

TERMINATION NO. 10
BY: JMS 9/9/10

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

FINAL APPEALABLE ORDER

WILLIAM J. WASHINGTON, M.D.,

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CASE NUMBER 10CVF03-4810

APPELLANT,

JUDGE LYNCH

vs.

MAGISTRATE MCCARTHY

STATE MEDICAL BOARD
OF OHIO

APPELLEE.

FILED
2010 SEP -9 PM 2:50
CLERK OF COURTS

DECISION AND JUDGMENT ENTRY

LYNCH, J.

This matter is now before the court on the merits of this administrative appeal. By way of factual background, in 2008 appellant was the subject of a traffic stop by police authorities. At that time, marijuana and steroid drugs were found in differing locations in appellant's automobile. That occurrence led to an investigation by appellee and to a professional evaluation of appellant using the services of experts in habitual drug usage. Appellee advised appellant that it intended to take action against his license to practice medicine. Appellant requested a hearing which was held On October 19 and December 11, 2009. The hearing examiner issued her report on February 11, 2010 finding appellant had committed numerous violations of statutory and regulatory law concerning the practice of medicine.

The hearing examiner recommended appellant's certificate to practice medicine be revoked. On March 10, 2010, appellee approved and adopted the

hearing examiner's findings and recommendations and went on to revoke appellant's certificate to practice medicine. This appeal results from that adjudication order.

I

This appeal is governed by R.C. 119.12 which in pertinent part provides:

The court may affirm the order of the agency complained of in the appeal if it finds, upon consideration of the entire record and such additional evidence as the court has admitted, that the order is supported by reliable, probative, and substantial evidence and is in accordance with law. In the absence of such a finding, it may reverse, vacate, or modify the order or make such other ruling as is supported by reliable, probative, and substantial evidence and is in accordance with law.

In considering this matter on appeal, this court is limited to determining whether appellee's adjudication order is supported by sufficient evidence in the record and whether it is lawful. This court may not substitute its judgment for that of the administrative agency and it may not reverse the administrative determination simply because it interprets the evidence differently than did the administrative board. *Angelkouski v. Buckeye Potato Chips Co.* (1983), 11 Ohio App. 3d 159, 161-162.

Appellee's construction and application of its regulations and requirements must be accomplished on a case-by-case basis. Due deference must be accorded to the decisions of an administrative agency. *VFW Post 8586 v. Ohio Liquor Control Comm.* (1998), 83 Ohio St. 3d 79. It has been noted that "an administrative agency's construction of a statute that the agency is empowered to enforce must be accorded due deference." *Ciriello v. Bd. of Embalmers and Funeral Directors of Ohio*, 105 Ohio App. 3d 213, 218, citing

Leon v. Bd. of Psychology (1992), 63 Ohio St. 3d 683 and *Chaney v. Clark Cty. Agr. Soc., Inc.* (1993), 90 Ohio App. 3d 421. However, the findings of the agency are not conclusive. *Univ. of Cincinnati v. Conrad* (1980), 63 Ohio St.2d 108, 110-111.

II

The first issue to resolve in the present action is whether there existed an express statutory reason that would enable appellee to take the action it did in revoking appellant's certificate to practice medicine. The operative statute, R.C. 4731.22(B), in pertinent part, provides:

The board, by an affirmative vote . . . shall, to the extent permitted by law, limit, revoke, or suspend an individual's certificate to practice . . . for one or more of the following reasons:

(3) Selling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction of, a violation of any federal or state law regulating the possession, distribution, or use of any drug;

* * *

(12) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;

* * *

(20) Except when civil penalties are imposed under [designated sections], 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.

* * *

(26) Impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice.

Hence, if one or more of the listed reasons has been demonstrated by the requisite evidence, appellee may take the action that it did.

In this connection, appellant first argues that appellee “presented no evidence of ‘habitual or excessive’ use or abuse” of drugs. To the contrary, appellee takes the position that the requisite evidence is present. Upon a review of the record, it is found that at the time of the mentioned traffic stop, appellant had with him a tobacco grinder, marijuana in two suitcases, marijuana in a book bag,¹ two vials containing testosterone propionate and boldenone undecylenate, and syringes and needles.

