

State Medical Board of Ohio

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med.ohio.gov

May 14, 2014

Joseph Todd Joyner, M.D.
1845 West 47th Street
Cleveland, OH 44102

RE: Case No. 12-CRF-147

Dear Doctor Joyner:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of R. Gregory Porter, 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 14, 2014, 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 must be commenced by the filing of a Notice of Appeal with the State Medical Board and the Franklin County Court of Common Pleas. The Notice of Appeal must set forth the Order appealed from and state that the State Medical Board's Order is not supported by reliable, probative, and substantive evidence and is not in accordance with law. The Notice of Appeal may, but is not required to, set forth the specific grounds of the appeal. Any such appeal must be filed within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12, Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO



Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

CERTIFIED MAIL NO. 91 7199 9991 7032 2899 4327
RETURN RECEIPT REQUESTED

Cc: Steven A. Sindell, Esq.
CERTIFIED MAIL NO. 91 7199 9991 7032 2899 4334
RETURN RECEIPT REQUESTED

Mailed 05-15-14

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of R. Gregory Porter, Esq., State Medical Board Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on May 14, 2014, 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 Joseph Todd Joyner, M.D., Case No. 12-CRF-147, as it appears in the Journal of the State Medical Board of Ohio.

This certification is made by authority of the State Medical Board of Ohio and in its behalf.



Lance A. Talmage, M.D.
Secretary

(SEAL)

May 14, 2014

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

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CASE NO. 12-CRF-147

JOSEPH TODD JOYNER, M.D.

*

ENTRY OF ORDER

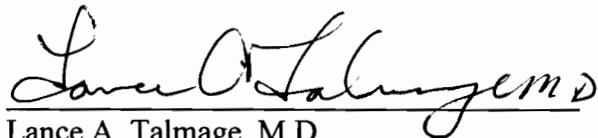
This matter came on for consideration before the State Medical Board of Ohio on May 14, 2014

Upon the Report and Recommendation of R. Gregory Porter, Esq., State Medical Board Hearing Examiner, designated in this Matter pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated 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:

The certificate of Joseph Todd Joyner, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED.

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



Lance A. Talmage, M.D.
Secretary

(SEAL)

May 14, 2014

Date

STATE MEDICAL BOARD
OF OHIO

2014 APR 16 AM 10: 36

BEFORE THE STATE MEDICAL BOARD OF OHIO

In the Matter of

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Case No. 12-CRF-147

Joseph Todd Joyner, M.D.,

*

Hearing Examiner Porter

Respondent.

*

REPORT AND RECOMMENDATION

Basis for Hearing

In a notice of opportunity for hearing dated December 12, 2012 (“Notice”), the State Medical Board of Ohio (“Board”) notified Joseph Todd Joyner, M.D., that it had proposed to take disciplinary action against his certificate to practice medicine and surgery in Ohio. The Board based its proposed action on allegations that, on or about November 26, 2012, in the Court of Common Pleas, Cuyahoga County, Ohio, Dr. Joyner pleaded guilty to and was found guilty of one felony count of Abduction, in violation of Ohio Revised Code Section (“R.C.”) 2905.02, and one felony count of Attempted Felonious Assault, in violation of R.C. 2923.02 and 2903.11. The Board further alleged that the conduct underlying the judicial findings of guilt involved a minor female under the age of 13 years. The Board further alleged that Dr. Joyner’s conduct constitutes “[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony,” as that clause is used in R.C. 4731.22(B)(9). Accordingly, the Board advised Dr. Joyner of his right to request a hearing, and received his written request on December 19, 2012. (State’s Exhibits (“St. Exs.”) 1A, 1B)

Appearances

Michael DeWine, Ohio Attorney General, and Kyle C. Wilcox, Assistant Attorney General, for the State of Ohio. Steven A. Sindell, Esq., on behalf of Dr. Joyner.

Hearing Dates: May 30, 31, and October 15, 2013

PROCEDURAL MATTERS

1. Following the hearing, the record in this matter was held open briefly to give the Respondent an opportunity to present an additional exhibit. That exhibit was timely

received, marked Respondent's Exhibit NNN, and admitted to the record without objection. The record closed on October 18, 2013.

2. In order to maintain the confidentiality of Child 1, Child 2, and Child 3, the following information was redacted from the Hearing Transcript and Master Word Index post-hearing without objection from the parties: the name of the mother of Child 1 and Child 2, referred to herein as "Dr. Doe"; Dr. Doe's specialty; the name of the father of Child 1 and Child 2, hereinafter referred to as "Dr. Roe"; the name of Dr. Doe's mother, who is referred to herein as "Dr. Doe's mother"; and the name of Dr. Joyner's former wife and mother of Child 3. Unredacted copies of the three-volume transcript and word index were marked Board Exhibits A through D, sealed from public disclosure, and admitted to the record without objection from either party.

In addition, the following exhibits that contained some or all of the aforementioned information were also redacted: State's Exhibit 4, and Respondent's Exhibits N, HH, MM, and AAA. Unredacted copies of these exhibits were marked State's Exhibit 4A and Respondent's Exhibits HH1, MM1, and AAA1, sealed from public disclosure, and admitted to the record without objection from the parties.

3. Five of the letters of support presented by the Respondent contained patient identifying information and were sealed from public disclosure post-hearing; namely Respondent's Exhibits X, Y, Z, VV, and YY.

SUMMARY OF THE EVIDENCE

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

Background Information

1. Joseph Todd Joyner, M.D., testified that he grew up just outside of Memphis, Tennessee, and obtained a bachelor's degree from Memphis State University in 1993. Dr. Joyner worked for a couple of years as an emergency room EMT prior to attending medical school. In 1995, Dr. Joyner began medical school at the American University of the Caribbean and obtained his medical degree in 1999. Following medical school, Dr. Joyner began a residency in internal medicine at MetroHealth Medical Center in Cleveland, Ohio ("MetroHealth"), which he completed in 2002. After completing his residency, Dr. Joyner joined the staff and faculty at MetroHealth and practiced as a hospitalist. Dr. Joyner testified that he was certified by the American Board of Internal Medicine in 2002. (Hearing Transcript ("Tr.") at 44-47, 612-619)
2. Dr. Joyner testified that he is the former Director of Inpatient Medical Services at MetroHealth and that he had held that position until 2012. Dr. Joyner testified that,

when the criminal charges that form the basis for this action were filed, he was placed on administrative leave and later terminated from his position. Dr. Joyner testified that he is not currently employed. (Tr. at 42-43)

3. The criminal convictions that form the basis of this matter arose from allegations that Dr. Joyner inappropriately touched the younger daughter of his current wife at a time when the daughter was approximately 10 years old. The conduct was alleged to have occurred in mid- to late-2011. Dr. Joyner's wife is a physician and is referred to herein as Dr. Doe to protect the confidentiality of her children. She and Dr. Joyner married in January 2013. Dr. Doe's younger daughter, the victim in the criminal matter, was born in 2000 and is referred to herein as Child 2. Child 1 is Dr. Doe's older daughter and she was born in 1997 or 1998. Dr. Joyner denies that any inappropriate conduct occurred and testified that he pleaded guilty to amended charges to avoid the risk of going to trial on the original charges. (Tr. at 52-53, 94, 150-153, 172, 180, 274-275, 641, 650, 682-686; St. Exs. 2, 4, 4A)

Dr. Joyner's Criminal Convictions

4. In January 2012, Dr. Joyner was indicted by a grand jury in Cuyahoga County, Ohio. (Tr. at 49-50)
5. On or around November 26, 2012, in the Cuyahoga County Court of Common Pleas, Dr. Joyner pleaded guilty to one third-degree felony count of Abduction, in violation of R.C. 2905.02(A)(2); and one third-degree felony count of Attempted Felonious Assault, in violation of R.C. 2923.02 as applied to R.C. 2903.11(A)(1), both of which were amended from the original charges. The court accepted Dr. Joyner's guilty pleas and found him guilty of those offenses. The court sentenced Dr. Joyner to five years of community control, ordered him to have no contact with the victim, fined him \$2000 plus costs, and ordered him to pay supervision fees at a rate of \$20 per month. Finally, the court advised Dr. Joyner that violation of the terms of community control could result in more restrictive sanctions, including a prison term of 36 months on each count. (Tr. at 52-53; St. Exs. 2, 4, 4A)
6. At the request of the Cuyahoga County Probation Department, Dr. Joyner was released from community control by order of the court filed on August 22, 2013. (Resp. Ex. NNN)
7. Dr. Joyner acknowledged that the consequences of his guilty plea were explained to him by his criminal attorney. Dr. Joyner further acknowledged that the court reviewed with him all of his rights when he entered his guilty plea, including his right to a jury trial, and that the State would have to prove its charges against him beyond a reasonable doubt. Moreover, Dr. Joyner acknowledged that he had entered his guilty plea knowingly and voluntarily. In addition, Dr. Joyner testified that, at the time he pled guilty to felony offenses, he had been aware that he was placing his medical license in jeopardy. (Tr. at 52-57, 71-72; St. Ex. 4, 4A)
8. During the sentencing hearing, Dr. Joyner stated, through counsel, that he accepted responsibility for the crimes to which he pleaded guilty. However, at the present hearing,

Dr. Joyner testified that he does not accept responsibility for those crimes, stating, "I have to say these things didn't happen." Dr. Joyner further testified that he committed no underlying act that would have constituted attempted felonious assault or abduction with respect to Child 2. (Tr. at 59-65; St. Exs. 4, 4A) Moreover, when asked whether the crimes to which he pleaded guilty had a victim, Dr. Joyner testified:

Had they occurred. My -- My stance is that they did not occur. So I don't know how -- I'm sorry. I'm not trying to give you a hard time. I'm trying to answer the question as truthfully as I can. An alleged victim?

