of Patient 1 and a separate file in the name of Patient 2.*

As part of the fictitious medical records for the prescriptions listed in paragraph 2 above, Dr. Hugunin included medical documentation regarding his female family member, including his observations that led him to issue the prescriptions listed in paragraph 2 above. The information regarding Dr. Hugunin's female family member was recorded on separate pages of the file in the name of Patient 1 and on a separate page of the file in the name of Patient 2.

Dr. Hugunin did not maintain a medical record in the name of his female family member that reflects the prescriptions listed in paragraph 2 above.

4. Dr. Hugunin personally presented the prescriptions listed in paragraph 2 above to pharmacies, personally picked up the filled prescriptions and delivered the controlled substances to his female family member.
5. In a personal appearance before Board staff on or about May 13, 2008, Dr. Hugunin falsely stated that he had written a prescription for Patient

1, a fictitious patient, in 2007, and that “later [he] found the bottle in [his] house.”

6. In an interview with a Board Investigator on or about June 23, 2008, Dr. Hugunin falsely stated that he was “scammed” by Patient 1 and the female family member into issuing the controlled substance prescriptions for Patient 1 (listed in paragraph 2 above). *During the same interview, Dr. Hugunin truthfully informed the Board Investigator about the prescriptions he had written in the name of Patient 2 (listed in paragraph 2 above) that were intended for and provided to Dr. Hugunin’s female family member – not fictitious Patient 2.*

In a subsequent interview with a Board Investigator, Dr. Hugunin acknowledged that the above referenced statements he made to the Board Investigator regarding Patient 1 on or about June 23, 2008, were false; and then truthfully informed the Board investigator that the prescriptions he had written in the name of Patient 1 (listed in paragraph 2 above) were intended for and provided to Dr. Hugunin’s female family member – not fictitious Patient 1.

(St. Ex. 7, italics added)

9. Dr. Hugunin clarified the final two paragraphs of the stipulations regarding his false statements to the Board. Dr. Hugunin explained that, during the investigation, he had “come clean” with the Board about the first two prescribing incidents, but he did not come clean about the third prescribing incident in May 2007. At hearing, Dr. Hugunin did testify about the May 2007 prescribing incident. (Tr. at 44-49, 117-123, 185-186)

Events Surrounding the Three Prescriptions, 2005-2007

10. Dr. Hugunin testified that, at the time of the Board’s Order in 2005, his wife was treating with a psychiatrist and doing relatively well. He noted that there were “ups and downs,” and the psychiatrist would change the medications at times. However, Dr. Hugunin stated that he had become concerned that the amount of benzodiazepine prescribed by the psychiatrist far exceeded what he had previously prescribed for his wife. Additionally, Dr. Hugunin testified that, beginning in 2006 he had noticed changes in his wife’s behavior, such as acting more distant and spending more time away from the home. (Tr. at 25-27)
11. Dr. Hugunin testified that, on July 26, 2006, his wife had told him that she had been stung by a wasp and had shown him her left hand, which had been quite red, swollen and sore. Mrs. Hugunin wanted her husband to tell her how to take care of it, but she did not want to see someone else. Dr. Hugunin testified that he had concluded that her hand was infected, and also had noticed two or three other puncture wounds in the vicinity of veins. When Dr. Hugunin inquired about those puncture wounds, Mrs. Hugunin denied injecting herself. She stated, instead, that she had allowed coworkers to practice intravenous injections on her hand. He testified that he had

been suspicious about the puncture wounds, and had told Mrs. Hugunin that she needed to go to the hospital. (Tr. at 27-29, 93-95, 172) He elaborated:

The treatment of choice here probably would have been IV antibiotics, but I couldn't do that. I couldn't get her to go to the hospital. I spent over six hours that day trying to convince her of the reason that this needed to be done and why she had to be seen. I offered to drive her to an emergency room in a different county, if she wanted to. I offered to call a hand surgeon that I knew and [ask] him to see her privately. I asked if she would go to a walk-in minor emergency. I tried everything I could. She absolutely refused. I think that that was partly my fault that I confronted her about her hand, and I think she realized that if I saw this, and I could be suspicious of that, that someone else would be suspicious.

So this was the first ethical dilemma that I was confronted with. If I did not do something, her hand, in my opinion, had an extremely high risk of permanent deformity; that the infection could progress not only to involve her hand, but her arm, sepsis. And that because, again, the hand is so intricate in its function that treatment of this is something that really was wrong to even delay the six hours that I spent trying to convince her to get treated. So I wrote for Cipro, 500 milligrams, three times a day.

* * *

And the second prescription that I wrote at that time was for Tylenol III for two reasons: The first being that she had exquisite pain in the hand. The second being that the treatment of this also involves early range of motion of the hand, because the tendons of the hand, again, you have to prevent scarring from occurring between the tendon and tendon sheath, and with the Tylenol III, we could do some of those exercises.

(Tr. at 29-31; see also Tr. at 96-98; St. Ex. 5; St. Ex. 2 at 6-7, 14)

12. Dr. Hugunin called in the prescriptions for Cipro and Tylenol #3. (Tr. at 99; State's Ex. 5)
13. Dr. Hugunin clarified that he had been suspicious that his wife had been using drugs intravenously, but not certain what drugs were involved. He acknowledged that he had considered not writing a prescription for Tylenol #3, but had concluded that he would not "half-treat" his wife. He and Mrs. Hugunin acknowledged that Mrs. Hugunin had not asked him for a controlled substance medication at that time, but she willingly consumed the Tylenol #3 medication. Dr. Hugunin noted that, over the next several weeks, the swelling and infection in Mrs. Hugunin's hand resolved, and currently she has very little residual effect from the infection. (Tr. at 34-35, 98, 116, 127, 130-131, 170)

14. Mrs. Hugunin affirmed that Dr. Hugunin had asked her repeatedly to seek medical treatment for her hand and that she had refused. She stated that she had consumed the Tylenol #3 because her hand was hurting, and because it was an opportunity to take narcotics. (Tr. at 168-169, 173-174)
15. Dr. Hugunin testified that, after the July 2006 incident, he had continued to watch his wife and had found that she continued to leave the home at night and to spend significant amounts of money. Approximately two or three months after July 2006, Dr. Hugunin concluded that Mrs. Hugunin was addicted to opioids. Also, he noted that he had found various controlled opioids, prescription bottles from physicians he did not know, and occasionally syringes and needles. (Tr. at 35-36, 85, 90, 112)
16. The second prescription incident took place in early March 2007. At that time, Mrs. Hugunin was feeling ill, and she became worse. Dr. Hugunin testified that he had concluded that she had been in withdrawal, and she had refused his requests to seek treatment. He stated that, after one and one-half days of her suffering, he had felt that he had to act. He explained:

* * * I was willing to let her go through the withdrawal, but I was not willing to let her suffer the complications that could occur from the severe dehydration being possible renal failure, risk of stroke, heart attack. And I felt that at that point, her medical condition was serious enough that she needed to be treated. And again, she should have been treated in the hospital. She should have had IV fluids [for] hydration. That's the way you treat this problem in someone who has severe addiction problems and needs to go through withdrawal. But she would not do that.

Now, the only way that I could deal with this problem at home was to control the vomiting and diarrhea and try and orally rehydrate her. Now, normally, to do that in a hospital, we would use antiemetic drugs and motility-reducing drugs, such as Lomotil for the diarrhea, and possibly Zoforan or something for the nausea. But that's because we're treating the symptoms. We're treating the vomiting and treating the diarrhea. The thing here is that I did have the advanced knowledge or knowledge of what was actually causing the problem, and the problem was narcotic withdrawal. And although it may seem unconventional to you to use the narcotic as opposed to antiemetics and motility agents, by using the narcotic, I treated the cause of the problem. I treated what was causing the vomiting, the dehydration, the diarrhea, and subsequent dehydration.

The problem with using the other drugs would have been that you would have been treating the symptoms, but it would have been a continued problem. She would have still had the vomiting. She would have still suffered from problems of her body trying to have emeses and diarrhea because you hadn't controlled the actual problem that was causing this. You were just trying to treat the symptoms. So I did write for Vicodin again in a false name.

(Tr. at 38-39; see also St. Ex. 3; St. Ex. 2 at 5-6, 14-15)

17. Dr. Hugunin acknowledged that the prescription was written on an Amherst Hospital prescription form, which is one of the hospitals at which Dr. Hugunin worked at the time. It was filled at a pharmacy not affiliated with Amherst Hospital. (Tr. at 114-115; St. Ex. 5)
18. Both Dr. Hugunin and Mrs. Hugunin stated that she had not asked for any controlled substances during this period of time. Mrs. Hugunin affirmed that Dr. Hugunin had asked her repeatedly to seek medical treatment and that she had refused. Dr. Hugunin noted that he had provided a 10-day supply of Vicodin so that the medication could pull her out of the withdrawal and also allow her to taper off the medication. He testified that, with the Vicodin, Mrs. Hugunin improved and began feeling better. (Tr. at 41, 134, 169, 170; St. Ex. 3)
19. Dr. Hugunin also stated that the March 2007 incident caused Mrs. Hugunin to realize that she was truly addicted, and he had asked her to enter an inpatient treatment program. Mrs. Hugunin refused inpatient treatment, but agreed to outpatient treatment, and also began attending recovery group meetings. (Tr. at 41-44)
20. The third prescription incident occurred on May 11, 2007. Dr. Hugunin testified that he had come home that day and had found Mrs. Hugunin acting very strangely. He stated that she had had auditory hallucinations and had demanded that he get her “something” to get the “devil out of [her].” When he refused, she held a knife to her neck and threatened to injure herself. Dr. Hugunin explained that he had recognized that his presence had agitated his wife, but he had not been comfortable calling the police. He decided to obtain narcotics for her, in order to exchange them for the knife. He prescribed Vicodin ES, with the expectation that she would have to “taper off” the Vicodin to avoid withdrawal. After Mrs. Hugunin took several pills, she fell asleep and he took the knife away. (Tr. at 44-46, 118-121, 133-134; St. Ex. 4; St. Ex. 2 at 6-7, 4-15)
21. Dr. Hugunin called in the May 11, 2007, prescription for Vicodin. (Tr. at 122; State’s Ex. 4)
22. Mrs. Hugunin has little memory of the third incident in May 2007. She explained that, on that day, she had purchased something from someone who had attended an Alcoholics Anonymous meeting with her. She had thought it was Vicodin, but the medication caused her to feel very different -- she felt dizzy, her vision was “acting weird,” and she heard echoes. (Tr. at 47, 171)
23. After the May 2007 incident, Dr. Hugunin asked Mrs. Hugunin to seek help. Mrs. Hugunin agreed, and entered an inpatient treatment program at Charity Hospital in northeastern Ohio. She completed an intensive outpatient program as well. She currently is under the care and treatment of a psychiatrist for posttraumatic stress disorder and a severe sleep disorder. (Tr. at 49, 51-52, 169; Resp. Ex. C)

In addition, Mrs. Hugunin’s addiction had other repercussions. She was terminated from her employer for diversion of controlled substances. Her employer notified the Nursing Board of Ohio and the Medina County Prosecutor’s office. Criminal charges were filed against her, and she pleaded guilty to charges of drug diversion and aggravated possession of controlled

substances. In June 2007, Mrs. Hugunin was sentenced to one year in the Medina County Drug Court Program, which included a six-month suspension of her driver's license, a suspension of her nursing license, three months of house arrest, five years of probation, weekly drug testing, weekly meetings with the court, and mandatory recovery group meetings. (Tr. at 53-54; Resp. Ex. K)