Further evidence in the record includes appellant’s admission that on three occasions in 2008, he had taken a controlled substance that had been prescribed for or provided to another person. Appellant also acknowledged that he obtained an unknown substance from a person on the streets and injected himself with it, believing that it was a body building substance.² On another occasion, appellant ingested the prescription medication of another person prior to commencing his work shift in order to be more alert. Appellant further

¹ According to the police report concerning the arrest, appellant was heard to say, “Man, I forgot that. If I would have known that I had that, I would have smoked that by now.” Further, according to the records at the facility appellant was seen in evaluation, he reportedly referred to himself as a “pot head.” Nevertheless, appellant stated that, over the preceding five years, had had never used marijuana, hashish, cocaine or any recreational or illegal drugs.

² Other evidence offered by appellant was that because of his fear of needles (“needle phobia”), he did not inject himself.

acknowledged that concerning the stimulant, marijuana and steroids, he had used "poor judgment."

As mentioned, appellant underwent a professional evaluation to determine if his ability to practice medicine was impaired. The evaluation took place in Rock Creek, Ohio at the Glenbeigh Hospital and was led by Christopher L. Adelman, M.D. The evaluation occurred over a period of three days. After reviewing all of the underlying data and information as well as analyzing the results of a comprehensive biopsychological assessment, and after conducting an interview with appellant, Dr. Adelman opined that appellant's use of marijuana, Provigil and anabolic steroids constitutes a pattern of illegal and inappropriate use of controlled substances which suggested to the doctor a lack of proper control on the part of appellant. The doctor found that the impairment suffered by appellant was of such a nature that it met the administrative standard of an "impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol or other substances that impair ability to practice."

Now, when considering appellant's position that appellee presented no evidence of habitual or excessive use or abuse of drugs, it is found not to be well taken. Given appellant's admissions, the involved physical evidence, the testing results, the expert opinions offered, and considering the circumstantial evidence of the measures likely taken by appellant to avoid objective

substantiation,³ it is found that sufficient evidence of the quality, nature and quantity required does exist in the record to support the action taken by appellee.

III

The next issue raised by appellant concerns his claim that he was denied due process of law because counsel for appellee filed a written response to appellant's filing of objections to the hearing officer's report and recommendations. "The fundamental requirement of procedural due process is notice and hearing, that is, an opportunity to be heard." *Korn v. Ohio State Medical Bd.* (1988), 61 Ohio App.3d 677, citing *Luff v. State* (1927), 117 Ohio St. 102, 5 Ohio Law Abs. 173, 157 N.E. 388. To comply with due process in an administrative proceeding, which revokes an individual's license to practice a profession, notice and a hearing are necessary. *Korn*, at 684, citing *Jewell v. McCann* (1917), 95 Ohio St. 191. R.C. 119.06 provides that, with few exceptions, no adjudication order of an agency shall be valid unless an opportunity for a hearing is provided to the licensee and a hearing is conducted to consider evidence before making the adjudication order. See *Goldman v. State Med. Bd. of Ohio* (1996), 110 Ohio App.3d 124, at 128.

³ Appellant is totally free of body hair save for some short hairs on his head which were found to be too small for accurate testing for marijuana. Appellant failed to disclose to the evaluators at Glenbeigh that he self proscribed the controlled drug Ambien. Appellant's then-girlfriend steadfastly refused to respond to messages left for her by Glenbeigh personnel who were seeking information about appellant. During the Glenbeigh interview and investigative process appellant "became arrogant, demanding, defensive, uncooperative, and resistant," according to the discharge summary. The weight to be given circumstantial evidence is the same as that afforded to direct evidence. *State v. Jenks* (1991), 61 Ohio St. 3d 259.

Thus, at the heart of a due process denial claim is the issue of whether an appellant received a full hearing and a just consideration of the issues raised. Appellant does not challenge the hearing process itself, but contends that by making a filing of written arguments with appellee, the administrative rules were transgressed.

It has been held that "administrative regulations issued pursuant to statutory authority have the force and effect of law; consequently, administrative agencies are bound by their own rules until those rules are duly changed." *State ex rel. Cuyahoga Cty. Hosp. v. Bur. of Workers' Comp.* (1986), 27 Ohio St. 3d 25, 28. However, if adhering to the strict dictates of a regulation serves no purpose in a particular case, compliance may be excused. See, *Clark v. Ohio Dep't of Mental Retardation & Developmental Disabilities*, 55 Ohio App. 3d 40, 562 N.E.2d 497, 1988 Ohio App. LEXIS 3715 (Ohio Ct. App., Lucas County 1988).