(Tr. at 64)

9. Dr. Joyner acknowledged that he had pleaded guilty to the crime of Attempted Felonious Assault on Child 2. Such an offense requires an attempt to knowingly cause serious physical harm to another person, or to another person's unborn. However, Dr. Joyner testified that there was no basis in fact underlying that plea, that he had never attempted to cause serious physical harm to Child 2, and that he would never hurt a child. (Tr. at 673-679; Resp. Exs. LLL, MMM)

Similarly, Dr. Joyner testified that he had pleaded guilty to Abduction of Child 2. Such an offense requires a knowing act by a person who, without privilege to do so, and using force or threat, restrains the liberty of another person under circumstances that create a risk of physical harm to the victim or places the other person in fear. However, Dr. Joyner testified that there was no basis in fact underlying that plea, and that he never restricted Child 2's liberty in any way. He further testified that he never threatened her or used force against her. (Tr. at 670-681; Resp. Ex. KKK)

Dr. Joyner was then asked why, under such circumstances, he agreed to plead guilty to those crimes. He replied that he loved being a doctor and had sacrificed a lot to become one. Dr. Joyner further testified, "I was hoping that by entering a plea to lesser charges that I would be able to present my case before the Board and hopefully be able to practice medicine again." (Tr. at 682-683)

Dr. Joyner added that another big factor was his younger daughter, Child 3, who suffers from Crohn's disease. Dr. Joyner testified that she had a flare-up in October 2011 that required hospitalization, and that he dreaded the thought of being in prison and not available to help her through any further flare-ups. (Tr. at 683-684)

Further, Dr. Joyner testified:

The news at the time when this all started, the whole Jerry Sandusky thing was going on at the beginning of this, there was a lot of these things in the news. And, you know, I'm an educated person. I know that being innocent of a crime does not mean that you won't be convicted of a crime.

* * *

After discussing all of my alternatives with [my criminal attorney] Mr. Friedman, I decided to enter a plea to those charges and hope that I could, again, explain the entire situation to the Board, because it's a much more complex case than anyone ever, I would say, "investigated." But, again, I would argue, without speaking to me, I'm not sure Detective Kirkwood did a complete investigation, you know.

So those are the reasons that I entered a guilty plea.

(Tr. at 684-686)

10. Dr. Joyner testified that Child 2's father, Dr. Roe, had appeared and spoken at his sentencing hearing. Dr. Joyner further testified that Dr. Roe told the court that he never intended that Dr. Joyner should go to jail, or that he planned to take custody of the children from their mother, but that having Dr. Joyner lose his medical license would be ample punishment. (Tr. at 691-692; St. Exs. 4, 4A at 13-17)

Dr. Joyner's Personal History

Background

11. Dr. Joyner testified that his current wife is his third marriage. Dr. Joyner testified that he married his first wife, Sheri Hobson, in 1985 when he was 18 years old and they divorced in 1987. Dr. Joyner testified that he has a very good relationship with her, and with their daughter, Elizabeth, who is now an adult, married, with two children of her own. (Tr. at 47-48, 624-630)
12. Dr. Joyner testified that he married his second wife in 1995 and that they divorced in 2004. Dr. Joyner further testified that he and his second wife have a daughter, identified in this matter as Child 3. (Tr. at 630-636)

Current Spouse

13. Dr. Joyner testified that he began his relationship with Dr. Doe around 2006. He further testified that she was still married to her ex-husband, Dr. Roe, at that time but that she had told Dr. Joyner that they were not happy together and had discussed divorce. Dr. Doe's ex-husband, who is the father of Child 1 and Child 2, is also a physician. He is referred to herein as Dr. Roe to protect the confidentiality of Child 1 and Child 2. (Tr. at 636-638)
14. Dr. Doe testified that she had been married to Dr. Roe from February 1993 until they divorced around October 2008. Dr. Doe further testified that they separated in February 2007, but that she had moved back in with Dr. Roe in March 2008 in an unsuccessful attempt at reconciliation. (Tr. at 184-185)

Dr. Doe further testified that her divorce from Dr. Roe had not been mutual and that Dr. Roe did not want the divorce. She further testified that Dr. Roe continued to pursue reconciliation even months after they had divorced, and that Dr. Roe was very unhappy when it became clear to him that they were not going to get back together. She testified, "He was hurt and he was angry, and he was -- over time has become more and more angry, and every interaction I've had with him has become more and more difficult, and he -- he has attacked me personally since I left him." (Tr. at 185-190)

Moreover, Dr. Doe testified that she believes Dr. Roe to be "a vindictive person, and is someone who was angry with me, and he hated Todd, and I could see where he would want to get back at me." (Tr. at 220)

15. Dr. Doe testified that she has a joint 50-50 custody arrangement with Dr. Roe concerning the children. Dr. Doe further testified that she and Dr. Joyner have different houses, and that he stays with her during times that the children are not there. Dr. Doe testified that Dr. Joyner has not had contact with Child 1 or Child 2 since the time the allegations were made. (Tr. at 263-264, 267-268)
16. Dr. Doe testified that Child 2 was very much affected by her divorce from Dr. Roe, and that Child 2 was very unhappy about it. Dr. Doe further testified that Child 2 continued to remain hopeful that they would get back together until last summer. Dr. Doe testified, "I think at that point it became clear to her that this was not going to happen." (Tr. at 196)
17. Dr. Doe testified that Child 1 and Child 2 share a bedroom at her residence. She further testified that the children sleep in a bunk bed, with Child 1 in the top bunk and Child 2 in the bottom bunk. (Tr. at 200-201)

Evidence Concerning the Conduct Underlying the Criminal Allegations

18. Dr. Joyner testified that, around 2007 or 2008, after Dr. Doe separated from Dr. Roe and purchased her house, he and Dr. Doe began spending nights together on occasion, sometimes with Child 1 and Child 2 in the house. Dr. Joyner testified that he and Dr. Doe would have outings together with Child 1 and Child 2. At some point Child 1 and Child 2 asked Dr. Joyner to read a bedtime story to them, and Dr. Joyner read to them aloud in their bedroom. That continued over the course of time. When asked where in the room he was when he read the stories, Dr. Joyner testified that at first he sat at a desk and chair in their room, and that he gave "dramatic readings" which sometimes entailed him flailing around to emote. (Tr. at 639-644)

Dr. Joyner further testified, "Child 2 at some point asked if I would lay there and read" next to her in her bed, which was the bottom bunk of the children's bunk beds. Dr. Joyner testified that, when he did this, he was not just reading to Child 2 but to Child 1 as well, who would occasionally make comments or ask questions about whatever topic or story Dr. Joyner was reading about. Dr. Joyner testified that, when he read to the children, their

bedroom door remained open and Dr. Doe would often come into the room.
(Tr. at 644-647)

19. Dr. Doe testified that, by 2011, when Dr. Joyner read bedtime stories to Child 2, Child 1 was not always in the room. Dr. Doe testified that, by that time, Child 1 had gotten tired of bedtime stories, and would leave the room periodically to play on the computer in the next room. Dr. Doe acknowledged that, during those times, Child 2 had been entirely alone in the room with Dr. Joyner. However, Dr. Doe further testified that the door to the room had always remained open and that she or Child 1 could walk into the room at any time unannounced. (Tr. at 213-215)

20. When asked if there ever came a time when she became concerned about how Child 2 related to Dr. Joyner, Dr. Doe responded:

I did. For about -- For a period of about two years -- Actually, you know, soon after being introduced to Todd, Child No. 2 would be -- she was extremely attention-seeking and, you know -- and of many different people, but specifically she really liked when Todd came over, and she would sit on his lap, and she would, you know, put his arms around her, and she would run up --

* * *

* * * -- she would run up and kiss him, and Child No. 2 had the habit from an early age of putting her tongue in people's mouths when kissing them, and I told her early on that that was not appropriate behavior and even, you know, the kissing people on the lips was not appropriate behavior, and that was something that she -- that she did sometimes anyway.