24. Dr. Hugunin testified that Mrs. Hugunin is doing well in her recovery, having learned what caused her to turn to drugs and having learned healthier ways in which to deal with issues in her life. He stated that he is confident that, if she were to relapse, she would seek treatment quickly. (Tr. at 83-84)

Dr. Hugunin's Method of Obtaining the Three Prescribed Medications

25. Dr. Hugunin acknowledged that, for all three prescriptions, he had traveled to different pharmacies that were not familiar with him or his wife because he "couldn't take the chance of not getting the medication filled." He personally obtained the controlled substances by pretending to be the fictitious male patient or the spouse of the fictitious female patient. Dr. Hugunin admitted that he had personally delivered the controlled substances to his wife. (Tr. at 99-100, 104, 115, 122-123, 130, 132-133; St. Ex. 2 at 11-12, 15)

Creation of Medical Records

26. Soon after each of the three incidents, Dr. Hugunin created a medical record. The medical records reflect his actual observations of his wife, but contain fictitious patient names, addresses and dates of birth. Dr. Hugunin noted that Patient 1's name was that of another patient from years ago, and Patient 2's name was fabricated. The same date of birth was used for all three medical records, and it is that of different relative of Dr. Hugunin. (Tr. at 32-33, 39-40, 48-49, 93, 102; St. Ex. 2 at 8-9, 16-21)
27. In each of the medical records, Dr. Hugunin also included separate pages that contain accurate information about the true identity of the patients, the true nature of the incidents and his impressions. Dr. Hugunin explained that he had included those separate pages "to remember exactly what really happened and to have this information if I would need it to actually present the true nature of what had happened." (Tr. at 33, 40; St. Ex. 2 at 17, 19, 21)

Dr. Hugunin's Explanation

28. Dr. Hugunin considers his prescribing actions in 2006 and 2007 to be responses to three different emergency situations, which is very different from the underlying basis for his other prescriptions for his wife. (Tr. at 24-25, 87) He testified:

I view them as different. Although the outcome may have been the same in that I did prescribe illegally to my wife in both instances, [in] the [period before] 2005, I began prescribing out of, again, what was under a necessity because she had problems and refused to seek treatment with [a] psychiatrist.

I unfortunately made a bad decision in that I continued to treat her and treated her on an ongoing basis as, like, the treating physician. I continued to do that actually until the point that I started to see what I felt was some escalating use of medication, at which time I did convince her to go see [a psychiatrist,] Dr. Rosenberg.

This situation is entirely different. I was not her treating physician. I was basically an emergency interventionist. I didn't prescribe for her on a regular basis. I made a bad judgment in prescribing for her when I did, but at the time, it seemed to me the only thing I could do to prevent any further harm to her. I did not continue to prescribe for her after the incidents. And with each of the incidents that occurred, I had in my mind a clear exit strategy; how I was not going to be continuing to prescribe for her, whether it was in the first incident * * * I watched for any drug activity.

And in the second incident when she had the severe dehydration, I at least got her started in an outpatient treatment program. And in the third incident, after the knife incident, I got her to agree to an inpatient treatment program.

* * *

I don't mean to say what I did was right. I don't believe it was right. At the time, it seemed like the only thing I could do.

(Tr. at 85-87)

29. Dr. Hugunin expressed regret for prescribing medications for his wife. He agreed that his ability to comply before 2005 with prescribing laws had been dependent upon his wife's sobriety. However, now that she has admitted her addiction problem to herself and let her addiction be known, he feels that that the situation is in the open, and his ability to comply with the law is not dependent upon her sobriety. (Tr. at 87-88, 111-112)
30. Dr. Hugunin also testified regarding his decision to create fictitious patients. Specific to the prescription in July 2006, Dr. Hugunin stated:

I knew, of course, that the board was monitoring my acts as a physician, and I wrote the prescription in a false patient's name for two reasons: No. 1, obviously because the board was monitoring my prescriptions. The second reason was that I was concerned that I wouldn't be able to fill it if I wrote it in her name. If my last name was Smith or Jones or Anderson, it wouldn't be that much of a problem. The pharmacist would fill it. But with a name which is relatively unusual like Hugunin, it would be very unlikely and very difficult to get it filled to a patient with the same last name at the same address. So I did write the prescriptions in a false name and used a false address to ensure that I would be able to get the medication in a timely fashion to treat her.

(Tr. at 31-32; see also Tr. at 103-104)

31. Dr. Hugunin explained that he had not truthfully related the events associated with the third prescription in May 2007 to the Board because he was concerned that, in the future, his wife's fitness as a mother could be questioned. (Tr. at 185-186)

Supporting Testimony and Letters

32. Dr. Hugunin presented the testimony of five of his colleagues/coworkers. Duret S. Smith, M.D., is an orthopaedic surgeon, and Chief of the Department of Orthopaedic Surgery, Medical Director of Orthopaedic Services, and Vice President of Medical Operations at Lakewood Hospital.³ He specializes in surgery of the hand and upper extremity. Dr. Hugunin has provided anesthesia services for many of Dr. Smith's patients, and the doctors interact with one another at many levels at Lakewood Hospital. Dr. Smith stated that Dr. Hugunin is very respected professionally and personally, and is an excellent anesthesiologist. (Tr. at 58-61, 128; Resp. Ex. B)

Dr. Hugunin also presented medical testimony from Dr. Smith to support the care given to Ms. Hugunin's infected hand in July 2006. Dr. Smith explained: (a) cellulitis, an infection of the skin; and (b) tenosynovitis, an inflammation of the tendon sheath. He noted that cellulitis needs treatment quickly, or it can otherwise result in a loss of limb or life. He further explained that treatment of cellulitis includes antibiotics and pain medication to "keep that particular body part moving." He stated that treatment for tenosynovitis varies – it can improve with rest, or require an anti-inflammatory medication or require some physical therapy. He noted that, with tenosynovitis, it is important to keep the body part moving, and pain medication may be needed to allow for movement. (Tr. at 61-64; Resp. Ex. B)

33. Steven C. Pearse, M.D., is a general and vascular surgeon, and he is currently the Chief of Surgery at Lakewood Hospital.⁴ Dr. Pearse has worked with Dr. Hugunin for six years. Dr. Pearse considers Dr. Hugunin to be an excellent anesthesiologist, who is calm, knowledgeable, very good with patients, and well respected by those with whom he works. In addition, Dr. Pearse noted that he would not hesitate to recommend Dr. Hugunin for a friend or family member. (Tr. at 76-81, 128; Resp. Ex. D)
34. James R. Crandall, M.D., is a cardiologist and he has worked with Dr. Hugunin at Lakewood Hospital for several years.⁵ Dr. Crandall stated that Dr. Hugunin is very reasonable in his approach to patients, has very good clinical judgment, and has a very solid reputation. Dr. Crandall trusts Dr. Hugunin and has a high regard for his abilities. (Tr. at 128, 147-150, 157; Resp. Ex. A)
35. Mary Jane Wolfe is a registered nurse who works in the operating room at Lakewood Hospital. She has worked with Dr. Hugunin for seven years. She considers him to be an excellent clinical practitioner who is extremely knowledgeable and skilled. In addition, Ms. Wolfe stated that Dr. Hugunin is asked to assist or is consulted in difficult cases, and is a caring and

³Dr. Smith's education and medical training are set forth in the transcript. (Tr. at 58)

⁴Dr. Pearse's education and medical training are set forth in the transcript. (Tr. at 76-77)

⁵Dr. Crandall's education and medical training are set forth in the transcript. (Tr. at 147-148)

compassionate physician. She also stated that Dr. Hugunin follows protocols/standards to the letter, and has been instrumental in developing policies and procedures at Lakewood Hospital. She would not hesitate to have him care for her or her family. (Tr. at 128, 139-143; Resp. Ex. F)

36. Karolyn Campagna is a registered nurse who works in the surgical area and the post-anesthesia care unit at Lakewood Hospital. She has worked with Dr. Hugunin for six or seven years. She stated that Dr. Hugunin is the best anesthesiologist with whom she has worked because he is knowledgeable, compassionate, and takes time to explain and listen to his patients. (Tr. at 129, 160-163; Resp. Ex. E)
37. In addition, Dr. Hugunin presented a supporting letter from Mrs. Hugunin's psychiatrist, Samer Alamir, M.D. In support of Dr. Hugunin, Dr. Alamir stated:

Getting cellulitis, dehydration and psychotic reactions during withdrawal or intoxications could become life threatening and can definitely create an emergency situation for the person dealing with it as in the case of Dr. Ralph Hugunin. Patients who are addicted can also be very manipulative and conning and often use poor judgment during the course of the illness. These patients can go to a great extent to obtain their substance of choice even if they risk their life or risk their loved ones as well.

It is also my professional belief that both my patient, [name omitted], and her [word omitted] Dr. Ralph Hugunin have been victimized by my patient's narcotic dependence.

(Resp. Ex. C) The State did not have the opportunity to examine Dr. Alamir.

Other Information

38. Dr. Hugunin testified that he needs an active Drug Enforcement Agency certificate in order to work at the hospitals and utilize the medications for anesthesia and postoperative pain. He acknowledged that he does not need authority to write prescriptions for patients who are not in the hospitals. He is willing to relinquish the authority to write prescriptions to nonhospital patients, and willing to pay the Board's costs to confirm that he is not writing other prescriptions. (Tr. at 88-89, 103, 124-125)

OHIO LAW

As noted at the beginning of this Report and Recommendation, the Board alleged that Dr. Hugunin's actions constitute several different violations of Section 4731.22(B), Ohio Revised Code, based in part on violations of four criminal statutes and two administrative rules. Relevant portions of those

four criminal statutes and two administrative rules, as in effect at the time of the events in this proceeding, are set forth below.

Statute/Rule Number and Title	Relevant Text of Statute/Rule
Section 2925.22, ORC Deception to Obtain a Dangerous Drug	“(A) No person, by deception, as defined in section 2913.01 of the Revised Code, ⁶ shall procure the administration of, a prescription for, or the dispensing of, a dangerous drug ⁷ * * *.”
Section 2925.23, ORC Illegal Processing of Drug Documents	“(A) No person shall knowingly make a false statement in any prescription, order, report, or record required by Chapter 3719. or 4729. of the Revised Code. (B) No person shall intentionally make, utter, or sell, or knowingly possess any of the following that is false or forged: (1) prescription * * *.”
Section 2913.31, ORC Forgery; Identification Card Offenses	“(A) No person, with purpose to defraud, or knowing that the person is facilitating a fraud, shall do any of the following: (1) Forge ⁸ any writing of another without the other person’s authority; (2) Forge any writing so that it purports to be genuine when it actually is spurious, or to be the act of another who did not authorize that act, or to have been executed at a time or place or with terms different from what in fact was the case, or to be a copy of an original when no such original existed; (3) Utter, or possess with the purpose to utter, any writing that the person knows to have been forged.”

⁶Section 2913.01, Ohio Revised Code, defines “deception” as “knowingly deceiving another or causing another to be deceived by any false or misleading representation, by withholding information, by preventing another from acquiring information, or by any other conduct, act, or omission that creates, confirms, or perpetuates a false impression in another, including a false impression as to law, value, state of mind, or other objective or subjective fact.”