Here, the response filed by counsel for appellee contained a mere restatement of the oral arguments made by counsel at the time of the hearing. No evidence was presented to accompany the filing. Although the filing was accepted by appellee, there is no showing that it had any affect whatever on appellee's deliberations or ultimate findings. In other words, there has not been a showing of prejudice to appellant. Upon consideration, it is found no due process violation occurred here and that a strict application of an administrative rule in this case would serve no purpose.

IV

Last, appellant takes the position that insufficient evidence exists to support the finding of appellant's impaired ability to practice medicine.⁴ Here, appellant takes issue with Dr. Adelman's conclusions as being unsupported. Appellant points to his Glenbeigh evaluators' preliminary findings that are not wholly consistent with Adelman's ultimate conclusions, and challenges Adelman's opinion as not being supported by the DSM.⁵

Concerning appellant's three day stay at the Glenbeigh facility, he was seen and tested by a number of professionals at that time who ultimately report their findings to Dr. Adelman. It is Adelman who makes the final diagnosis and conclusory findings based upon the input of others, his own evaluation of the information and his clinical findings. For one or more of the individual evaluators to have an opinion different in some respects from that of Adelman is likely to be expected – it is the nature of such endeavors. Appellee had the responsibility to weigh the evidence and make its findings accordingly. Clearly, Adelman had the superior credentials and for appellee to place more weight on his testimony than the statements of others is wholly proper.

Next, appellant contends that Dr. Adelman misapplied the plain and ordinary meaning of one of the involved diagnostic criteria from the DSM. Criterion number three used to support a clinical diagnosis of substance abuse lists as a feature of substance abuse a manifestation of: "recurrent substance-

⁴ "Impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that **impair ability to practice**" are grounds for administrative action. R.C. 3731.22(B)(26). (Emphasis added.)

⁵ *Diagnostic and Statistical Manual of Mental Disorders*, Fourth Edition.

related legal problems.” Appellant maintains the factual circumstances involving his interaction with drugs “did not fit the sole criteria of the DSM which Dr. Adelman testified Dr. Washington met.” More particularly, appellant asserts that the “legal problems” identified in the criterion do not equate with the “illegal conduct” identified by Adelman as being “legal problems.” To put it another way, although Adelman identified wrongful possession of drugs as illegal, he improperly concluded that the wrongful possession was a legal problem, according to appellant’s position.

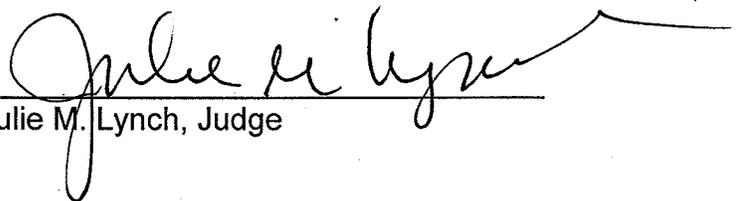
The use of and reliance on the DSM in legal settings can be problematic. This was recognized by the editors of the work when they cautioned: “The clinical and scientific considerations involved in categorization of these conditions as mental disorders may not be wholly relevant to legal judgments, for example, that take into account such issues [as are presented in the instant case] as individual responsibility, disability determination, and competency.”⁶

Although appellant makes a strictly legal argument that in many legal settings (such as a criminal prosecution) would appear to have merit, it loses much vitality when considered in light of Dr. Adelman’s explanation of the proper and accepted use of the DSM by clinicians. Adelman testified that the DSM is to be used as a guideline device. He related that the DSM should not be applied mechanically by untrained individuals and that the specific diagnostic criteria are meant to serve as guidelines and should not be applied in “cookbook fashion.” The clear thrust of his testimony was that the criteria set forth in the

⁶ DSM-IV Cautionary Statement, at xxvii.

DSM are guidelines or guideposts that can be used by clinicians in arriving at a professional diagnosis. His testimony was that the DSM does not dictate a diagnosis, the trained clinician does. Adelman's testimony in this regard is wholly consistent with the editors' stated purposes and function of the DSM. Appellant's argument on this issue is not well taken.

Upon a full consideration of the issues, it is found that reliable, probative, and substantial evidence supports the finding that appellant acted in violation of R.C. 4731.22(B)(3),(12),(20) and (26) and that appellee's adjudication order is supported by the requisite evidence and is in accordance with law. Accordingly, it is affirmed. Judgment is hereby entered in favor of appellee and against appellant. Costs to be paid by appellant.