(Tr. at 204)

Dr. Doe further testified that she had observed Child 2 kiss Dr. Joyner hello when he came in the door, and she would kiss him on the lips. She testified, "I told her I thought it was inappropriate. I mean, as I said, she kissed me on the lips and I thought that was inappropriate." (Tr. 209)

21. Later in the hearing, Dr. Doe testified that her previous testimony that Child 2 had a *habit* of putting her tongue in people's mouths "may be a slight overstatement. She on occasion did that. I would like to amend what I said. It wasn't a habit of doing that. She did that occasionally." Dr. Doe further testified that Child 2 had done it to her, but that she did not know for certain that she did that to anyone else. Finally, Dr. Doe testified, "That probably happened twice with me." (Tr. at 273)

22. Dr. Joyner also testified that Child 2 kissed him: "Sometimes on the cheek. Sometimes on the lips. Her mother would tell her not to do that. I would tell her not to do that." Dr. Joyner further testified that he never initiated kisses with her. (Tr. at 652)

23. When asked if there was any time that she became concerned that the relationship between Child 2 and Dr. Joyner was an unhealthy one, Dr. Doe responded that she had thought the way that Child 2 behaved around Dr. Joyner was inappropriate but “difficult to explain.” (Tr. at 205) When pressed to explain anyway, Dr. Doe responded:

I'm telling you that it's difficult, because it's something we don't talk about in, you know, this society, and had I not seen it myself, I honestly would not believe that. I would be extremely skeptical about it.

But she was extremely flirtatious with Todd, and she clearly -- you know, to me, it appeared that she had a crush on him, and I -- I was uncomfortable with the way that she was behaving.

The thing that made me uncomfortable about it was that I worried that if she was behaving this way with Todd, I -- I didn't know that she wasn't also going to behave this way with, you know, men at school or, you know, coaches, and I thought that there was potential for problems in the future.

(Tr. at 205-206)

Moreover, Dr. Doe testified that she told Child 2 that she did not think it was appropriate for her to ask Dr. Joyner to read bedtime stories to her or for her to sit in his lap. Dr. Doe added that Child 2 said “okay,” but that “she will often agree to something, and if it’s just not what she wants to do, she’s going to do what she wants to do anyway. She’s like a cat.” (Tr. at 206-207)

24. Dr. Doe testified that in June or July 2011 she discussed with Dr. Joyner her discomfort with Child 2’s behavior around him. (Tr. at 208-211) She stated:

I told him that I thought that she should not be sitting on his lap, that I didn't like the way that she -- She would sometimes sit on his lap, and she wore these really -- at the time she was slightly overweight and she wore T-shirts that were a little bit too small for her, and she -- her, you know, stomach would be exposed when she would be sitting on his lap, and she would put his hands on her stomach, and I told her that I didn't think that was appropriate, and I told Todd that I was concerned about the fact that this was going on.

(Tr. at 208)

25. With respect to Dr. Joyner’s reaction when she told him of her discomfort, Dr. Doe testified:

He agreed that -- you know, that the behavior was getting -- you know, that it was difficult and that she was extremely attention-seeking.

You know, I realize I'm answering more, but I feel like I need to say this.

I think that one of the concerns was that they -- I had said my sister died, you know, in February of 2008 [which affected the children].¹ There was a lot of stuff going on, it was a pretty difficult time. The kids wanted -- Child No. 2 especially wanted continuous attention from me, and when she didn't get continuous attention from me, then she sought attention from Todd, and so I think that, you know, what we had discussed, Todd wanted her to feel accepted and, you know, loved and wanted to help give her the attention -- the appropriate attention, you know, that she was looking for.

(Tr. at 209-210)

26. Dr. Joyner also described Child 2 as being “very attention-seeking, affection-seeking.” He testified that, if he sat down anywhere, she would sit in his lap or sit next to him and take his arm and put it around her. Dr. Joyner further testified, “If I was there, she was always sort of next to me.” (Tr. at 647-648)

Dr. Doe’s Mother’s Discussion with Child 2

27. Dr. Doe testified that, around September 2011, she had become concerned enough about Child 2’s behavior around Dr. Joyner that she asked her mother, referred to herein as Dr. Doe’s mother, to question Child 2. Dr. Doe testified that, rather than questioning Child 2 herself, she had asked her mother to question Child 2 because, at the time, the relationship between Dr. Doe and Child 2 “was a little bit strained because of the issues that had been going on at school and she was having -- she was having a lot of problems.” (Tr. at 270-271)

Dr. Doe testified concerning what her mother learned:

She told me that Child No. 2 had stated that there were two occasions where Todd had touched her breast, and she said that it happened while they were reading, and that it seemed like an accident the first time, and the second time she was not sure that it was an accident.

* * *

That’s what my mother told me, and that’s what I subsequently asked Child No. 2, and that’s what she told me as well.

(Tr. at 215-216)

¹ She testified that this conversation with Dr. Joyner occurred in June or July 2011, more than three years after their aunt died. (Tr. at 210-211)

28. When asked whether she challenged Child 2 about what had happened, Dr. Doe replied, "I asked her, you know, several times, and her story stayed the same with me, and that was that." When asked if she believed Child 2, Dr. Doe replied, "I believed that -- The part about it possibly being an accident, yes, I believed that part." However, she did not believe that Dr. Joyner had intentionally put his hand on Child 2's breast. (Tr. at 216)
29. When asked for her reaction to Child 2's statement, Dr. Doe replied:

Well, I don't know if you can really imagine what it's like to be, you know, in my specific situation.

* * *

One of the things that, you know, when I heard this, I was hearing this not just as a parent, which is -- you know, that enough is -- is -- obviously, you're going to be upset hearing something like this, but I also thought as a physician I thought that I'm a mandated reporter. * * *

* * *

A mandated reporter is somebody who, if you hear of an instance of possible abuse that you are required to report it, and I thought that I was in that situation. I did not understand that actually I wasn't in that situation. And so -- Because as a parent you are not a mandated reporter.

But I thought that there was potential problems for me for not, you know, pursuing this in some way.

(Tr. at 216-217)

When asked what she meant my "pursuing this in some way," Dr. Doe replied:

By not going and talking to * * * Child No. 2's father about it, I -- my perception at the time was that Child No. 2 needed to have some counseling and -- and because of the reasons that I've already mentioned, the fact that she had some attention-seeking behavior that I thought was unhealthy, and I believe that she believed that something inappropriate had happened.

I did not believe that Todd had intentionally touched her in any way, but I understood that she believed that this is what happened.

(Tr. at 217-218)

In addition, the following exchange took place:

- Q. [By Mr. Wilcox] Now, from your testimony, it seemed to be that you were upset with the possibility that you would have to report this incident of reported, I guess, inappropriate touching; is that correct?
- A. [By Dr. Doe] I was upset about the potential implications of something that there was no way to verify whether or not it happened. And I understand what the system is and what happens to people when this type of thing gets reported. That's what I was upset about.
- Q. Wouldn't you want to err on the side of caution on your own daughter and not worry about those things? Wouldn't that be your first priority?
- A. Do I want to err on the side of completely destroying somebody's life when I have observed behavior that has -- that leads me to believe that this may not be what actually happened? No. I am an ethical person, I don't believe in harming other people, and I didn't think that what was being told constituted a degree of harm that was commensurate with completely destroying another person's life without certainty that that's what actually happened, and the behavior I had observed up to that point in time was not consistent.