⁷Per Sections 2925.01 and 4729.01, Ohio Revised Code, “dangerous drug” is any of the following:

- “(1) Any drug to which either of the following applies:
 - “(a) Under the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug is required to bear a label containing the legend "Caution: Federal law prohibits dispensing without prescription" or "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian" or any similar restrictive statement, or the drug may be dispensed only upon a prescription;
 - “(b) Under Chapter 3715. or 3719. of the Revised Code, the drug may be dispensed only upon a prescription.
- “(2) Any drug that contains a schedule V controlled substance and that is exempt from Chapter 3719. of the Revised Code or to which that chapter does not apply;
- “(3) Any drug intended for administration by injection into the human body other than through a natural orifice of the human body.”

⁸Section 2913.01(G), Ohio Revised Code, defines “forge” as “to fabricate or create, in whole or in part and by any means, any spurious writing, or to make, execute, alter, complete, reproduce, or otherwise purport to authenticate any writing, when the writing in fact is not authenticated by that conduct.”

<p>Section 2925.03, ORC Trafficking, Aggravated Trafficking in Drugs</p>	<p>“(A) No person shall knowingly do any of the following: (1) Sell or offer to sell a controlled substance; (2) Prepare for shipment, ship, transport, deliver, prepare for distribution, or distribute a controlled substance, when the offender knows or has reasonable cause to believe that the controlled substance is intended for sale or resale by the offender or another person. (B) This section does not apply to any of the following: (1) Manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with Chapters 3719., 4715., 4723., 4729., 4730., 4731., and 4741. of the Revised Code.”</p>
<p>Rule 4731-11-02, OAC General Provisions</p>	<p>“(D) A physician shall complete and maintain accurate medical records reflecting the physician’s examination, evaluation, and treatment of all the physician’s patients. Patient medical records shall accurately reflect the utilization of any controlled substances in the treatment of a patient and shall indicate the diagnosis and purpose for which the controlled substance is utilized, and any additional information upon which the diagnosis is based.”</p>
<p>Rule 4731-11-08, OAC Utilizing Controlled Substances for Self and Family Members</p>	<p>“(B) Accepted and prevailing standards of care require that a physician maintain detached professional judgment when utilizing controlled substances in the treatment of family members. A physician shall utilize controlled substances when treating a family member only in an emergency situation which shall be documented in the patient’s record. (C) For purposes of this rule, “family member” means a spouse, parent, child, sibling or other individual in relation to whom a physician’s personal or emotional involvement may render that physician unable to exercise detached professional judgment in reaching diagnostic or therapeutic decisions.”</p>

FINDINGS OF FACT

1. On August 10, 2005, the Board issued a Corrected Order suspending Dr. Hugunin’s medical license for one year, with all but 60 days stayed, and imposed subsequent probationary terms, conditions and limitations for at least three years based on his inappropriate prescribing of controlled substances in other names for intended use by a family member, and failure to keep medical records related to such prescribing, in violation of Sections 4731.22(B)(10) and (B)(20), Ohio Revised Code. Paragraph B.1 of the Corrected Order requires Dr. Hugunin to obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio. Dr. Hugunin remains subject to the probationary terms of the Corrected Order to date.

- From July 2006 through May 2007, Dr. Hugunin again inappropriately prescribed controlled substances that he had intended for use by the same female family member by issuing prescriptions in the name of fictitious patients, listed as Patients 1 and 2 (as identified on the confidential Patient Key attached to the Notice of Opportunity for Hearing dated September 10, 2008). Such prescribing included prescriptions in the quantities written on or about the dates indicated below:

<u>Patient Number</u>	<u>Date</u>	<u>Prescription</u>	<u>Quantity</u>
1	03/05/07	Vicodin ES	60
1	05/11/07	Vicodin ES	60
2	07/26/06	Tylenol #3	20

Further, Dr. Hugunin created fictitious patient names and fictitious patient addresses for the prescriptions listed above. Further, Dr. Hugunin failed to maintain accurate medical records of such prescribing for his female family member.

- Dr. Hugunin created fictitious medical records for the prescriptions listed in Finding of Fact 2 above.
- Dr. Hugunin personally presented the first prescription listed in Finding of Fact 2 to a pharmacy and called in the second and third prescriptions listed in Finding of Fact 2 to pharmacies. He personally picked up all three filled prescriptions and delivered the controlled substances to his female family member.
- In a personal appearance before Board staff on or about May 13, 2008, Dr. Hugunin falsely stated that he had written a prescription for Patient 1, a fictitious patient, in 2007, and that “later [he] found the bottle in [his] house.”
- In an interview with a Board Investigator on or about June 23, 2008, Dr. Hugunin falsely stated that he was “scammed” by Patient 1 and the female family member into issuing the controlled substance prescriptions for Patient 1 listed in Finding of Fact 2 above.

CONCLUSIONS OF LAW

- The conduct of Ralph Arden Hugunin, M.D., as set forth in Findings of Fact 2 and 4, constitutes the “[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed,” as set forth in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2925.22, Ohio Revised Code, Deception to Obtain a Dangerous Drug.

This conclusion is supported by the following: (a) Dr. Hugunin prescribed for fictitious patients, instead of prescribing in the name of his wife so that the pharmacy would fill the prescriptions; (b) he posed as the fictitious male patient and the spouse of the fictitious female patient at the time he picked up the filled prescriptions; and (c) Vicodin ES and Tylenol #3 constitute “dangerous drugs” as defined in Sections 2925.01 and 4729.01, Ohio Revised Code.

2. Dr. Hugunin's conduct, as set forth in Finding of Fact 2, constitutes the "[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed," as set forth in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2925.23, Ohio Revised Code, Illegal Processing of Drug Documents.
3. Dr. Hugunin's conduct, as set forth in Finding of Fact 3, constitutes the "[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed," as set forth in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2913.31, Ohio Revised Code, Forging; identification card offenses.

Dr. Hugunin created three medical records related to the prescriptions and treatment he had provided to his wife in 2006 and 2007. Those three medical records contain fictitious and false information, and Dr. Hugunin either created those medical records with a purpose to defraud, or knowing that he was facilitating a fraud. Moreover, those medical records were purported to be genuine when they were actually spurious.

4. Dr. Hugunin's conduct, as set forth in Finding of Fact 4, does not constitute the "[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed," as set forth in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2925.03, Ohio Revised Code, Trafficking, Aggravated Trafficking in Drugs.

Ohio courts have found that the issuance of a prescription for a controlled substance can be a form of "sale" that in certain circumstances is prohibited by Section 2925.03, Ohio Revised Code. In such circumstances, the prescription of controlled substances must go beyond the realm of bona fide medical treatment and into the area of criminal conduct. *State v. Sway* (1984) 15 Ohio St. 3d 112; *State v. McCarthy* (1992) 65 Ohio St. 3d 589. In the instant matter, the evidence does not establish that Dr. Hugunin sold or offered to sell the prescriptions or controlled substances, or delivered the prescriptions or controlled substances with the belief that they were intended for sale or resale. Instead, the evidence establishes that Dr. Hugunin issued three prescriptions for controlled substances in the course of treating his wife for three specific medical conditions and picked up those medications for his wife. While the prescriptions were not issued in accordance with Chapter 4731, Ohio Revised Code, as set forth in other conclusions of law, the evidence does not establish the requisite criminal intent to traffic in drugs. Nevertheless, because the Board did not previously have before it all of the information that was presented during the hearing, the Board was substantially justified in pursuing this allegation.

5. Dr. Hugunin's conduct in prescribing controlled substances on July 26, 2006, and March 5, 2007, as set forth in Finding of Fact 2, 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 the board," as set forth in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-11-08, Ohio Administrative Code.

This conclusion is based upon the following: Dr. Hugunin utilized Tylenol #3 and Vicodin ES to treat his wife on July 26, 2006, and March 5, 2007, in non-emergency situations. Although

the situations may have developed into serious medical situations, the evidence does not establish that either situation was sudden or required immediate action, or that either situation became a crisis warranting his emergent medical treatment with controlled substances. Instead, the evidence demonstrates that both medical situations developed over a period of time and Dr. Hugunin was aware of them for a period of time.

6. Dr. Hugunin's conduct in prescribing a controlled substance on May 11, 2007, as set forth in Finding of Fact 2, does not 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 set forth in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-11-08, Ohio Administrative Code.

This conclusion is based upon the following: Dr. Hugunin prescribed and utilized Vicodin ES to treat his wife on May 11, 2007, in an emergency situation. The evidence establishes that, unlike the other two occasions, this situation became a crisis and required immediate action because Mrs. Hugunin had presented a serious, viable threat to herself.

7. Dr. Hugunin's conduct, as set forth in Finding of Fact 2, 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 the board," as set forth in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-11-02(D), Ohio Administrative Code." In addition, pursuant to Rule 4731-11-02(F), Ohio Administrative Code, violation of Rule 4731-11-02(D), Ohio Administrative Code, also constitutes a violation of Sections 4731.22(B)(2) and (B)(6), Ohio Revised Code.
8. Dr. Hugunin's conduct, as set forth in Findings of Fact 5 and 6, 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 * * *," as set forth in Section 4731.22(B)(5), Ohio Revised Code.
9. Dr. Hugunin's conduct, as set forth in Finding of Fact 6, constitutes "[f]ailure to cooperate in an investigation by the board under division (F) of [Section 4731.22(B)(34), Ohio Revised Code]."
10. Dr. Hugunin's conduct, as set forth in Findings of Fact 1 through 6, constitutes "[v]iolation of the conditions of limitation placed by the board upon a certificate to practice," as set forth in Section 4731.22(B)(15), Ohio Revised Code.

Rationale for the Proposed Order

In the prior Board action, Dr. Hugunin testified that he had learned the importance of the rule against prescribing medications for family members, and had learned the harm associated with such attempts to help a loved one. He declared that he would never allow such a situation to occur again. He even completed two courses targeted to avoid a recurrence. However, Dr. Hugunin erred again -- he wrote

multiple prescriptions, knowing that it was against the law. Plus, Dr. Hugunin created inaccurate medical records related to those prescriptions and provided various false statements to the Board about his actions, both of which perpetuated the fraud. His actions justify revocation of his medical license.

Several mitigating factors exist, however. The record reflects that Dr. Hugunin acted out of great concern for the welfare of his wife, and it does not appear that harm resulted. The record also reflects that several colleagues and coworkers support Dr. Hugunin, remarking that he is a talented anesthesiologist. In addition, the underlying addiction issue for Dr. Hugunin's wife has improved significantly.

In consideration of those mitigating factors, the Hearing Examiner recommends that Dr. Hugunin's certificate be suspended indefinitely for a period of at least one year and he be required to obtain additional education regarding professional ethics. If his certificate is reinstated or restored, it is recommended that Dr. Hugunin's ability to prescribe and treat patients with controlled substances should be restricted and monitored because Dr. Hugunin has demonstrated repeatedly a lack of compliance with the law and regulations when his family is involved. To that end, it is recommended that the Board permanently restrict/limit Dr. Hugunin's authority to practice medicine and surgery in Ohio to preclude him from prescribing, administering or furnishing controlled substances to others outside the hospital/ambulatory surgical facility setting. Also, a probationary period of four years is proposed, during which time, Dr. Hugunin should maintain a log of all controlled substances prescribed, administered, or furnished to his patients.

PROPOSED ORDER

It is hereby ORDERED that:

- A. **SUPERSEDE PREVIOUS BOARD ORDER:** This Order shall supersede the terms and conditions set forth in the Corrected Entry of Order dated August 10, 2005, in the previous *Matter of Ralph Arden Hugunin, M.D.*
- B. **PERMANENT REVOCATION, STAYED; SUSPENSION:** The certificate of Ralph Arden Hugunin, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED. Such revocation is STAYED, and Dr. Hugunin's certificate shall be SUSPENDED for an indefinite period of time, but not less than one year.
- C. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Hugunin's certificate to practice medicine and surgery until all of the following conditions have been met:
 1. **Application for Reinstatement or Restoration:** Dr. Hugunin shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.