Julie M. Lynch, Judge

Copies to:

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Defendant

Sandy Vorhies,
Administrative Law Secretary

BEFORE THE STATE MEDICAL BOARD OF OHIO

WILLIAM J. WASHINGTON, M.D.
3504 Beach Drive SW
Seattle, WA 98116,

Appellant,

vs.

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

Appellee,

Case No. 10 CVF 03 4810

Judge _____

APPEAL FROM THE ENTRY
OF ORDER OF MARCH 10, 2010
MAILED MARCH 11, 2010

STATE MEDICAL BOARD
OF OHIO
2010 MAR 26 PM 2:19

APPELLANT'S NOTICE OF APPEAL

Now comes Appellant, William J, Washington, M.D., by and through counsel, and pursuant to Ohio Revised Code Section 119.12, hereby gives notice of his appeal of the Entry of Order of the Appellee, State Medical Board of Ohio ("Board"), which revoked Appellant's license to practice medicine in the State of Ohio. The Board's Entry of Order was dated March 10, 2010 and mailed on March 11, 2009. The Board's Entry of Order is not supported by substantial, probative, and reliable evidence nor is it in accordance with law. Appellant appeals based on the following grounds:

1. The Board's finding that Appellant violated R.C. 4731.22(B)(26) was not supported by the preponderance of the evidence.
2. The Board's finding that Appellant violated R.C. 4731.22(B)(26) was not supported by substantial, probative, and reliable evidence.
3. The Board acted contrary to law and violated the United States and Ohio Constitutions in finding that Appellant violated R.C. 4731.22(B)(26).
4. The Board's Order is contrary to the Diagnostic and Statistical Manual standards.
5. The Board acted contrary to its own hearing rules and R.C. Ch. 119 and violated due process rights of the Respondent in filing a response to objections and then denying motion to strike same.

FILED
COMMON PLEAS COURT
FRANKLIN CO. OHIO
2010 MAR 26 PM 2:31
CLERK OF COURTS
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STATE MEDICAL BOARD
OF OHIO

6. The Board's reliance on the opinion of Dr. Adelman, of Glenbeigh, is contrary to the evidence and the Board's administrative rules.
7. The Board's refusal to assist in having one of its approved provider's assist in the proceeding denied Respondent due process.

A copy of the Board's Entry of Order is attached hereto as Exhibit A.

Respectfully submitted,

DINSMORE & SHOHL, LLP

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*Attorneys for Appellant, William J. Washington,
M.D.*

2010 APR - 6 PM 1:41
STATE MEDICAL BOARD
OF OHIO

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of March, 2010, the foregoing Notice of Appeal was filed via hand delivery with the State Medical Board of Ohio, was filed via hand delivery with the Court of Common Pleas of Franklin County, Ohio, and that a copy was served by regular U.S. mail upon the following:

Kyle C. Wilcox
Assistant Attorney General
Ohio Attorney General's Office
Health and Human Services
30 East Broad Street, 26th Floor
Columbus, Ohio 43215


Eric J. Plinke

State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
med.ohio.gov

March 10, 2010

William James Washington, M.D.
3504 Beach Drive SW
Seattle, WA 98116

RE: Case No. 09-CRF-076

Dear Doctor Washington:

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 March 10, 2010, 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

Lance A. Talmage, M.D.
Lance A. Talmage, M.D. *rw*
Secretary

LAT:jam
Enclosures

CERTIFIED MAIL NO. 91 7108 2133 3936 3068 9152
RETURN RECEIPT REQUESTED

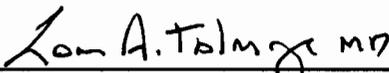
Cc: Eric J. Plinke, Esq.
CERTIFIED MAIL NO. 91 7108 2133 3936 3068 9169
RETURN RECEIPT REQUESTED

Mailed 3-11-10

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 March 10, 2010, 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 William James Washington, M.D., Case No. 09-CRF-076, 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. RW
Secretary

(SEAL)

March 10, 2010

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

CASE NO. 09-CRF-076

WILLIAM JAMES WASHINGTON, M.D. *

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on March 10, 2010.