(Tr. at 276-277)

30. Dr. Doe testified that, because she felt she had a legal duty to report what Child 2 had told her, she advised Dr. Roe approximately six to eight weeks later. (Tr. at 219-224)

Dr. Doe testified that, in November 2011, she went to Dr. Roe's office to advise him what Child 2 had told her. Dr. Doe testified that Dr. Roe told her that he would speak with Child 2 and then decide what to do next. Her impression had been that that likely included reporting it to the authorities. However, Dr. Doe testified that she had been confident that nothing untoward had occurred since Child 2 had reported that it was accidental, and that she "was not worried that [Dr. Roe] was going to find out anything that was going to be a problem." (Tr. at 223, 229-230)

Dr. Doe testified that Dr. Roe sent her a text message after he spoke with Child 2 and reported a different story from what Dr. Doe had been told. Dr. Doe testified that the text message said that Child 2 told Dr. Roe "that there were three instances where Todd had touched her breast, and that also he had on occasion kissed her; not at the same time. * * * That he had kissed her and put his tongue in her mouth." Dr. Doe further testified that Dr. Roe indicated that he was going to contact the police. (Tr. at 230-237)

31. Dr. Doe testified that Dr. Roe went to a pediatrician who specialized in child abuse cases and spoke to him about what Child 2 had said. The pediatrician informed Dr. Roe that he should contact the Department of Children and Family Services ("DCFS") and that, if Dr. Roe did not, the pediatrician would. Dr. Doe testified that she later received a call from

a DCFS social worker who interviewed Dr. Doe over the telephone. Moreover, Dr. Doe testified that the social worker said that she was going to interview Child 2. (Tr. at 238-240)

Dr. Doe added that, in addition to reporting the matter to DCFS, Dr. Roe also went to the police, and the matter was investigated by Detective Kirkwood of the Lakewood Police Department. (Tr. at 240-241)

32. Dr. Doe testified that, when Child 2 was interviewed by the social worker, Det. Kirkwood observed the interview from outside the room. Dr. Doe further testified that, after the interview, “the social worker and the detectives, Detective Kirkwood and his partner, sat down with myself and [Dr. Roe] and they gave us, you know, a synopsis of the interview, which included some additional information—some additional information that had not previously been stated.” Moreover, Dr. Doe testified that, when she reviewed the synopsis, Child 2’s statement was again different from what Dr. Doe had understood. (Tr. at 249-252) Dr. Doe testified:

Basically, what happened was, that each time the story grew, and what I was now being told was that, again, there were three occasions where Child No. 2 stated that Todd had touched her breast, and that he occasionally kissed her and put his tongue in her mouth, not at the same time, and that -- and that also that he had asked her if she liked it.

(Tr. at 253)

Further, Dr. Doe testified that the social worker and Det. Kirkwood told her that they believed Child 2 and did not believe that she was lying. (Tr. at 258)

33. Dr. Doe testified that, at some point, she had been contacted by and asked to meet with the police. She went to the Lakewood Police Department and met with Detective Kirkwood and another officer whose name she does not know. Dr. Doe testified, “That was one of the most disturbing experiences actually I have had.” (Tr. at 240-241, 280)

Moreover, Dr. Doe testified:

From the moment that I sat down, it was everything that I said was interpreted, and I was told right at the beginning that -- I was told right at the beginning that doctors are arrogant, and think they can get away with anything, and that Detective Kirkwood is an expert in pedophilia, and that he knows everything to know about this.

* * *

* * * He told me -- informed me that he has gone to numerous educational courses and read books about it, that he's been doing this for nine-and-a-half to ten years, and that he is an expert in this.

And that everything that I told him, he interpreted as "Oh, that's another sign. That's something that pedophiles do." Everything that I said, no matter what I said.

(Tr. at 242-243)

Finally, Dr. Doe testified that, at the conclusion of the interview, Det. Kirkwood informed her that, based upon the information that they had obtained at that time, they planned to arrest Dr. Joyner. (Tr. at 249)

Testimony of Dr. Doe's Mother

34. Dr. Doe's mother testified that she currently lives in Lakewood, Ohio. Dr. Doe's mother further testified that she was born in 1940 in Budapest, Hungary. Moreover, Dr. Doe's mother testified that, during the war, she and her mother hid on a small island in the Danube to hide from the Nazis because her mother was of Jewish heritage. Dr. Doe's mother further testified that, during that era, she developed a fear of police authorities. (Tr. at 122-124)
35. Dr. Doe's mother testified that she grew up in Hungary but moved to the United States on a permanent basis in 1966. She testified that she married an American citizen. Dr. Doe's mother further testified that she was educated in Switzerland, and that she has a degree in medical technology, majoring in hematology. (Tr. at 124-126)
36. Dr. Doe's mother testified that she sees her grandchildren almost daily and assists in their care. Moreover, Dr. Doe's mother testified that they stay with her frequently, including for a six-and-one-half month period of time while Dr. Doe's house was being remodeled. (Tr. at 128-130)

Dr. Doe's mother further testified that she knows Dr. Joyner, who she testified is her current son-in-law, as well as Dr. Roe, Dr. Doe's first husband and her former son-in-law. (Tr. at 128-130)
37. Dr. Doe's mother testified that she had questioned Child 2 at the request of Dr. Doe. Dr. Doe's mother indicated that she does not believe that Dr. Doe "felt that there was some abuse going on, but that there might have been some inappropriateness." Dr. Doe's mother acknowledged that Child 2 told her that there was indeed something inappropriate going on. Dr. Doe's mother testified that Child 2 only told her of one incident. (Tr. at 150-152)
38. Dr. Doe's mother testified that, when she first talked to Child 2, she had believed the child. However, she has since come to believe that the statement is not true because she knows Dr. Joyner well enough "that something like this wouldn't even occur to him." Dr. Doe's mother explained that, initially, she did not know Dr. Joyner very well, and she did not

approve of his relationship with Dr. Doe. However, Dr. Doe's mother testified that, as she's gotten to know Dr. Joyner, she has changed her opinion. (Tr. at 165-167)

39. Dr. Doe's mother testified that she had gone to the Lakewood Police Department to be interviewed. When asked whether she had told the Lakewood police that she believed the allegations, Dr. Doe's mother replied, "I may have. I was extremely frightened when I was at the Police Department." Dr. Doe's mother further testified that Detective Kirkwood "scared the daylight out of me" and that she cried almost the whole time she was there. Dr. Doe's mother testified that she cannot recall whether she told Detective Kirkwood that she believed her granddaughter's story. (Tr. at 149-150, 153, 156)

Dr. Doe's mother testified that she is terrified of police because, in addition to her early childhood experiences during World War II, in April 1957, after the Hungarian revolution, she had been questioned by the Hungarian police in a military prison.² Dr. Doe's mother testified that, even though she had not been under arrest when that happened, it was a frightening experience. Dr. Doe's mother testified that she has carried that with her ever since. (Tr. at 156-157)

40. When asked if Detective Kirkwood had expressed his view concerning whether or not Dr. Joyner was responsible for sexually abusing Child 2, Dr. Doe's mother testified:

He very loudly proclaimed that Dr. Joyner was a pervert, and a child molester, and that he was going to get him, and that we know how to deal with these -- these men, and he has read every book on it, and he's an expert, and he has been doing this for nine years, and he certainly knows these kinds.

(Tr. at 159)

When asked if she had protested or disagreed with Detective Kirkwood's statement, Dr. Doe's mother testified that she would "never disagree with a policeman * * * [b]ecause [she is] afraid of them." (Tr. at 159)

Testimony of Detective Larry R. Kirkwood, Jr.

41. Larry R. Kirkwood, Jr., testified that he is employed as a detective with the Lakewood Police Department. Det. Kirkwood further testified that he has worked as a police officer for over 25 years, and as a detective for 11 of those years. (Tr. at 713-715)
42. Det. Kirkwood testified that, during the course of his duties, he had occasion to investigate Dr. Joyner. He testified that the investigation was initiated on December 12, 2011, based upon a complaint filed by Dr. Roe. Det. Kirkwood testified that he was the lead detective and was assisted by another detective in his department, Detective Fuerst. (Tr. at 715-716)

² Dr. Doe's mother acknowledged that she had not been imprisoned at that time, but was simply questioned there. (Tr. at 157)

43. Det. Kirkwood testified that, during the investigation, he spoke with Dr. Doe's mother. Det. Kirkwood testified that he called Dr. Doe's mother on December 21, 2011, to set up an appointment for her to come in and speak to him, and that she came in the following day. Det. Kirkwood testified that Dr. Doe's mother drove herself to that appointment—she was not brought in in a police car—and came alone. When she arrived, Det. Kirkwood went to the lobby and introduced himself, then asked her to step into his office, which he testified is the first door in the hallway adjacent to the lobby. Det. Kirkwood testified that Det. Fuerst was also in the office at that time. (Tr. at 716-719)
44. Det. Kirkwood testified that Dr. Doe's mother sat down in a chair in his office and answered his questions. He testified that she had not appeared to be nervous—her voice did not shake as they spoke—but seemed comfortable. Det. Kirkwood further testified that she never told him that she was afraid to be in his office, nor did she ever ask to leave because she was too nervous or frightened to talk. Moreover, Det. Kirkwood testified that she appeared to cooperate and answer the questions he asked her. (Tr. at 719-720, 732)
45. Det. Kirkwood was asked to respond to testimony by Dr. Doe's mother that his demeanor and attitude affected her ability to respond accurately to questions:

No, I didn't affect her at all. I mean, it's -- it's actually a comfortable atmosphere in this office. She was comfortably sitting back. I was sitting back in my chair. I was just asking her to explain what she learned.