2. **Professional Ethics Course(s)**: At the time he submits his application for reinstatement or restoration, Dr. Hugunin shall provide acceptable documentation of successful completion of a course or courses dealing with professional ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any 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. Hugunin submits the documentation of successful completion of the course or courses dealing with professional ethics, he shall also submit to the Board a written report describing the course(s), setting forth what he learned from the course(s), and identifying with specificity how he will apply what he has learned to his practice of medicine in the future.

3. **Additional Evidence of Fitness To Resume Practice**: In the event that Dr. Hugunin 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. **PERMANENT LIMITATION/RESTRICTION**: Upon reinstatement or restoration, the certificate of Dr. Hugunin to practice medicine and surgery in the State of Ohio shall be permanently LIMITED and RESTRICTED as follows:

1. **Ban on Prescribing, Administering, or Furnishing Controlled Substance Outside of Hospital Setting**: Dr. Hugunin shall not, without prior Board approval, prescribe, administer, or personally furnish any controlled substances as defined by state or federal law except when providing anesthesia services to patients during their stay in facilities at which Dr. Hugunin works. The term "facility" refers to a hospital registered with the Department of Health pursuant to Section 3701.07, Ohio Revised Code, an emergency department within such a hospital, or an ambulatory surgical facility as defined in Rule 3701-83-15, Ohio Administrative Code.

E. **PROBATION**: Upon reinstatement or restoration, the certificate of Dr. Hugunin to practice medicine and surgery in the State of Ohio shall also be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least four years:

1. **Obey the Law**: Dr. Hugunin 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. Hugunin 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. Hugunin 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 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.
4. **Controlled Substances Log, Including Disposal:** Dr. Hugunin shall keep a log of all controlled substances he prescribes, administers, or personally furnishes. Moreover, Dr. Hugunin shall dispose of all excess or unused controlled substances properly, and shall assure that such disposal is witnessed and countersigned by a person who is permitted under State law to administer controlled substances and who is employed by or has privileges in the hospital(s) or institution(s) in which Dr. Hugunin is practicing. The witness shall sign the controlled substance log indicating that Dr. Hugunin has properly disposed of any excess or unused controlled substance.

The controlled substance log shall be submitted in a format approved by the Board 30 days prior to Dr. Hugunin's personal appearance before the Board or its designated representative, or as otherwise directed by the Board. Further, Dr. Hugunin shall make his patient records with regard to such prescribing, administering or furnishing available for review by an agent of the Board upon request.

5. **Tolling of Probationary Period While Out of State:** In the event that Dr. Hugunin should leave Ohio for three consecutive months, or reside or practice outside the State, Dr. Hugunin must notify the Board in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of this probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that the purposes of the probationary monitoring are being fulfilled.
6. **Violation of Terms of Probation:** If Dr. Hugunin 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.

F. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Hugunin's certificate will be fully restored, but shall remain subject to the permanent restriction/limitation set forth in Paragraph D above.

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

Dr. Hugunin shall also promptly provide a copy of this Order to all employers or entities with which he applies for employment or training, and the chief of staff at each hospital or health-care facility where he applies for or obtains privileges or appointments. This requirement shall continue until Dr. Hugunin receives from the Board written notification of the successful completion of the probation.

2. **Required Reporting to Other Licensing Authorities:** Within 30 days of the effective date of this Order, Dr. Hugunin 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.

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

3. **Required Documentation of the Reporting Required by Paragraph G:** Dr. Hugunin 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: (a) the return receipt of certified mail within 30 days of receiving that return receipt, (b) an acknowledgement of delivery bearing the original

ink signature of the person to whom a copy of the Order was hand delivered,
(c) the original facsimile-generated report confirming successful transmission
of a copy of the Order to the person or entity to whom a copy of the Order was
faxed, or (d) an original computer-generated printout of electronic mail
communication documenting the e-mail transmission of a copy of the Order to
the person or entity to whom a copy of the Order was e-mailed.

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



Gretchen L. Petrucci
Hearing Examiner

State Medical Board of Ohio

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



Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
med.ohio.gov

EXCERPT FROM THE DRAFT MINUTES OF MAY 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
	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
	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. Bakhshandeh and Dr. Higgs, 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.

.....

RALPH ARDEN HUGUNIN, M.D.

.....

DR. VARYANI MOVED TO APPROVE AND CONFIRM MS. PETRUCCI'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF RALPH ARDEN HUGUNIN, M.D. DR. SUPPAN SECONDED THE MOTION.

.....

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

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	- aye
	Dr. Mahajan	- nay
	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

September 10, 2008

Case number: 08-CRF- 111

Ralph Arden Hugunin, M.D.
8119 Lexington Way
North Ridgeville, OH 44039

Dear Doctor Hugunin:

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

- (1) On or about August 10, 2005, the Board issued an Order suspending your medical license for one year, all but sixty days stayed and imposed subsequent probationary terms, conditions and limitations for at least three years based on your inappropriate prescribing of controlled substances in other names for intended use by a family member and failure to keep medical records related to such prescribing, in violation of Sections 4731.22(B)(10) and (B)(20), Ohio Revised Code. Paragraph B.1 of the Order requires you to obey all federal, states and local laws, and all rules governing the practice of medicine and surgery in Ohio. You remain subject to the probationary terms of the Order to date. A copy of the Order is attached hereto and incorporated herein.
- (2) From in or about July 2006 through May 2007, you again inappropriately prescribed controlled substances that you intended for use by a female family member by issuing prescriptions in the name of fictitious patients, listed as Patients 1 and 2 (as identified on the attached Patient Key - Key confidential and not subject to public disclosure). Such prescribing included prescriptions in the quantities written on or about the dates indicated below:

Patient Number	Date	Prescription	Quantity
1	03/05/07	Vicodin ES	60
1	05/11/07	Vicodin ES	60
2	07/26/06	Tylenol #3	20

Mailed 9-11-08

Further, you created fictitious patient names and fictitious patient addresses for the prescriptions listed above.

Further, you failed to maintain accurate medical records of such prescribing for your female family member.

- (3) You created fictitious patient records for the prescriptions listed in paragraph 2 above.
- (4) You personally presented the prescriptions listed in paragraph 2 above to pharmacies and personally picked up the filled prescriptions and delivered the controlled substances to your female family member.
- (5) In a personal appearance before Board staff on or about May 13, 2008, you falsely stated that you had written a prescription for Patient 1, a fictitious patient, in 2007 and that "later [you] found the bottle in [your] house."
- (6) In an interview with a Board Investigator on or about June 23, 2008, you falsely stated that you were "scammed" by Patient 1 and the female family member into issuing the controlled substance prescriptions for Patient 1 listed in paragraph 2 above.

Your acts, conduct, and/or omissions as alleged in paragraphs (2) and (4) above, individually and/or collectively, constitute "[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed," as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2925.22, Ohio Revised Code, Deception to Obtain a Dangerous Drug.

Further, your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute "[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed," as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2925.23, Ohio Revised Code, Illegal Processing of Drug Documents.

Further, your acts, conduct, and/or omissions as alleged in paragraph (3) above, individually and/or collectively, constitute "[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed," as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2913.31, Ohio Revised Code, Forging Identification Cards or Selling or Distributing Forged Identification Cards.

Further, your acts, conduct, and/or omissions as alleged in paragraph (4) above, individually and/or collectively, constitute "[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed," as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2925.03 Trafficking, Aggravated Trafficking in Drugs.

Further, your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter

or any rule promulgated by the board,” as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-11-08, Ohio Administrative Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute “violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board,” as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-11-02(D), Ohio Administrative Code. Pursuant to Rule 4731-11-02(F), Ohio Administrative Code, violation of Rule 4731-11-02(D), Ohio Administrative Code, also violates Sections 4731.22(B)(2) and (B)(6), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (5) and (6) above, individually and/or collectively, 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 Section 4731.22(B)(5), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (6) above, individually and/or collectively, constitute a “[f]ailure to cooperate in an investigation conducted by the board under division (F) of this section,” as that clause is used in Section 4731.22(B)(34), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (1) through (6) above, individually and/or collectively, constitute a “[v]iolation of the conditions of limitation placed by the board upon a certificate to practice,” as that clause is used in Section 4731.22(B)(15), Ohio Revised Code.

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

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

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

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, provides that “[w]hen the board refuses to grant a certificate to an applicant, revokes an

Ralph Arden Hugunin, M.D.
Page 4

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/DPK/flb
Enclosures

CERTIFIED MAIL #91 7108 2133 3934 3688 6502
RETURN RECEIPT REQUESTED



State Medical Board of Ohio

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

August 10, 2005

Ralph Arden Hugunin, M.D.
8119 Lexington Way
North Ridgeville, OH 44039

Dear Doctor Hugunin:

Please find enclosed certified copies of the Corrected Entry of Order; the Report and Recommendation of R. Gregory Porter, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on August 10, 2005, 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 M.D. by BAT

Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

CERTIFIED MAIL NO. 7002 2410 0002 3141 4939
RETURN RECEIPT REQUESTED

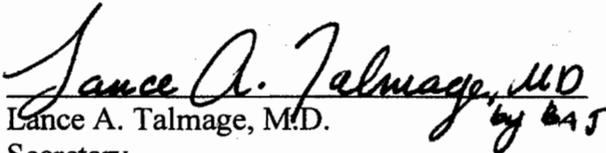
Cc: James M. McGovern, Esq.
CERTIFIED MAIL NO. 7002 2410 0002 3141 4946
RETURN RECEIPT REQUESTED

Mailed 9-2-05

CERTIFICATION

I hereby certify that the attached copy of the Corrected Entry of Order of the State Medical Board of Ohio; Report and Recommendation of R. Gregory Porter, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on August 10, 2005, 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 Ralph Arden Hugunin, 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, M.D.
Secretary

(SEAL)

August 10, 2005

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

RALPH ARDEN HUGUNIN, M.D.

*

CORRECTED ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on August 10, 2005.

Upon the Report and Recommendation of R. Gregory Porter, 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; STAYED IN PART:** The certificate of Ralph Arden Hugunin, M.D., to practice medicine and surgery in the State of Ohio shall be **SUSPENDED** for one year; however, all but sixty (60) days of said suspension are **STAYED**.
- B. **PROBATION:** Upon reinstatement or restoration, Dr. Hugunin's certificate shall be subject to the following **PROBATIONARY** terms, conditions, and limitations for a period of at least three years:
 - 1. **Obey the Law:** Dr. Hugunin 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. Hugunin 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. Hugunin 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. **Controlled Substances Prescribing Course:** Before the end of the first year of probation, or as otherwise approved by the Board, Dr. Hugunin shall provide acceptable documentation of successful completion of a course dealing with the prescribing of controlled substances. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education acquisition period(s) in which they are completed.
5. **Professional/Personal Ethics Course:** Before the end of the first year of probation, or as otherwise approved by the Board, Dr. Hugunin shall provide acceptable documentation of successful completion of a course or courses dealing with professional/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.