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. **REVOCAION OF CERTIFICATE:** The certificate of William James Washington, M.D., to practice medicine and surgery in the State of Ohio, Certificate No. 35.088793, is hereby **REVOKED**.
- B. **CONDITIONS PLACED ON ANY FUTURE APPLICATION:** Dr. Washington shall not apply in the future for a certificate to practice medicine and surgery in the State of Ohio, or for any other certificate issued by the Board, until all of the following conditions are met.
1. **Application:** Dr. Washington shall submit an application, accompanied by appropriate fees.
 2. **Demonstration of Ability to Practice:** Dr. Washington shall demonstrate to the satisfaction of the Board that he can practice in compliance with acceptable and prevailing standards of care. Such demonstration shall include but shall not be limited to the following:
 - a. Certification from a treatment provider approved by the Board that Dr. Washington has successfully completed

any treatment required by the Board, including treatment required by statutes and/or administrative rules in effect at the time of the application.

Under current law, Dr. Washington would be required to provide certification from a treatment provider approved under Section 4731.25, Ohio Revised Code, that he has successfully completed a minimum of 28 days of inpatient/residential treatment for chemical dependency/abuse from a Board-approved treatment provider.

- b. Evidence of continuing full compliance with an aftercare contract with a treatment provider approved under Section 4731.25, Ohio Revised Code. Such evidence shall include, but shall not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with Rule 4731-16-10, Ohio Administrative Code.
- c. Two written reports indicating that Dr. Washington's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care.

The reports shall be made by physicians knowledgeable in the area of addictionology and who are either affiliated with a current Board-approved treatment provider or otherwise have been approved in advance by the Board to provide an assessment of Dr. Washington. Further, the two aforementioned physicians shall not be affiliated with the same treatment provider or medical group practice. Prior to the assessments, Dr. Washington shall provide the assessors with copies of patient records from any evaluations and/or treatment that he has received, and a copy of this Order. The reports from the evaluators shall include any recommendations for treatment, monitoring, or supervision of Dr. Washington, and any conditions, restrictions, or limitations that should be imposed on Dr. Washington's practice. The reports shall also describe the basis for the assessor's determinations.

All reports required pursuant to this paragraph shall be based upon examinations occurring within the three months immediately preceding any application for licensure. Further, at the discretion of the Secretary and

Supervising Member of the Board, the Board may request an updated assessment and report if the Secretary and Supervising Member determine that such updated assessment and report is warranted for any reason.

- d. In the event that Dr. Washington has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to his application for a future certificate, the Board may exercise its discretion under Section 4731.222 of the Revised Code to require additional evidence of his fitness to resume practice.

3. **Personal/Professional Ethics Course(s)**: Dr. Washington shall submit acceptable documentation of successful completion of a course or courses dealing with personal/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 course(s) 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. Washington submits the documentation of successful completion of the course(s) dealing with personal/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.

- C. **PROBATIONARY CONDITIONS TO BE PLACED ON ANY FUTURE CERTIFICATE GRANTED BY THE BOARD**: In the event that the Board should grant a future application by Dr. Washington for a certificate to practice medicine and surgery in the State of Ohio, or for any other certificate issued by the Board, that certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:

1. **Obey the Law**: Dr. Washington 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. Washington shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third

month following the month in which the future certificate is issued, or as otherwise directed by the Board. 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. Washington shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which the Board issues the future certificate, or as otherwise directed by the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise directed 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. **Sobriety**

- a. **Abstention from Drugs**: Dr. Washington shall abstain completely from the personal use or personal possession of drugs, except those prescribed, dispensed or administered to him by another so authorized by law who has full knowledge of Dr. Washington's history of chemical dependency and/or abuse and who may lawfully prescribe for him (for example, a physician who is not a family member). Further, in the event that Dr. Washington is so prescribed, dispensed or administered any controlled substance, carisoprodol, or tramadol, Dr. Washington shall notify the Board in writing within seven days, providing the Board with the identity of the prescriber; the name of the drug Dr. Washington received; the medical purpose for which he received the drug; the date the drug was initially received; and the dosage, amount, number of refills, and directions for use. Further, within 30 days of the date the drug is so prescribed, dispensed, or administered to him, Dr. Washington shall provide the Board with either a copy of the written prescription or other written verification from the prescriber, including the dosage, amount, number of refills, and directions for use.
- b. **Abstention from Alcohol**: Dr. Washington shall abstain completely from the use of alcohol.