And the way I do that when somebody comes in, when I ask them to explain, the first time through I let them just tell the story. I don't interrupt them. A lot of times if you interrupt, it -- it blocks their memory, so I let them go through everything they want to tell me first, and then I go back and I will ask questions.

So when I originally asked her the question to tell me what she knew, she just went on and told me the story of what she knew. And then after she finished that, that's when I went back and I asked her questions.

(Tr. at 727-728)

Det. Kirkwood added that Dr. Doe's mother never asked to be excused from the interview. He further testified that the interview lasted between 30 and 45 minutes. (Tr. at 728-729)

46. Det. Kirkwood testified that he had not been aware of Dr. Doe's mother's background as a Holocaust survivor and experience living in Hungary, and that Dr. Doe's mother had not offered that information. (Tr. at 732-734)
47. In addition, with respect to Dr. Doe, Det. Kirkwood testified that he never spoke to her in an intimidating fashion:

They're witnesses. They're not suspects or anything of that nature. They're coming in freely to tell me what they know. So it's purely up to them to come in. They -- They voluntarily come to my office. I ask them to come in, and then they -- they freely come in.

(Tr. at 729-730) Det. Kirkwood noted that he had talked to Dr. Doe a total of five or six times. (Tr. at 729)

48. Det. Kirkwood denied that he had told Dr. Doe that he was an expert in certain areas of detective work:

I explained to her that we have special training in this office in child crime investigation, sex crime investigation, and family violence investigation, so we do specialize, but we're not experts.

* * *

The only thing I'm expert in, I'm an accident reconstructionist, so I am considered an expert for my testimony for that, but that's something totally different.

(Tr. at 740)

49. Det. Kirkwood testified that Dr. Doe had not appeared nervous but had seemed upset during her interview. Det. Kirkwood further testified that, during the interview, he had made no allegations concerning Dr. Joyner because, at that point, he was just gathering information: “[A]t this point I wouldn’t be making accusations about anybody until I have everything together.” Moreover, Det. Kirkwood testified that he never expressed to Dr. Doe any opinion concerning the conduct of Dr. Joyner. When advised of Dr. Doe’s testimony that he had made an accusation about Dr. Joyner’s conduct, Det. Kirkwood testified that he may have relayed information that he had gathered during his investigation back to her, but that he is certain that he never made an accusation toward Dr. Joyner to Dr. Doe. Finally, Det. Kirkwood testified that he never told Dr. Doe that he thought doctors were arrogant, that they think they can get away with things, or any other words to that effect. (Tr. at 735-741)

Testimony of Dr. Doe and Dr. Doe’s Mother Concerning Child 2’s Honesty

50. Dr. Doe testified that Child 2 is not always honest:

Child No. 2 has the ability to look you directly in the eye and lie, and that has been something that I have observed -- Actually, I had a conversation with [Dr. Roe] about it when she was about two years old that it was disconcerting to me that she was at that age able to look at me and I could not tell whether

or not she was lying, whereas her sister, it was clear to me that I always knew when she was lying.

So over the years, there have been many instances where she has lied to me.

(Tr. at 190-191) Dr. Doe added that this has been consistent throughout Child 2's life, and included problems at school. (Tr. at 191-194)

51. When Dr. Doe was asked whether Child 2 had believed what she was saying on occasions in the past when Child 2 lied to her, Dr. Doe replied, "Yes. She is extremely convincing, and so yes, it's easy to believe the things that she's telling you until you're, you know, confronted with completely contradictory information." (Tr. at 218-219)

52. Dr. Doe testified:

[T]here had been a history of some behavioral issues at school, and Child No. 2 had gone to see the school counselor, who I don't know what her qualifications actually are, but she would meet with Child No. 2 periodically. There was an awareness that there was a history of some problems.

(Tr. at 226)

Dr. Doe added that, to her knowledge, Child 2's behavioral issues at school have not included any inappropriate sexual behavior. (Tr. at 226)

53. Dr. Doe's mother testified that she has spent a lot of time with Child 2. (Tr. at 143-144)
Dr. Doe's mother further testified:

Child No. 2 will not tell the truth when it's -- when the truth would be inconvenient. And I -- Whenever I get home and the children are at my house, I immediately ask them, "Do you have any homework? Have you finished your homework?" And Child No. 2 invariably will say, "I didn't have any homework," or, "I finished my homework," while the other child, Child No. 1, is working hard at her homework. And, invariably, I find out that -- at 9:30 or 10:00 o'clock, she would say -- Child No. 2 would say to her mother, "I'm not finished with my homework."

(Tr. at 144-145)

Moreover, Dr. Doe's mother testified that this behavior occurs "[v]ery frequently."
(Tr. at 145)

54. Dr. Doe's mother testified that she understands that there is a difference between lying about finishing homework and being sexually abused; however she testified that "a lie is a lie." (Tr. at 153-154)

Incident During Trip to Ireland

55. Dr. Doe's mother testified that, prior to the events leading to criminal charges against Dr. Joyner, the extended family traveled to Dublin, Ireland, for a family reunion in June 2010.³ Dr. Doe's mother noted that, in addition to herself and her husband, Dr. Joyner, Dr. Doe, Child 1, and Child 2 were there. Dr. Doe's mother further testified that, during that time, they visited the Dublin zoo. While there, the group was photographed by a zoo photographer. Dr. Doe's mother noted that there were approximately 10 people in the group. They formed into a semicircle; Dr. Doe's mother and her husband were at one end and Dr. Doe, Dr. Joyner, and the children were standing at the other end. Dr. Doe's mother testified that Child 2 was standing in front of Dr. Joyner, "kind of leaning onto" him. Dr. Doe's mother testified that, while assembled for the photo, she observed Child 2 reach behind her back, take Dr. Joyner's hands, and put them on her breasts. Dr. Doe's mother further testified that, when this happened, Dr. Joyner pulled his hands back. Finally, Dr. Doe's mother testified that she later discussed this with Dr. Doe. (Tr. at 140-143)

When asked what she thought of this event, Dr. Doe's mother testified:

Not -- Not as -- I just -- I just felt if I would have been that child I wouldn't have done it, but it didn't strike me like it was something horrendous, because there has always been a very good relationship between the children and Todd.

(Tr. at 143)

56. Dr. Joyner related the story concerning posing for a photograph during a trip to Ireland, and that Child 2 had taken his hands and placed them on or near her breasts; Dr. Joyner testified, "I was behind her. I couldn't tell." He stated that Dr. Doe's mother told him that that had occurred. However, Dr. Joyner testified that he had not spoken directly with her mother about it. Instead, "She may have told [Dr. Doe] and [Dr. Doe] may have told me. I don't remember now." (Tr. at 649-651)

Character Evidence

Testimony of Elizabeth A. Chastain

57. Elizabeth A. Chastain testified that she is the daughter of Dr. Joyner. Ms. Chastain testified that she is 27 years old, and currently resides in Texas. Ms. Chastain further testified that she was born and raised in Memphis, Tennessee, and lived there until 2009. Ms. Chastain

³ Dr. Doe's mother noted that her husband has dual citizenship in Ireland and in the United States. (Tr. at 124-125, 141)

indicated that her mother is Sheri Hobson, Dr. Joyner's first wife. Ms. Chastain is married and has two children ages three years old, and four months old. (Tr. at 84-87)

58. Ms. Chastain testified that she spent a significant amount of time with her father growing up, and that he never said or did anything that was inappropriate or that made her feel uncomfortable. Moreover, Ms. Chastain testified that she "would not for one second hesitate leaving [her] children" with Dr. Joyner. (Tr. at 91-102)

Testimony of Sheri L. Hobson

59. Sheri L. Hobson testified that she married Dr. Joyner in November 1985 and that the marriage lasted about "a year and a half, almost 2 years." Ms. Hobson testified that the marriage ended in an uncontested divorce in 1987. Ms. Hobson further testified that she is the mother of Ms. Chastain. Moreover, Ms. Hobson testified that she remarried after her divorce from Dr. Joyner, and has four other children. (Tr. at 105-109)
60. Ms. Hobson testified that Dr. Joyner had always been very faithful with his visitation of Ms. Chastain every other weekend, and that he picked her up, and dropped her off, on time. Ms. Hobson corroborated Ms. Chastain's testimony that she had spent a significant amount of time with Dr. Joyner, and Ms. Hobson added that Ms. Chastain "loves her dad." Moreover, Ms. Hobson testified that she has never had any reservations about her daughter spending time alone with Dr. Joyner. (Tr. at 109-111)

Testimony of Jeremy M. Lipman, M.D.