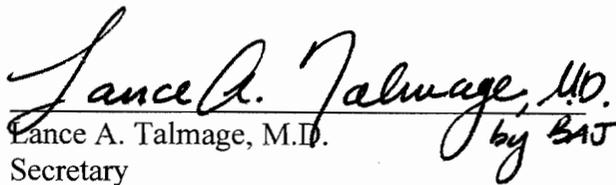
In addition, at the time Dr. Hugunin submits the documentation of successful completion of the course or courses dealing with professional/personal ethics, he shall also submit to the Board a written report describing the course, setting forth what he learned from the course, and identifying with specificity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

6. **Tolling of Probationary Period While Out of State:** In the event that Dr. Hugunin should leave Ohio for three consecutive months, or reside or practice outside the State, Dr. Hugunin must notify the Board in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of this probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that the purposes of the probationary monitoring are being fulfilled.

7. **Violation of Terms of Probation:** If Dr. Hugunin 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.
- C. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Hugunin's certificate will be fully restored.
- D. **REQUIRED REPORTING TO EMPLOYERS AND HOSPITALS:** Within thirty days of the effective date of this Order, Dr. Hugunin 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. Hugunin 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.
- E. **REQUIRED REPORTING TO OTHER STATE LICENSING AUTHORITIES:** Within thirty days of the effective date of this Order, Dr. Hugunin 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. Hugunin 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. Hugunin 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 on September 1, 2005.

(SEAL)


Lance A. Talmage, M.D.
Secretary

August 10, 2005

Date

2005 JUL -8 A 9 54

**REPORT AND RECOMMENDATION
IN THE MATTER OF RALPH ARDEN HUGUNIN, M.D.**

The Matter of Ralph Arden Hugunin, M.D., was heard by R. Gregory Porter, Esq., Hearing Examiner for the State Medical Board of Ohio, on April 11, 2005.

INTRODUCTION

I. Basis for Hearing

- A. By letter dated November 10, 2004, the State Medical Board of Ohio [Board] notified Ralph Arden Hugunin, M.D., that it proposed to take disciplinary action against his certificate to practice medicine and surgery in the State of Ohio. The Board based its proposed action on allegations that Dr. Hugunin had inappropriately issued prescriptions for controlled-substance medication for use by a female family member, and had issued said prescriptions in her unmarried name and in the name of a male family member. In addition, the Board alleged that Dr. Hugunin had kept no medical records related to these prescriptions.

The Board alleged that Dr. Hugunin's conduct constitutes the "[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed," as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2925.22, Ohio Revised Code, Deception to Obtain a Dangerous Drug; and/or] Section 2925.23, Ohio Revised Code, Illegal Processing of Drug Documents."

The Board alleged that Dr. Hugunin's conduct further constitutes "[v]iolating 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:" Rules 4731-11-08 and 4731-11-02(D) of the Ohio Administrative Code.

Further, the Board noted that, pursuant to Rule 4731-11-02(F), Ohio Administrative Code, violation of Rule 4731-11-02(D) also constitutes a violation of Sections 4731.22(B)(2) and (6) of the Ohio Revised Code.

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

- B. Dr. Hugunin submitted a written hearing request on December 3, 2004, and his attorney also submitted a hearing request on December 7, 2004. (State's Exhibits 1C, 1F)

II. Appearances

- A. On behalf of the State of Ohio: Jim Petro, Attorney General, by Rebecca J. Albers, Assistant Attorney General.
- B. On behalf of the Respondent: James M. McGovern, Esq.

EVIDENCE EXAMINED

I. Testimony Heard

- A. Presented by the State
 - 1. Ralph Arden Hugunin, M.D., as upon cross-examination
 - 2. Michael Giar
- B. Presented by the Respondent
 - 1. Ralph Arden Hugunin, M.D.
 - 2. Jennifer Rosenberg, M.D.
 - 3. Patient 1
 - 4. James Lehman, Jr., M.D.

II. Exhibits Examined

- A. State's Exhibits 1A through 1T: Procedural exhibits, including State's Exhibits 1B, 1-O, and 1-R, which have been sealed to protect patient confidentiality and are not subject to public disclosure.
- * B. State's Exhibit 2: Dr. Hugunin's October 4, 2004, responses to the Board's interrogatories and requests for documents; and an explanatory letter from Dr. Hugunin to the Board regarding his conduct.
- * C. State's Exhibit 3: Three prescriptions in the name of Patient 2.
- * D. State's Exhibit 4: One prescription in the name of Patient 2.
- * E. State's Exhibit 5: Seven prescriptions for Patient 1 in her maiden name.
- * F. State's Exhibit 6: One prescription for Patient 1 in her maiden name.
- * Note: Exhibits marked with an asterisk (*) have been sealed to protect patient confidentiality and are not subject to public disclosure.

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. Dr. Hugunin testified that he had graduated from the Medical College of Wisconsin in 1981 and completed a family-practice residency. He then engaged in family practice for ten years, until he decided to pursue training in anesthesiology. (Tr. at 25-26)

Dr. Hugunin stated that he had participated in a residency program in anesthesiology at the University of Michigan from 1994 to 1997, after which he had entered private practice with Lakewood Anesthesia Associates in Lakewood, Ohio. Lakewood Anesthesia Associates is the sole provider of anesthesia services for Lakewood Hospital, Amherst Hospital, and Fairview Surgery Center. (Tr. at 26, 31-32)

Dr. Hugunin testified that his practice with LAA had initially included some work in pain management, but he stopped providing that type of care about six months after he joined the group. Dr. Hugunin further testified that 99% of his current work consists of providing surgical anesthesia. He provides both direct patient care and supervises care by anesthesia assistants and certified registered nurse anesthetists. (Tr. at 26, 32-33)

Dr. Hugunin testified that he is licensed in the State of Ohio. Dr. Hugunin further testified that he had also been licensed in Michigan and Illinois, but that he had allowed those licenses to lapse. Dr. Hugunin further testified that he had never had any action taken by any state medical board prior to the current action. (Tr. at 26, 67)

Issue for Hearing

2. In his sworn October 4, 2004, responses to Board interrogatories and an accompanying letter, Ralph Arden Hugunin, M.D., admitted the allegations later set forth by the Board in its November 10, 2004, Notice of Opportunity for Hearing [Notice]. (State's Exhibits [St. Exs.] 1A and 2) Specifically, Dr. Hugunin admitted that he inappropriately issued prescriptions for use by a female family member, Patient 1. He further admitted that he had issued these prescriptions in Patient 1's maiden name rather than her married name, and that he had issued prescriptions for use by Patient 1 in the name of her father, Patient 2. The prescriptions in question follow:

Patient Number	Date	Prescription	Qty.	Refills
1	09/22/00	Ativan 2 mg	30	2

Patient Number	Date	Prescription	Qty.	Refills
1	08/10/01	Ambien 10 mg	30	2
1	11/23/01	Ambien 10 mg	30	2
1	12/08/01	Ativan 2 mg	20	
1	02/12/02	Lorazepam 2 mg	30	3
1	02/20/02	Ambien 10 mg	30	2
1	03/28/03	Ativan 2 mg	60	2
1	06/13/03	Tylenol #3	30	2
2	09/04/03	Vicodin ES	40	2
2	09/04/03	Ativan 2 mg	60	2
2	11/05/03	Tylenol #3	60	1
2	12/19/03	Tylenol #3	60	1

(St. Exs. 2 – 6) With respect to the refills, Dr. Hugunin testified that most, but not all of the prescriptions had been filled. (Hearing Transcript [Tr.] at 64)

3. Additionally, in response to the State's June 25, 2004, investigative subpoena for Dr. Hugunin's medical records, Dr. Hugunin stated that he had kept no patient records for Patient 1 or Patient 2. (St. Ex. 2)
4. At hearing, Dr. Hugunin explained through counsel that he had requested the hearing solely to present evidence in mitigation of the penalty for his violations. (Tr. at 8)

Events Leading to The Violations

5. Dr. Hugunin testified that he had met Patient 1 in 1998, and she became a family member in 2000. Her medical history was significant for a congenital condition, cleft lip and palate. Treatment for this condition had been delayed by the fact that her parents, immigrants from Hungary, had had difficulty communicating in English. Patient 1 underwent multiple surgeries to close her palate and improve her appearance, but the palate closure failed. Her palate opening has never been repaired completely, and she uses a prosthetic device in the palate. Dr. Hugunin testified that Patient 1 is very self-conscious about her cleft lip and palate and that she feels it has negatively affected her entire life. (Tr. at 34-36)
6. Patient 1 testified that, until eighth grade, she had not had her cleft lip and palate repaired at all nor had she had a prosthesis, which had caused speech impairment and humiliation. (Tr. at 97)
7. Dr. Hugunin explained that, in 1999, Patient 1 had consulted a specialist in Chicago and decided to undergo a two-stage surgical program. In December 1999, she underwent a rhinoplasty involving bone grafts. It was very painful, and Patient 1 was unhappy with the

results. After the operation, she wanted to stay at home and hide, afraid everyone was looking at her. (Tr. at 37-38)

Dr. Hugunin described Patient 1's feeling that she was "even more incomplete" after the surgery than before it, because "things were not left in a finished form" after the first stage. (Tr. at 40) He stated that Patient 1 had experienced panic attacks in public because she felt everyone was looking at her. (St. Ex. 2)

8. Dr. Hugunin testified that he had talked with Patient 1 numerous times trying to get her to accept treatment for the psychosocial problems associated with the cleft lip and palate and low self-esteem, but she adamantly refused any type of counselor or psychiatrist. He explained that Patient 1 was influenced by her parents' perception of psychiatry, which was that "you took crazy people" to psychiatrists and "they locked you up." (Tr. at 39) In addition, her childhood memories regarding the cleft lip and palate were terribly painful, and she did not want to bring it all up again. (Tr. at 39)

Dr. Hugunin testified that, in September 2000, he had written for Patient 1 a prescription for Ativan, a benzodiazepine. He felt that Patient 1 had done much better with the Ativan, and he had hoped that things would improve after the second surgery. (Tr. at 39-40)

9. According to Dr. Hugunin's testimony, Patient 1 underwent the second surgery in December 2000 or January 2001. This surgery included implanting material in her cheek to improve her appearance. During the second surgery, however, a facial nerve was damaged, and Patient 1 lost sensory and muscular function on the left side of her face, affecting the nasolabial region and upper lip. (St. Ex. 2; Tr. at 40-42)

Dr. Hugunin described problems that Patient had with functions such as eating, when food would "drool out of her mouth." (Tr. at 41) He testified that Patient 1 feared she would be left like this for the rest of her life and felt as if she were being punished. Dr. Hugunin stated that Patient 1 had become more withdrawn and more depressed, with significant weight loss, lack of sleep, and bad dreams. Dr. Hugunin then prescribed Ambien to help her sleep. He stated that Ambien had helped Patient 1 fall asleep, although she rarely got a full night's sleep. (Tr. at 41-43)

Dr. Hugunin testified that, during this time, Patient 1 had been working two days a week as a registered nurse. (Tr. at 46)

10. Dr. Hugunin testified that the facial nerve eventually regenerated sufficiently that the drooling ceased, but the sensory capacity did not return, and Patient 1 still has numbness. However, with this improvement, Patient 1 began to feel better. (Tr. at 43, 45)
11. Patient 1's improvement was not sustained, however, according to Dr. Hugunin. He testified that, in the summer of 2001, her mother had been seriously depressed and nearly psychotic. Her mother would call Patient 1 often, nearly psychotic. Her mother refused

psychiatric care due to the family's belief that people go to psychiatrists "when they're crazy and * * * they never get out." (Tr. at 47-48) Eventually, however, Dr. Hugunin and Patient 1 convinced her mother to see a psychiatrist. Dr. Hugunin testified concerning the tremendous stress placed on Patient 1, an only child, to take care of everything, because her father had felt unable to communicate sufficiently to deal with appointments and arrangements. (Tr. at 47-48)

Dr. Hugunin testified that Patient 1's mother, in addition to seeing a psychiatrist for medication, had also consulted a psychologist who was a "Christian counselor." According to Dr. Hugunin, the counselor told Patient 1's mother that it was a sin to worry and about "how much of a sin it was to be depressed." The mother came to feel that she had sinned in a way that was totally unacceptable. On a day when Patient 1 was coming to get her to drive her to a counseling session, the mother tried to kill herself, and it was Patient 1 who found her. (Tr. at 48-49)

Dr. Hugunin further testified that Patient 1 had arrived at her mother's house to find the door locked and no answer. Patient 1 called Dr. Hugunin, who recommended breaking in, which Patient 1 did. She found her mother comatose and near death. She called an ambulance, and her mother was resuscitated. Patient 1's mother then spent several days in intensive care, followed by inpatient psychiatric treatment for about two weeks. Patient 1's mother continues to have outpatient treatment with "many" near-returns to inpatient treatment. (Tr. at 49 -51)

12. According to Dr. Hugunin, Patient 1's anxiety and depression became much worse during this troubled time with her mother in July, August, and September of 2001. Patient 1 would wake at night screaming for someone to help her mother. Patient 1 also felt betrayed by her mother, given that her mother had known Patient 1 was coming and would find her dead. Dr. Hugunin tried to help Patient 1 understand her mother's behavior, but Patient 1 could not accept it. (Tr. at 50-51)
13. Dr. Hugunin stated that, despite Patient 1's worsening depression and anxiety, she continued to reject his pleas for her to see a counselor or psychiatrist. Patient 1, deeply upset at what had happened to her mother, said to him: "I knew that the psychiatrist would do this * * *. Look what they did. She went, she tried this, and she resulted in trying to kill herself." (Tr. at 51) Dr. Hugunin further testified that Patient 1 also told him: "I can't go to that place [where psychiatrists or counselors provide treatment]. I'll kill myself if I have to go." During this period, Dr. Hugunin prescribed medication "to help her deal with the anxiety and stress and the sleep problems." (Tr. at 51)
14. With regard to this period, Patient 1 testified that Dr. Hugunin had talked to her "all the time" about seeing a mental-health professional, but she "just couldn't" get herself to go and was afraid. She felt that anyone who goes to a psychiatrist has a bad reputation and is never going to get better. She testified, "[Dr. Hugunin] just kept talking to me and saying, 'you really need to do that'[, and] I just kept saying, 'I can't do it.'" (Tr. at 101 -104)

Patient 1 explained that she had felt that her only alternative to a psychiatrist was to take medication, and that medication was “the only thing she had.” (Tr. at 104) She testified that, even when Dr. Hugunin explained that he was not allowed to prescribe for her, she felt he was the only one who could help her, the only one whom she could trust. (Tr. at 108-109)

15. Dr. Hugunin testified that he had discussed with Patient 1 in the fall of 2001 that, although the medications seemed to be helping her, he could not continue to prescribe them because it was wrong and illegal. Nonetheless, Patient 1 could not bring herself to seek treatment. Dr. Hugunin testified that he had prescribed medication for Patient 1 during this time. Dr. Hugunin further testified that, although Patient 1 showed improvement as her mother’s condition improved, she still required medication to help her sleep and to deal with the ongoing stress of her mother’s illness. (Tr. at 44, 51-52)
16. In about March 2002, Patient 1 became pregnant following attempts by means of *in vitro* fertilization, according to Dr. Hugunin’s testimony. Patient 1 did not take medication prescribed by Dr. Hugunin during the pregnancy, nor did Dr. Hugunin issue prescriptions for her during the pregnancy. She delivered a baby girl prematurely in December 2002. (St. Exs. 3 through 6; Tr. at 51-54, 69-70)

Dr. Hugunin testified that the baby was very colicky. Patient 1 had been looking forward to a joyful experience, but she became very anxious when she could not comfort the crying baby. In addition, the baby had difficulty breast-feeding. Then, after the baby was able to nurse, blood in her stool indicated intolerance to her mother’s milk, and they had to try a variety of formulas. Dr. Hugunin stated that Patient 1 was devastated and felt she was a failure. He tried to reassure and comfort Patient 1, but she blamed herself and felt she would never be a successful mother. She again became very depressed, which in Dr. Hugunin’s view, was worse than before. (Tr. at 53-55, 70-71)

17. Dr. Hugunin explained that he had consulted Patient 1’s obstetrician, who had diagnosed postpartum depression and prescribed antidepressants. However, Patient 1 became worse and could not sleep. Dr. Hugunin said he had tried to take care of the baby at night, but Patient 1 still could not sleep. He testified that Patient 1, due to lack of sleep and her continuing lack of self-esteem, was spiraling down into a deep depression, and he started prescribing for her again. (Tr. at 55)

Dr. Hugunin testified that he had known that it was wrong to prescribe medications for Patient 1, but he had not known what else to do. He tried to persuade her to see a psychiatrist, but her reaction was the same as before: she said that they (psychiatrists and/or psychologists) had hurt her mother and would do the same to her. In addition to the problems with the baby, Patient 1 was also anxious about her mother, whose condition worsened at this time. (Tr. at 55-56)

18. In her testimony, Patient 1 also described the stressful impact of her mother's illness and the trauma of discovering her mother's attempted suicide. Patient 1 further described her anxiety, sleeplessness, and feelings of incompetence due to her baby's inconsolable crying and problems with feeding. (Tr. at 100)
19. Dr. Hugunin testified that, in June 2003, he had prescribed Tylenol No. 3 for Patient 1 as "an adjunctive drug" to help her sleep. Tylenol No. 3 is a combination of acetaminophen and codeine, a narcotic. Dr. Hugunin testified that, based on his training in anesthesiology, he had known that using a small amount of a narcotic with a small amount of a benzodiazepine will help the person to relax and to sleep better than with larger doses of either drug alone. He was concerned that Patient 1's increasing use of drugs was dangerous, but he was also concerned that, if he didn't give them to her, the depression would become life threatening in itself. (Tr. at 57-58)

However, Dr. Hugunin knew the situation was out of control when he observed that Patient 1 had started using increasing amounts of Tylenol No. 3, taking it during the day in addition to using it at night for sleeping. He testified that he had talked with her about the seriousness of the situation. Moreover, Dr. Hugunin felt that the medications were not helping as intended but were instead allowing Patient 1 to hide from her problems. He became more concerned than ever that Patient 1 needed psychiatric care. (Tr. at 56, 58, 73-74)

20. Patient 1 testified that she had felt ashamed when Dr. Hugunin told her that she must get psychiatric treatment and that he should not be prescribing for her. She blames herself for his current problems with the Board. She testified, however, that she had not been thinking clearly at that time and had been perhaps manipulative, and afraid and distrustful of others, feeling that Dr. Hugunin was the only one she could trust. (Tr. at 101)
21. Dr. Hugunin testified that he had sought assistance from Patient 1's obstetrician, to whom he expressed his belief that Patient 1 was getting much worse and that he was seriously concerned. According to Dr. Hugunin, he and the obstetrician were finally able to convince Patient 1 that she must have treatment for the sake of her child and for the future of the family. (Tr. at 71-74) Dr. Hugunin testified that Patient 1 came to realize that her path was going downward with or without the medications. As a result, "we finally were able to get her to seek psychiatric care." (Tr. at 58-59)
22. Patient 1 testified that Dr. Hugunin had been very concerned when her use of the medications escalated beyond what he had intended. He finally convinced her to seek some professional help. Patient 1 said she had viewed the situation as simply helping her to get some sleep, but he made her see the situation differently, that it was spiraling out of control and that she must seek help for the sake of her daughter. (Tr. at 56, 102, 104-105)
23. Dr. Hugunin testified that, on recommendation of the obstetrician, he had contacted Jennifer Rosenberg, M.D., a psychiatrist. He admitted that, although he had told Dr. Rosenberg about Patient 1's medications, he had not disclosed that he had prescribed them, because he

had known it was wrong. He had felt that Dr. Rosenberg “might be duty-bound to report it,” and he did not want to lose his license. (Tr. at 59-60, 71)

24. Dr. Rosenberg testified that she is board-certified in neurology/psychiatry and has been in private practice since 1993. Dr. Rosenberg further testified she first had first seen Patient 1 in late 2003, at which time Patient 1 had symptoms of depression and post-traumatic stress disorder, including “hypervigilance, difficulty sleeping, difficulty eating, depressed mood, very anxious, and a lot of fears[.]” (Tr. at 78-80)

Dr. Rosenberg testified that neither Tylenol No. 3 nor Vicodin had been the right medication for Patient 1’s diagnoses, although Patient 1 had felt the medication was helping her. Dr. Rosenberg prescribed antidepressants as the primary medication along with an anti-anxiety medication on a short-term basis due to the time needed for the antidepressants to be fully effective. (Tr. at 82-83)

25. According to Dr. Hugunin’s testimony, Dr. Rosenberg wanted Patient 1 to taper off the Tylenol No. 3. Nonetheless, he wrote a further prescription for Tylenol No. 3 in order to allow Patient 1 “to safely taper off of it,” because he was concerned that “she was mildly addicted to the narcotic.” (Tr. at 60)

To help Patient 1 wean herself from the Tylenol No. 3, Dr. Hugunin took physical control of the medication and set out a plan of decreasing the amount made available to Patient 1. He described the results: “There were ups and there were downs. There were times that she just couldn’t sleep. There were times that she just felt so terrible that, probably out of compassion more than anything else, I would increase it.” However, according to Dr. Hugunin, they “continued to make progress” and “tapered down in a way that she was able to do it without aggravating her symptoms.” (Tr. at 61-62)

Dr. Hugunin testified that, during this period of time, Patient 1 had continued to see Dr. Rosenberg, who adjusted her medications several times, including medication to help Patient 1 sleep. (Tr. at 62)

26. With regard to the question of whether Patient 1 became addicted to the narcotics prescribed by Dr. Hugunin, Dr. Rosenberg testified that both she and a cognitive therapist ruled out the possibility that Patient 1 had been addicted to any medication. (Tr. at 84)

Patient 1’s Current Condition

27. Dr. Rosenberg testified that Patient 1 has responded well to medication and cognitive therapy. However, Dr. Rosenberg indicated that Patient 1’s status depends in large part on her mother’s status, and that her mother continues to have difficulty with her psychiatric illness, which is an ongoing stressor for Patient 1. In addition, Patient 1 has also experienced stress regarding the problems that her close family member, Dr. Hugunin, has

been going through. But overall, Dr. Rosenberg concluded that Patient 1 has “maintained herself very well.” (Tr. at 84-85)

When asked whether Patient 1 would have gotten better sooner if Dr. Hugunin had stayed out of Patient 1’s treatment and turned her over to a psychiatrist sooner, Dr. Rosenberg responded that she could not say with any certainty. She explained that she did not know whether Dr. Hugunin could have turned Patient 1 over sooner because “it had to be her will to get in.” The patient “had to be at the right place to be able to get into treatment.” Dr. Rosenberg concluded that the “trauma of the suicide attempt was pretty major. And I think she was just so stuck, I don’t think she could get in to see anybody.” (Tr. at 90)