61. Jeremy M. Lipman, M.D., testified that he has worked as a colorectal surgeon at MetroHealth since 2010. He further testified that he voluntarily traveled to Columbus to testify on behalf of Dr. Joyner. (Tr. at 563-571)
62. Dr. Lipman testified that he saw many of Dr. Joyner's patients, and that he believes Dr. Joyner to be an "outstanding" physician. Dr. Lipman testified that he has never observed Dr. Joyner treat any member of staff inappropriately or make inappropriate remarks to them. Dr. Lipman testified that he had been shocked when he learned of the criminal charges that Dr. Joyner faced. (Tr. at 571-574, 576-577, 596-597)
63. Dr. Lipman testified that he would have no problem leaving his six-year-old daughter with Dr. Joyner unsupervised. (Tr. at 599)

Testimony of James S. Williams, M.D.

64. James S. Williams, M.D., testified that he is a board-certified radiologist and holds a certificate of added qualification in vascular and interventional radiology. Dr. Williams further testified that, since May 2011, he has been employed at MetroHealth. Dr. Williams testified that Dr. Joyner possesses excellent medical skills and that his performance as a

physician is exemplary. Dr. Williams further testified that Dr. Joyner is well-liked, and missed, by his colleagues. (Tr. at 303-306, 317-320)

65. Dr. Williams acknowledged that he is a social friend of Dr. Joyner's and that Dr. Joyner is "[a]s close a friend as I have in Cleveland." Dr. Williams acknowledged that that could be causing some bias on his part in favor of Dr. Joyner. (Tr. at 314-315)
66. Dr. Williams testified that he is familiar with Child 1 and Child 2 in this matter. Dr. Williams described his own personal feelings of discomfort around Child 2, and that he felt that she was "a little clingy" and that he felt "sometimes a little uncomfortable at the hugs [he] would get from this child * * *." Dr. Williams further testified that he had felt "the need to distance [himself] from her." (Tr. at 322-324)

Testimony of Gabrielle Germaine Hubbard

67. Gabrielle Germaine Hubbard testified that she is a registered nurse and that she works at MetroHealth. She is currently the Night Shift Supervisor for the entire hospital. In addition, Ms. Hubbard testified that she is a patient of Dr. Joyner.⁴ (Tr. at 328-339)
68. Ms. Hubbard testified that she has had an opportunity at various times to observe Dr. Joyner's practice and performance as a physician. She testified that she has observed him to be "strong, decisive, and quick with his assessment of the patient," and related an incident where Dr. Joyner's decisiveness was key to obtaining a good result with a patient who coded. (Tr. at 342-343)
69. Ms. Hubbard testified that she thought well enough of Dr. Joyner that she chose him as her physician when she was struck with pancreatitis. Ms. Hubbard further testified that Dr. Joyner correctly diagnosed the cause of the condition that ultimately resulted in a good outcome. Moreover, Ms. Hubbard testified that Dr. Joyner had a very good, calming manner with her as her physician. (Tr. at 346-350)
70. Ms. Hubbard testified that she is familiar with the charges that gave rise to the criminal matter against Dr. Joyner. She further testified that that does not change her opinion of him: "[A]t no point did I ever think that that was even possible of Todd. I didn't believe it from the beginning." Ms. Hubbard further testified, "I would like to think that I would be good enough of a judge of character to know if somebody is capable of something like that." (Tr. at 354-355)

Testimony of Steven A. Ricanti, M.D.

71. Steven A. Ricanti, M.D., testified that he is an internal medicine physician and has worked as an attending physician at MetroHealth since 2001. He has known Dr. Joyner for 12 years. Dr. Ricanti testified that he primarily works with patients on an outpatient basis and

⁴ Ms. Hubbard waived her right to patient confidentiality. (Tr. at 328-329)

that Dr. Joyner is a hospitalist, but that when Dr. Ricanti is on hospitalist service, their shifts sometimes overlap. (Tr. at 358-366)

72. Dr. Ricanti testified that Dr. Joyner takes excellent care of his patients and has an excellent bedside manner. Dr. Ricanti further testified that Dr. Joyner is “famous at our hospital” for his concern for “people that are on the margins of society and that a lot of other people don’t care about,” such as drug addicts and homeless people. Dr. Ricanti testified that Dr. Joyner will introduce students to such patients and ask the patient to talk about their lives to the students to educate the students about what their lives are like. (Tr. at 366-369)
73. Dr. Ricanti further testified that Dr. Joyner is very friendly and warm with other hospital personnel. (Tr. at 370-371) When asked to describe his manner with female hospital employees, Dr. Ricanti testified:

Well, I think Todd's behavior with all people is very informal and involves a lot of back-and-forth banter, and with people of the opposite sex, it's the same. As with men, you know, we have the things that he and I joke about, and with women, it's usually the sort of flirtatiousness kind of sexual tension.

(Tr. at 371) However, Dr. Ricanti testified that he does not mean to suggest that there was sexual harassment:

I never saw anyone get offended. You know, I think Todd's very perceptive of other people, and when I would see him acting in a way that I thought was flirtatious with a woman, it was always some woman who was giving it back to the same degree that it was being given. I had the sense that if a woman wouldn't return those kind of things, then he wouldn't initiate or do that. That would just be not appropriate.

(Tr. at 371-372)

Dr. Ricanti testified that he never saw Dr. Joyner touch a patient or colleague in an inappropriate way or in a way that the patient or colleague reacted as if they were offended. (Tr. at 374)

74. Dr. Ricanti testified that Dr. Joyner is attracted to “strong, adult women. Powerful women.” Dr. Ricanti further testified that he has treated patients who had been through the criminal justice system for sex crimes, and that “[t]hey prey on vulnerable people, and it’s a crime of violence, as much as a crime of sex. They’re interested in dominating others, controlling others.” Dr. Ricanti testified that Dr. Joyner “is not a predator. In fact, just the opposite. You know, I think he cares for people on the edge.” (Tr. at 382-383)
75. Dr. Ricanti testified that he is the father of three children, including a daughter. Dr. Ricanti further testified that he would have had no qualms about allowing Dr. Joyner to babysit his children. (Tr. at 385-386)

Testimony of Robert S. Weiss, M.D.

76. Robert S. Weiss, M.D., testified that he is a psychiatrist, and that he retired in 2011. Dr. Weiss testified that he had previously practiced psychiatry at MetroHealth. (Tr. at 396-399)
77. Dr. Weiss testified that he has known Dr. Joyner since approximately 1999 or 2000 when Dr. Joyner was a resident at MetroHealth. Dr. Weiss enthusiastically praised Dr. Joyner's abilities as a physician. (Tr. at 402-408)
78. Dr. Weiss testified that Dr. Joyner had a professional and responsible manner with colleagues and hospital personnel. With respect to Dr. Joyner's interactions with female nurses, Dr. Weiss testified:

For the most part, he was professional. There was a sense periodically of Dr. Joyner being a bit of a flirt, which was not uncommon, generally, given the tension on an internal medicine hospital unit. So that some of the banter was a bit playful in a flirtatious manner, it was never overly serious, and it, for the -- for the most part, was lighthearted and easy.

(Tr. at 412-413) Dr. Weiss added that he had never felt that Dr. Joyner's flirtatious behavior was inappropriate. (Tr. at 413)

Testimony of Jean M. Adamcek

79. Jean M. Adamcek testified that she is a certified nurse practitioner and that she currently works for Mercy Health Partners. Ms. Adamcek further testified that, from 1999 until January 2013, she had worked at MetroHealth in the Presurgical Evaluation Department. Ms. Adamcek testified that she has known Dr. Joyner since 1999 when he was a resident. She praised his skill and knowledge as a physician and as someone who was always willing to answer questions. Ms. Adamcek further testified that Dr. Joyner was always respectful toward her and the nursing staff. (Tr. at 428-449)
80. Ms. Adamcek testified that she would have had no qualms about allowing Dr. Joyner to babysit her two daughters when they were younger, or her grandchild today. (Tr. at 462)

Testimony of Sandra M. Glagola, D.O.

81. Sandra M. Glagola, M.D., testified that she practices at MetroHealth and has worked there since her internal medicine residency began in 2005. She finished her residency in 2008, then joined the faculty at MetroHealth as a hospitalist. (Tr. at 465-471)
82. Dr. Glagola testified that she first met Dr. Joyner during her residency, and she continued to have regular contact with him until he left MetroHealth in 2012. Dr. Glagola testified

that she frequently contacted Dr. Joyner if she had questions concerning the management of a patient because “he has excellent diagnostic skills and he’s an excellent clinician,” and was capable of providing the best advice concerning the care of the patient “regardless of whether [she] wanted to hear it or not.” (Tr. at 473-482)

83. Dr. Glagola testified that, as a female physician, she has experienced an element of sexism in the medical profession. However, she testified that she has never viewed Dr. Joyner to be a sexist. (Tr. at 553)

Letters of Support

84. Dr. Joyner presented numerous letters of support from colleagues, hospital staff, and patients. These letters characterize Dr. Joyner as a dedicated and compassionate physician, and many express disbelief that Dr. Joyner could have committed the acts that lead to his criminal conviction. (Resp. Exs. A-GG, ZZ-JJJ)

Additional Information

85. Dr. Joyner testified that he did very well at MetroHealth with respect to performance evaluations, and that he “was the top performing hospitalist in matters of efficiency that they had. [Dr. Joyner’s] early discharge rate was the highest.” (Tr. at 620-623)
86. Dr. Doe testified that she had not been present in the courtroom during Dr. Joyner’s sentencing hearing. However, she testified that she learned later that Dr. Roe had brought Child 2 to court that day. Dr. Doe testified that Child 2 had been very clear that she did not want to testify if the matter went to trial. Further, Dr. Doe testified that Child 2 was seeing a therapist, and that the therapist had met with the prosecutor and asked that Child 2 not be made to testify, and that it would have been against Child 2’s best interests to be made to testify. (Tr. at 264-266)
87. Dr. Doe testified that if she believed that Dr. Joyner had molested Child 2 she would not continue to have a relationship with him. (Tr. at 293)

RELEVANT STATUTES AND RULES

1. Ohio Administrative Code Rule (“Rule”) 4731-13-24 states: “A certified copy of a plea of guilty to, or a judicial finding of guilt of any crime in a court of competent jurisdiction is conclusive proof of the commission of all of the elements of that crime”
2. R.C. 2905.02(A)(2), Abduction, states, in part, as follows:
 - (A) No person, without privilege to do so, shall knowingly do any of the following:

* * *

- (2) By force or threat, restrain the liberty of another person under circumstances that create a risk of physical harm to the victim or place the other person in fear[.]
3. R.C. 2903.11, Felonious Assault, states, in part, as follows:
 - (A) No person shall knowingly do either of the following:
 - (1) Cause serious physical harm to another or to another's unborn[.]
4. R.C. 2923.02, Attempt to Commit an Offense, states, in part, as follows:
 - (A) No person, purposely or knowingly, and when purpose or knowledge is sufficient culpability for the commission of an offense, shall engage in conduct that, if successful, would constitute or result in the offense.

CREDIBILITY OF WITNESSES

This case concerns Dr. Joyner's plea of guilty to and conviction for one count of Abduction and one count of Attempted Felonious Assault. The victim of these offenses is Child 2, the daughter of Dr. Doe, who is now Dr. Joyner's wife. Child 2 was approximately ten years old when the conduct underlying the offenses occurred. There is no dispute that Dr. Joyner pleaded guilty to these offenses or that his guilty pleas and convictions violate R.C. 4731.22(B)(9). However, having pleaded guilty to those offenses in court, he now asks the Board to believe that these offenses, or conduct underlying the offenses, never occurred. The Hearing Examiner does not find Dr. Joyner's defenses persuasive, partly in light of Rule 4731-13-24, as set forth above, and partly because he simply does not believe the Respondent's witnesses.

The State's case-in-chief consisted of certified copies of court documents, along with questioning Dr. Joyner on cross-examination. On rebuttal, the State presented the testimony of Det. Kirkwood, a detective from the Lakewood Police Department.

Dr. Joyner presented a number of witnesses, including Child 2's mother and grandmother, along with Dr. Joyner and several family members and character witnesses.

- **Defense: Dr. Roe was jealous and vindictive and used Child 2 to punish Dr. Joyner:** Much testimony was adduced from Dr. Doe and Dr. Doe's mother that Dr. Roe was extremely jealous and that he hated Dr. Joyner. Dr. Doe had been afraid that Dr. Roe would try to take custody of the children away from her. However, this evidence is wholly unconvincing. What strikes the Hearing Examiner is how reasonable Dr. Roe's reaction had been to the untoward news.

Sometime in November 2011, several weeks after she learned of Child 2's statement that Dr. Joyner may have inappropriately touched her, Dr. Doe reported it to Dr. Roe. According to Dr. Doe, Dr. Roe reacted by saying that he would speak to Child 2 and then decide what to do next. He spoke to Child 2 and reported to Dr. Doe that Child 2 had told him there were three instances where Dr. Joyner touched her breast and that Dr. Joyner had kissed her and put his tongue in her mouth. Dr. Roe then consulted a pediatrician who specialized in child abuse cases. The pediatrician told Dr. Roe that he should contact Children's Services and, if he did not, the pediatrician would. Dr. Roe contacted children's services, after which the police investigated the matter and criminal charges were filed against Dr. Joyner.

There is nothing in Dr. Roe's reaction, as reported by Dr. Doe, that seems vindictive or vengeful. Furthermore, even after Dr. Joyner pleaded guilty to the offenses of Abduction and Attempted Felonious Assault with Child 2 as the victim, Dr. Roe has never moved to take custody of the children away from Dr. Doe. This is true despite the fact that she is married to the man whom Dr. Roe believes inappropriately touched his daughter. Dr. Roe appears to the Hearing Examiner to be the living embodiment of reasonableness. Accordingly, this defense is rejected.

- **Defense: Child 2 is untruthful.** Both Dr. Doe and Dr. Doe's mother testified that Child 2 is an accomplished liar and will stick with her false stories until confronted with contradictory evidence. Nevertheless, Dr. Doe testified as follows concerning Child 2's statement to Dr. Doe's mother:

[My mother] told me that Child No. 2 had stated that there were two occasions where Todd had touched her breast, and she said that it happened while they were reading, and that it seemed like an accident the first time, and the second time she was not sure that it was an accident.

* * *

That's what my mother told me, and that's what I subsequently asked Child No. 2, and that's what she told me as well.

This does not seem to the Hearing Examiner to be the statement of a child who is lying. Instead, Child 2 reported that something happened to her that confused her. She thought it could have been an accident the first time, but the second time it happened she was not so sure. The Hearing Examiner cannot imagine a more reasonable statement coming from a child under such circumstances. Accordingly, this defense is wholly rejected.

- **Defense: Child 2's behavior was precocious.** According to Dr. Doe, Child 2 was "extremely flirtatious" with Dr. Joyner and "it appeared that she had a crush on him." According to the testimony of Dr. Doe, Dr. Doe's mother, and Dr. Joyner, Child 2 tried to monopolize his attention, always wanted to sit in his lap, would take his hand and place it around her, kissed him on the lips, and wanted him to read bedtime stories to her.

Dr. Doe's mother related an incident that occurred during a family trip where she saw Child 2 take Dr. Joyner's hands and place them on her breasts. This occurred in 2010, approximately one year prior to the conduct underlying the offenses. Dr. Doe's mother added that she saw Dr. Joyner pull his hands back when that happened; however, Dr. Joyner testified that he did not know that had occurred until told by Dr. Doe's mother, or Dr. Doe after speaking to her mother.

Moreover, one of Dr. Joyner's character witnesses indicated that Child 2 was "clingy" and that he felt uncomfortable around her.

The Hearing Examiner finds this evidence unpersuasive. Dr. Joyner had started staying overnight with Dr. Doe at her house beginning in 2007 or 2008, after she had separated from Dr. Roe. The incidents underlying the criminal allegations occurred years later, in 2011. By that time, he should have been fully aware of Child 2's behavior. He testified that she was always holding on to him, always wanted his attention, always sat in his lap, and kissed him on the lips. In June or July 2011, Dr. Doe spoke with Dr. Joyner about her discomfort with Child 2's behavior around him. Nevertheless, it seems that it should have been unnecessary for Dr. Doe to express her discomfort to Dr. Joyner; Dr. Joyner should have recognized Child 2's inappropriate behavior and ceased doing anything that might encourage it. This could not be accomplished by lying next to her in her bed while reading to her. Why Dr. Joyner continued to do so in 2011 was never explained. Accordingly, this defense is rejected.

- **Defense: The detective who investigated Dr. Joyner was intimidating and predetermined Dr. Joyner's guilt.**

Both Dr. Doe and her mother testified that they had felt very intimidated by Det. Kirkwood, that he had made some negative comments about physicians, that he was an expert on pedophilia, and that he appeared to have predetermined Dr. Joyner's guilt. Although it is certainly possible that either or both of them may have felt intimidated being questioned by a police detective, particularly Dr. Doe's mother given her negative past experiences, balancing their testimony with that of Det. Kirkwood, the Hearing Examiner does not believe that Det. Kirkwood purposely intimidated or cajoled them. In any case, it is irrelevant. Dr. Joyner pleaded guilty to two felony-level offenses.