28. Dr. Hugunin testified that Patient 1 has improved significantly with Dr. Rosenberg’s treatment, although sleep difficulties persist. He stated that Patient 1 now uses only the medications that Dr. Rosenberg prescribes. However, Patient 1 continues to have panic attacks and severe anxiety. Her “life is still very difficult and her recovery is fragile.” (Tr. at 62-63)
29. Patient 1’s employer, James Lehman, Jr., M.D., testified that, in the past few months, Patient 1 has not been coming to work very often due to the stress of the present situation with her family member’s case before the Board. (Tr. at 118)
30. Patient 1 testified that she is still subject to panic attacks and that she had taken medication before the hearing to prevent a panic attack during the hearing. (Tr. at 95-96)

The Board Investigation

31. Michael Giar testified that he is an Enforcement Investigator for the Board. Investigator Giar stated that his duties include investigating complaints against the Board’s licensees. Moreover, Investigator Giar testified that, in the course of his duties, he had had an opportunity to interview Dr. Hugunin. (Tr. at 17-18)

Investigator Giar testified that Dr. Hugunin had readily admitted his violations and cooperated with the investigation. He further testified that Dr. Hugunin had advised that the prescriptions had been written under different names and presented to different pharmacies so that the pharmacists would not question the amounts or realize that all the medications were going to the same person. (Tr. at 19-20)

Investigator Giar also testified that Dr. Hugunin had advised that he had already ceased such prescribing, and that a psychiatrist had been treating Patient 1. Investigator Giar testified that his review of the medical and pharmacy records confirmed Dr. Hugunin’s statements. Thus, Investigator Giar agreed that Dr. Hugunin, on his own, had stopped prescribing for Patient 1 without intervention by the Board. (Tr. at 22)

32. With regard to the Board’s investigation, Dr. Hugunin testified that he had cooperated fully with Investigator Giar, assisting in collecting all the prescriptions and contacting all the

pharmacies, and that there had been no other prescriptions involved. Dr. Hugunin noted that he had voluntarily advised investigator Giar that the inappropriate prescriptions had included some that were written in the name of Patient 2 for use by Patient 1. (Tr. at 68)

Conclusion

33. With regard to his employment contract with Lakewood Anesthesia Associates, Dr. Hugunin testified that Lakewood Anesthesia Associates can dismiss him if he is unable to perform his duties for a significant amount of time. He explained that Lakewood, Anesthesia Associates has the exclusive right to provide anesthesia services in that area and that, if Lakewood Anesthesia Associates terminated his employment, he could not find another position performing surgical anesthesiology in the area, and he would lose the family's home and be forced to relocate. Dr. Hugunin further testified that he could do his work in the hospital without being able to write prescriptions, should the Board so require. (Tr. at 66-67)
34. Dr. Hugunin testified regarding what he has learned from this experience, stating that he understands that the law prohibits not only prescribing for a family member but also prescribing for anyone with whom the physician has an emotional tie, and that "the rule is a necessary rule." (Tr. at 64-65, 75) Dr. Hugunin stated that he used to think the rule was foolish, that a physician could deal with these problems, "But you can't. You can't do it. You can't separate being a physician from being a spouse or closely related person [with whom] you have emotional ties * * *." (Tr. at 74-75)

Dr. Hugunin further stated: "What I did was wrong and I know that what I did was wrong." He explained: "At the time, I didn't see any other way to deal with the problem, I felt that although to do what I did was ethically wrong, I felt ethically bound to help Patient Number 1." (Tr. at 64) He understands now that, when a physician is emotionally attached to a patient, he cannot respond in the objective manner that is necessary for a physician, and he understands that he failed to do so in this case. (Tr. at 64-65)

Dr. Hugunin explained that, at the time of these events, all he could see was his close family member in terrible emotional pain, and he was afraid she would hurt herself physically. He said that it was not a justification for what he did, but at the time he thought he was helping her. (Tr. at 75-76) He testified further:

I failed my profession and I failed Patient Number 1 because of this. And that as much as I was trying to help, my course of action was not correct, was not probably in her best interest, and that I would never do this again; that not only was it wrong, that it's not – you can't function in both roles and do justice to either. * * *

(Tr. at 65) Dr. Hugunin acknowledged that he failed Patient 1 because there is a possibility that, if he had not been prescribing for her, Patient 1 might have gotten appropriate help much sooner and not gone through as much suffering. (Tr. at 75)

35. Dr. Rosenberg also commented on Dr. Hugunin’s conduct in prescribing for Patient 1. Dr. Rosenberg stated that what Dr. Hugunin had done “was not the correct thing to do.” (Tr. at 86) However, Dr. Rosenberg further testified that she believes that Dr. Hugunin had engaged in such conduct only out of an effort to help Patient 1. Moreover, Dr. Rosenberg testified that she believes that Dr. Hugunin had acted out of desperation grossly resulting from his concern for Patient 1. (Tr. at 86-87)

FINDINGS OF FACT

1. Ralph Arden Hugunin, M.D., inappropriately prescribed controlled substances intended for use by a female family member. He issued prescriptions for her in her unmarried name and in the name of a male family member (identified as Patients 1 and 2 to preserve confidentiality). Such prescribing included the following prescriptions:

Patient Number	Date	Prescription	Quantity	Refills
1	09/22/00	Ativan 2 mg	30	2
1	08/10/01	Ambien 10 mg	30	2
1	11/23/01	Ambien 10 mg	30	2
1	12/08/01	Ativan 2 mg	20	NA
1	02/12/02	Lorazepam 2 mg	30	3
1	02/20/02	Ambien 10 mg	30	2
1	03/28/03	Ativan 2 mg	60	2
1	06/13/03	Tylenol #3	30	2
2	09/04/03	Vicodin ES	40	2
2	09/04/03	Ativan 2 mg	60	2
2	11/05/03	Tylenol #3	60	1
2	12/19/03	Tylenol #3	60	1

Dr. Hugunin kept no medical records related to the above controlled substance prescriptions.

2. Dr. Hugunin had ceased issuing prescriptions for use by Patient 1, and Patient 1 had already commenced treatment with a psychiatrist, before Dr. Hugunin was contacted by the Board’s investigator.

CONCLUSIONS OF LAW

1. The conduct of Ralph Arden Hugunin, M.D., as set forth in Findings of Fact 1, constitutes the “[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed,” as that clause is used in Section

4731.22(B)(10), Ohio Revised Code, to wit: Section 2925.22, Ohio Revised Code, Deception to Obtain a Dangerous Drug.

2. Dr. Hugunin's conduct, as set forth in Findings of Fact 1, constitutes the "[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed," as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2925.23, Ohio Revised Code, Illegal Processing of Drug Documents.
3. Dr. Hugunin's conduct, as set forth in Findings of Fact 1, 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 the board," as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: 4731-11-02(D), Ohio Administrative Code."
4. Dr. Hugunin's conduct, as set forth in Findings of Fact 1, 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 the board," as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: 4731-11-08, Ohio Administrative Code.
5. In addition, pursuant to Rule 4731-11-02(F), Ohio Administrative Code, Dr. Hugunin's conduct violating Rule 4731-11-02(D) also constituted a violation of Sections 4731.22(B)(2) and (6) of the Ohio Revised Code.

* * * * *

Dr. Hugunin deliberately engaged in conduct he knew was wrong. He knew, when he wrote the prescriptions at issue, that it was unethical and against the law. In addition, he sought to conceal his violations. He purposely used different pharmacies and different patient names in order to hide the fact that the patient was a member of his family and to avoid attention to the amounts of controlled substances he was prescribing. Additionally, Dr. Hugunin deliberately withheld information from a treating physician for the purpose of concealing his own wrongdoing.

Nonetheless, the evidence includes several mitigating factors. First, Patient 1 was a very close family member who had sustained considerable emotional trauma, resulting in acute emotional distress during the period at issue. Patient 1 was ultimately diagnosed with post-traumatic stress disorder, depression, and anxiety. The evidence supports the conclusion that Dr. Hugunin acted out of a desperate, albeit misguided, concern for a close family member. Second, there is no indication that Dr. Hugunin profited in any way from his prescribing for his family member.

Third, the extent of the violations was limited in scope in that no evidence was presented that Dr. Hugunin had improperly prescribed medication for use by any person other than Patient 1.¹

Dr. Hugunin testified convincingly that he now understands the importance of the rule against prescribing for family members and understands the harm associated with such ill-considered attempts to help a loved one. His remorse and his avowal that he will never again violate the rule were persuasive. Accordingly, it is reasonable to conclude that the public is not likely to be endangered by Dr. Hugunin's continuing practice of medicine.

PROPOSED ORDER

It is hereby ORDERED that:

- A. **SUSPENSION; STAYED IN PART:** The certificate of Ralph Arden Hugunin, M.D., to practice medicine and surgery in the State of Ohio shall be SUSPENDED for one year; however, all but 30 days of said suspension are STAYED.
- B. **PROBATION:** Upon reinstatement or restoration, Dr. Hugunin's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least three years:
 1. **Obey the Law:** Dr. Hugunin 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. Hugunin 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. Hugunin 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.

¹ Although a few prescriptions were issued in the name of Patient 2, all the prescriptions were written for use by Patient 1.

4. **Controlled Substances Prescribing Course:** Before the end of the first year of probation, or as otherwise approved by the Board, Dr. Hugunin shall provide acceptable documentation of successful completion of a course dealing with the prescribing of controlled substances. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education acquisition period(s) in which they are completed.
5. **Professional/Personal Ethics Course:** At the time he submits his application for reinstatement or restoration, Dr. Hugunin shall provide acceptable documentation of successful completion of a course or courses dealing with professional/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. Hugunin submits the documentation of successful completion of the course or courses dealing with professional/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.

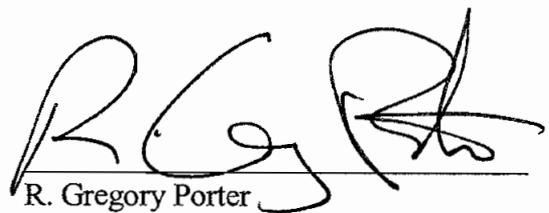
6. **Tolling of Probationary Period While Out of State:** In the event that Dr. Hugunin should leave Ohio for three consecutive months, or reside or practice outside the State, Dr. Hugunin must notify the Board in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of this probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that the purposes of the probationary monitoring are being fulfilled.
 7. **Violation of Terms of Probation:** If Dr. Hugunin 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.
- C. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Hugunin's certificate will be fully restored.
- D. **REQUIRED REPORTING TO EMPLOYERS AND HOSPITALS:** Within thirty days of the effective date of this Order, Dr. Hugunin 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. Hugunin 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.

E. REQUIRED REPORTING TO OTHER STATE LICENSING AUTHORITIES:

Within thirty days of the effective date of this Order, Dr. Hugunin 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. Hugunin 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. Hugunin 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.

A handwritten signature in black ink, appearing to read 'R. Gregory Porter', written over a horizontal line.

R. Gregory Porter
Hearing Examiner



State Medical Board of Ohio

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EXCERPT FROM THE DRAFT MINUTES OF AUGUST 10, 2005

REPORTS AND RECOMMENDATIONS

Dr. Davidson announced that the Board would now consider the findings and orders appearing on the Board's agenda. She 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 Kyle Howard, M.D.; Ralph Arden Hugunin, M.D.; and Ian Nunnally, M.D. A roll call was taken:

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

Dr. Davidson 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. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Davidson	- aye

Dr. Davidson 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. Davidson 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.
.....

RALPH ARDEN HUGUNIN, M.D.

Dr. Davidson directed the Board's attention to the matter of Ralph Arden Hugunin, M.D. She advised that objections were filed to Hearing Examiner Porter's Report and Recommendation and were previously distributed to Board members.

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

Dr. Hugunin was accompanied by his attorney, James M. McGovern.

Mr. McGovern stated that they are pleased with the Report and Recommendation authored by Mr. Porter. There is no disputing that Dr. Hugunin made some serious errors in judgment in this case. Dr. Hugunin has been frank in acknowledging those errors. Mr. McGovern commented that it's worth pointing out that Dr. Hugunin stopped prescribing to Patient 1 before this matter came to the Board's attention.

Mr. McGovern stated that Mr. Porter has done a fine job of summarizing the evidence and outlining the mitigating factors in this case. As Mr. Porter heard, and as the Board will hear briefly today from Dr. Hugunin, Dr. Hugunin recognizes his mistakes. He's deeply remorseful and committed to never repeating this conduct.

Mr. McGovern stated that they respectfully ask that the Board adopt the Report and Recommendation, effective October 1, 2005 to allow Dr. Hugunin to honor the current schedule set up by his anesthesiologist group which is already relying upon him to cover call. Vacations, etc., are scheduled for that month. The schedule for October could be adjusted, if necessary.

Dr. Hugunin addressed the Board, thanking the Board for the opportunity to address it. He stated that he sits before the Board very regretful, not because what he did was brought to the attention of the Board and was brought to this discovery, but because he failed in his professional responsibilities. Dr. Hugunin stated that he allowed his personal, emotional feelings to interfere with his professional responsibilities. He failed to honor the ethics of a physician. He made the mistake of yielding to emotion and to the relationship that he had with Patient 1, and he understands that the law that exists in Ohio that prohibits this is a very valuable law. Dr. Hugunin stated that he didn't appreciate that before, but you cannot have the type of emotional relationship that he had with Patient 1 and perform in the role of a physician. He added that at

the time he thought that he was helping Patient 1. He would never allow such a situation to occur again.

Dr. Hugunin thanked the Board for the time, energy and expense that the State of Ohio has incurred in looking into this matter.

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

Ms. Berrien stated that a suspension is justified in this case; and, in fact, it's justified to the point of imposing the full one-year suspension. Dr. Hugunin committed what would have been felonies in a criminal court. He prescribed for a family member, but he concealed his conduct by writing prescriptions in the patient's maiden name and in her father's name. He further concealed his illegal conduct by filling prescriptions at different pharmacies. That's why he was able to remain undetected by the Board. He was pharmacy shopping and deceitful in writing prescriptions. He also jeopardized others in his scheme. He jeopardized the physicians who were filling these prescriptions, thinking that they're valid. He even jeopardized Patient 1 because he didn't disclose to her treating physician that he was writing prescriptions for her.

Ms. Berrien stated that Patient 1 had a legitimate medical condition, but that's why the Board has this rule. The Board recognizes that between family members there is a special relationship; there are emotional ties, there's compassion between that family member and the physician. The physician subconsciously or consciously loses his objectivity. Dr. Hugunin admits that happened here. Ms. Berrien stated that the rule protects the physician from being placed in a compromising position and feeling compelled to write prescriptions for his family member. Ms. Berrien stated that the Board knows that that happened here because Patient 1 admitted that she may have even been manipulative during this time.

Ms. Berrien asked that, in considering this case, the Board remember that Dr. Hugunin knew he was committing crimes, he knew he was violating the Board's rule, and he deliberately disregarded the law. Ms. Berrien stated that this is not just a case of making a bad judgment call. This was a case of willful misconduct and deliberate disregard.

Ms. Berrien referred to the cases of Dr. Michael Parker, who received a one-year suspension for prescribing for his girlfriend, and Dr. Michael Mikhail, who received a 30-day suspension. Ms. Berrien reminded the Board that Dr. Mikhail claimed that he didn't know that he was violating a Board rule. Even though ignorance of the law is no excuse, the Board accepted Dr. Mikhail's excuse and suspended him for 30 days.

Ms. Berrien stated that this is a different situation. Dr. Hugunin deliberately violated the Board's rules. She stated that, if the Board accepts a 30-day suspension, the State asks that the Board not stay that 30 days. She stated that the Board takes these actions seriously, and this is an abuse of the certificate that doctors carry.

Mr. Albert returned to the meeting at this time.

DR. KUMAR MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF RALPH ARDEN HUGUNIN, M.D. MS. SLOAN SECONDED THE MOTION.

Dr. Davidson stated that she would now entertain discussion in the above matter.

Dr. Egner spoke in support of the Report and Recommendation, stating that she feels it is appropriate. She commented that, as she has said in the past, she likes to see the physician in these cases come before the Board. She's satisfied that Dr. Hugunin has learned from this and she doesn't think that he will ever do this again.

Dr. Egner continued that she thinks that, in many of these cases, where these kinds of rules are broken, the physician should put himself on the hospital talk circuit to let other physicians know of the dangers. When physicians aren't faced with these situations, it's so easy to say, "I'll never prescribe to a family member. I will never get myself into an inappropriate prescribing situation," and mean it, and know it. Then all of a sudden life circumstances change and you may do something that you never thought you would do. Dr. Egner stated that that's what she sees happened with Dr. Hugunin. She thinks that he is a dedicated physician who made a terrible judgment. She stated that Dr. Hugunin will have plenty of repercussions from this situation. Dr. Egner again spoke in support of the Board Order, with the 30-day period out of practice. She added that she has no objection to Dr. Hugunin's waiting until October to do the 30-day suspension.

Dr. Kumar stated that he would agree with Dr. Egner, but what continues to bother him is that Dr. Hugunin did act deceitfully. Dr. Kumar stated that he has trouble with Dr. Hugunin's trying to cover up, using different names, and going to different pharmacies. He asked whether that is big enough to increase the length of the suspension. Dr. Kumar stated that for these reasons, he feels that 30 days is a little too short.

Dr. Robbins stated that he agrees totally with the Assistant Attorney General. He stated that it really bothered him that these prescriptions were written in the patient's maiden name and in her father's name, and that they were put off on a lot of different pharmacies. That adds a level of complexity for which he personally feels 30 days is not enough. Dr. Robbins stated that he appreciates the doctor's response today; it clearly made a positive impact. He also agreed that it is doubtful that this will ever be done in the future. He added that it is his personal feeling that 90 days would be better. Dr. Robbins added that he doesn't like delaying the imposition of the suspension until October. This case is serious enough in his mind that he doesn't like giving Dr. Hugunin a convenience like that. Dr. Robbins stated that he would prefer a 90-day suspension, beginning immediately.

Dr. Varyani stated that he concurs with Dr. Robbins. He thinks Dr. Hugunin knew, and he appreciates Dr. Hugunin's candor today. He doesn't think that there is any question about the law in Ohio prohibiting prescribing to the family members. Dr. Varyani agreed that 90 days would be appropriate, and he also doesn't want to delay the effective date until October. Dr. Varyani stated that the Board isn't acting for Dr.

Hugunin's convenience, but because he did something wrong. The Board is trying to teach others that what he did was wrong.

Dr. Davidson asked whether Dr. Robbins and Dr. Varyani were making an amendment to the Proposed Order.

Mr. Browning stated that he doesn't like the manipulation either, and he would be in favor of extending the suspension. He added that a 60-day suspension would probably be enough to send the right message. These are personal tragedies inside this whole situation, and one bad decision leads to the next. Because that happened, a longer timeout is warranted. Doubling it would be enough from his point of view.

Ms. Sloan stated that she's glad that Dr. Hugunin came in to speak to the Board today because it did make a difference in the way she feels about this case. Ms. Sloan stated that she would agree to 60 days out of practice. She added that she is truly bothered by the fact that Dr. Hugunin did write the prescriptions in different names to get around the system. She acknowledged Dr. Hugunin's statement today about knowing how important this law is in Ohio and why it is there made a difference. Ms. Sloan stated that she would agree to the October date because she believes that it is not only for Dr. Hugunin's convenience, but for the patients', since they have a schedule that was already set. It may affect his patients. She asked that the Board consider that for the sake of his patients in his office.

Dr. Kumar stated that Dr. Hugunin is an anesthesiologist. It's not a matter of treating patients in his office.

Ms. Sloan stated that there has been scheduling already done that would affect the patients.

Dr. Kumar stated that the scheduling changes could be done in the next two weeks. You don't have to give him six weeks for that.

Dr. Davidson suggested that the suspension and effective dates be done in two separate motions and votes.

DR. KUMAR MOVED TO AMEND PARAGRAPH "A" OF THE PROPOSED ORDER TO IMPOSE A STAY OF ALL BUT SIXTY (60) DAYS OF THE ORDERED SUSPENSION. MR. BROWNING SECONDED THE MOTION. A vote was taken

VOTE:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye

The motion carried.

DR. KUMAR MOVED THAT THE ORDER GO INTO EFFECT ON SEPTEMBER 1, 2005. MR. BROWNING SECONDED THE MOTION. A vote was taken:

VOTE:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye

The motion carried.

MR. BROWNING MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF RALPH ARDEN HUGUNIN, M.D. MS. SLOAN SECONDED THE MOTION. A vote was taken:

VOTE:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye

The motion carried.



State Medical Board of Ohio

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November 10, 2004

Ralph Arden Hugunin, M.D.
8119 Lexington Way
North Ridgeville, OH 44039

Dear Doctor Hugunin:

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) You inappropriately prescribed controlled substances that you intended for use by a female family member by issuing prescriptions for her in her maiden name and in the name of a male family member, listed as Patients 1 and 2 (as identified on the attached Patient Key - Key confidential and not subject to public disclosure). Such prescribing included prescriptions in the quantities and on or about the dates indicated below:

Patient Number	Date	Prescription	Quantity	Refills
1	09/22/00	Ativan 2 mg	30	2
1	08/10/01	Ambien 10 mg	30	2
1	11/23/01	Ambien 10 mg	30	2
1	12/08/01	Ativan 2 mg	20	
1	02/12/02	Lorazepam 2 mg	30	3
1	02/20/02	Ambien 10 mg	30	2
1	03/28/03	Ativan 2 mg	60	2
1	06/13/03	Tylenol #3	30	2
2	09/04/03	Vicodin ES	40	2
2	09/04/03	Ativan 2 mg	60	2
2	11/05/03	Tylenol #3	60	1
2	12/19/03	Tylenol #3	60	1

Mailed 11-12-04

Further, you kept no medical records related to the above controlled substance prescriptions.

Your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute “[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed,” as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2925.22, Ohio Revised Code, Deception to Obtain a Dangerous Drug.

Further, your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute “[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed,” as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2925.23, Ohio Revised Code, Illegal Processing of Drug Documents.

Further, 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: 4731-11-08, Ohio Administrative Code.

Further, 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: 4731-11-02(D), Ohio Administrative Code. Pursuant to Rule 4731-11-02(F), Ohio Administrative Code, violation of Rule 4731-11-02(D), Ohio Administrative Code, also violates Sections 4731.22(B)(2) and (6), Ohio Revised Code.

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

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

Ralph Arden Hugunin, M.D.

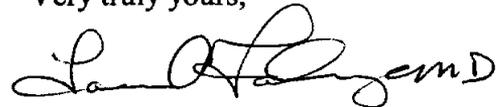
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In the event that there is no request for such hearing received within thirty days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, 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,

A handwritten signature in black ink, appearing to read "Lance A. Talmage, M.D.", written in a cursive style.

Lance A. Talmage, M.D.
Secretary

LAT/blt
Enclosures

CERTIFIED MAIL # 7000 0600 0024 5143 7872
RETURN RECEIPT REQUESTED