Finally, the Hearing Examiner was struck by Dr. Doe's evident lack of concern for Child 2 after Dr. Doe's mother reported to her what Child 2 had said. Dr. Doe seemed far more worried about being required to report this information to Dr. Roe than the possibility that her child had been abused. Her testimony throughout the hearing left the Hearing Examiner with the impression that Dr. Doe is more concerned about protecting Dr. Joyner than Child 2.

FINDINGS OF FACT

On or about November 26, 2012, in the Court of Common Pleas, Cuyahoga County, Ohio, Joseph Todd Joyner, M.D., pleaded guilty to, and was found guilty of, one felony count of

Abduction, in violation of R.C. 2905.02; and one felony count of Attempted Felonious Assault, in violation of R.C. 2923.02 as applied to R.C. 2903.11. The aforementioned criminal conduct, which occurred in or about 2011, involved a minor female under the age of 13 years old.

CONCLUSIONS OF LAW

The plea of guilty, and the judicial findings of guilt, of Joseph Todd Joyner, M.D., as described in the Finding of Fact, individually and/or collectively, constitute, “A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony,” as that clause is used in R.C. 4731.22(B)(9).

RATIONALE FOR THE PROPOSED ORDER

The evidence establishes that Dr. Joyner pleaded guilty to Abduction and Attempted Felonious Assault involving a female child under the age of 13. The evidence further establishes that Dr. Joyner admitted in court that he committed these offenses, which were amended from the original charges. The court accepted his plea and found him guilty of both offenses. He was sentenced to five years of community control, and his community control was terminated after about eight or nine months.

Having accomplished his goal with the court; namely, avoiding a jail sentence, Dr. Joyner now comes before this Board with the goal of retaining his medical license. Contrary to what he told the court, he now conveniently claims that nothing happened. According to Dr. Joyner, it was just an accusation by a dishonest, precocious child, egged on by her vindictive father who was consumed with jealousy and hatred for Dr. Joyner for breaking up his marriage to Dr. Doe, and investigated by an overzealous police detective who interpreted everything that was said by Dr. Doe and Dr. Doe’s mother as evidence of pedophilia. As stated earlier, the Hearing Examiner rejects all of these defenses. When examined closely, it is clear that Child 2 did not lie about what happened to her; she was confused by something that she did not understand, and appeared to want to give Dr. Joyner the benefit of doubt. Further, Dr. Roe did not behave as a jealous, vindictive ex-husband who was out to get Dr. Joyner; he took measured and reasonable steps to protect his daughter after receiving troubling news. Moreover, Det. Kirkwood impressed the Hearing Examiner as having approached his questioning of Dr. Doe and her mother in a reasonable and professional manner. Finally, it is clear that the goal of Dr. Doe, and her mother, is to protect Dr. Joyner.

In addition, the Hearing Examiner was struck by Dr. Joyner’s professed willingness to plead guilty to offenses that he did not commit, which were amended from allegations which he also stated he did not commit. Given the nature of the offenses, the Hearing Examiner finds it remarkable that Dr. Joyner would rather plead guilty to such heinous conduct rather than fight the allegations in court, even if that might mean going to prison if he loses. Dr. Joyner asserted that he wanted to avoid the risks of trial; however, there is *always* risk in going to trial for every criminal defendant in every criminal case. Dr. Joyner *chose* not to fight the allegations in the appropriate forum—the

criminal court. Instead, he pleaded guilty to two serious felonies and decided to fight the criminal case in front of the Board. The Board is *not* the appropriate forum for this fight, and that is what Rule 4731-13-24 was designed to prevent.

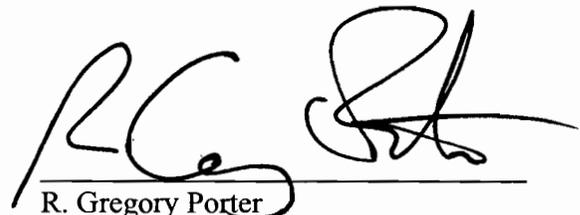
If the Hearing Examiner were convinced that a respondent's conduct underlying a felony criminal conviction never occurred, he would still find a violation of R.C. 4731.22(B)(9)—the mere fact of a conviction triggers the violation—but would propose a lenient order. However, in order for that to occur, the defense would have to be absolutely ironclad and convincing. In the matter of Dr. Joyner, the defense is not even close to that. Accordingly, given the seriousness of the offenses to which Dr. Joyner pleaded guilty, the Proposed Order would permanently revoke his certificate to practice medicine and surgery in Ohio.

PROPOSED ORDER

It is hereby ORDERED that:

The certificate of Joseph Todd Joyner, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED.

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



R. Gregory Porter
Hearing Examiner

State Medical Board of Ohio

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

(614) 466-3934

med.ohio.gov

EXCERPT FROM THE DRAFT MINUTES OF MAY 14, 2014

REPORTS AND RECOMMENDATIONS AND PROPOSED FINDINGS AND PROPOSED ORDERS

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

Dr. Ramprasad asked whether each member of the Board had received, read and considered the hearing records; the Findings of Fact, Conclusions of Law, Proposed Orders, and any objections filed in the matters of: Abdulrahim Al-Awashez, M.D.; Steven Francis Brezny, M.D.; Joseph Claude Carver, M.D.; Ronald Alan Greeno, M.D.; Joseph Todd Joyner, M.D.; Ramanadham Kilaru, M.D.; David Edward Noonan, Jr.; and Bradley Joseph Vargo, D.O.

A roll call was taken:

ROLL CALL:	Dr. Bechtel	- aye
	Dr. Saferin	- aye
	Dr. Soin	- aye
	Dr. Steinbergh	- aye
	Dr. Ramprasad	- aye
	Dr. Sethi	- aye
	Dr. Talmage	- aye
	Mr. Kenney	- aye
	Mr. Gonidakis	- aye
	Mr. Giacalone	- aye

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

ROLL CALL:	Dr. Bechtel	- aye
	Dr. Saferin	- aye
	Dr. Soin	- aye
	Dr. Steinbergh	- aye
	Dr. Ramprasad	- aye
	Dr. Sethi	- aye
	Dr. Talmage	- aye
	Mr. Kenney	- aye
	Mr. Gonidakis	- aye
	Mr. Giacalone	- aye

Dr. Ramprasad noted that, in accordance with the provision in section 4731.22(F)(2), Ohio Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of any disciplinary matters. In the matters before the Board today, Dr. Talmage served as Secretary and Dr. Bechtel served as Supervising Member.

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

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

.....
JOSEPH TODD JOYNER, M.D.
.....

Dr. Steinbergh moved to approve and confirm Mr. Porter's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Joseph Todd Joyner, M.D. Dr. Soin seconded the motion.

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

ROLL CALL:	Dr. Bechtel	- abstain
	Dr. Saferin	- aye
	Dr. Soin	- aye
	Dr. Steinbergh	- aye
	Dr. Ramprasad	- aye
	Dr. Sethi	- nay
	Dr. Talmage	- abstain
	Mr. Kenney	- aye
	Mr. Gonidakis	- aye
	Mr. Giacalone	- aye

The motion to approve carried.

State Medical Board of Ohio

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

(614) 466-3934
med.ohio.gov

December 12, 2012

Case number: 12-CRF- 147

Joseph Todd Joyner, M.D.
1845 West 47th Street
Cleveland, Ohio 44102

Dear Doctor Joyner:

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 November 26, 2012, in the Court of Common Pleas, Cuyahoga County, Ohio, you pled guilty to, and were found guilty of, one felony count of Abduction, in violation of Section 2905.02, Ohio Revised Code; and one felony count of Attempted Felonious Assault, in violation of Section 2923.02 and Section 2903.11, Ohio Revised Code. Notably, the aforementioned criminal conduct, which occurred in or about 2011, involved a minor female under the age of 13 years old.

Your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitutes “[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony,” as that clause is used in Section 4731.22(B)(9), Ohio Revised Code.

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

You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments,

Mailed 12-13-12

Joseph Todd Joyner, M.D.

Page 2

or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

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

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

Copies of the applicable sections are enclosed for your information.

Very truly yours,



J. Craig Strafford, M.D., M.P.H.
Secretary

JCS/DSZ/pev

Enclosures

CERTIFIED MAIL #91 7199 9991 7031 2767 4900
RETURN RECEIPT REQUESTED

cc: Steven A. Sindell, Esq.
Sindell and Sindell, LLP
Chagrin Plaza West
23611 Chagrin Blvd., Suite 227
Cleveland, Ohio 44122

CERTIFIED MAIL #91 7199 9991 7031 2767 4894
RETURN RECEIPT REQUESTED