5. **Drug & Alcohol Screens; Drug-testing Facility and Collection Site**

- a. Dr. Washington shall submit to random urine screenings for drugs and alcohol at least four times per month, or as otherwise directed by the Board. Dr. Washington shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis. The drug-testing panel utilized must be acceptable to the Secretary of the Board, and shall include Dr. Washington's drug(s) of choice.
- b. Dr. Washington shall submit, at his expense and on the day selected, urine specimens for drug and/or alcohol analysis. (The term "toxicology screen" is also used herein for "urine screen" and/or "drug screen.")

All specimens submitted by Dr. Washington shall be negative, except for those substances prescribed, administered, or dispensed to him in conformance with the terms, conditions and limitations set forth in this Order.

Refusal to submit a specimen, or failure to submit a specimen on the day he is selected or in the manner as the Board may request, shall constitute a violation of this Order.

- c. Dr. Washington shall abstain from the use of any substance that may produce a positive result on a toxicology screen, including the consumption of poppy seeds or other food or liquid that may produce a positive result on a toxicology screen.

Dr. Washington shall be held to an understanding and knowledge that the consumption or use of various substances, including but not limited to mouthwashes, hand-cleaning gels, and cough syrups, may cause a positive toxicology screen, and that unintentional ingestion of a substance is not distinguishable from intentional ingestion on a toxicology screen, and that, therefore, consumption or use of substances that may produce a positive result on a toxicology screen is prohibited under this Order.

- d. All urine screenings for drugs and alcohol shall be conducted through a Board-approved drug-testing facility and Board-approved collection site pursuant to the global contract between the approved facility and the

Board, which provides for the Board to maintain ultimate control over the urine-screening process and to preserve the confidentiality of positive screening results in accordance with Ohio Revised Code Section 4731.22(F)(5). The screening process for random testing shall require a daily call-in procedure. Further, in the event that the Board exercises its discretion, as provided in Paragraph 6 below, to approve urine screenings to be conducted at an alternative drug-testing facility, collection site, and/or supervising physician, such approval shall be expressly contingent upon the Board's retaining ultimate control over the urine-screening process in a manner that preserves the confidentiality of positive screening results.

- e. Within 30 days of the Board granting Dr. Washington any future certificate, Dr. Washington shall enter into the necessary financial and/or contractual arrangements with the Board-approved drug-testing facility and/or collection site ("DFCS") in order to facilitate the screening process in the manner required by this Order.

Further, within 30 days of making such arrangements, Dr. Washington shall provide to the Board written documentation of completion of such arrangements, including a copy of any contract entered into between Dr. Washington and the Board-approved DFCS. Dr. Washington's failure to timely complete such arrangements, or failure to timely provide written documentation to the Board of completion of such arrangements, shall constitute a violation of this Order.

- f. Dr. Washington shall ensure that the urine-screening process performed through the Board-approved DFCS requires a daily call-in procedure; that the urine specimens are obtained on a random basis; and that the giving of the specimen is witnessed by a reliable person. In addition, Dr. Washington and the Board-approved DFCS shall ensure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening result.
- g. Dr. Washington shall ensure that the Board-approved DFCS provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all

urine screens have been conducted in compliance with this Order, and whether all urine screens have been negative.

- h. In the event that the Board-approved DFCS becomes unable or unwilling to serve as required by this Order, Dr. Washington shall immediately notify the Board in writing, and make arrangements acceptable to the Board, pursuant to Paragraph 6 below, as soon as practicable. Dr. Washington shall further ensure that the Board-approved DFCS also notifies the Board directly of its inability to continue to serve and the reasons therefor.
 - i. The Board, in its sole discretion, may withdraw its approval of any DFCS in the event that the Secretary and Supervising Member of the Board determine that the DFCS has demonstrated a lack of cooperation in providing information to the Board or for any other reason.
6. **Alternative Drug-testing Facility and/or Collection Site:** It is the intent of this Order that Dr. Washington shall submit urine specimens to the Board-approved DFCS chosen by the Board. However, in the event that using the Board-approved DFCS creates an extraordinary hardship on Dr. Washington, as determined in the sole discretion of the Board, then, subject to the following requirements, the Board may approve an alternative DFCS or a supervising physician to facilitate the urine-screening process for Dr. Washington.
- a. Within 30 days of the date on which Dr. Washington is notified of the Board's determination that utilizing the Board-approved DFCS constitutes an extraordinary hardship on Dr. Washington, he shall submit to the Board in writing for its prior approval the identity of either an alternative DFCS or the name of a proposed supervising physician to whom Dr. Washington shall submit the required urine specimens.

In approving a facility, entity, or an individual to serve in this capacity, the Board will give preference to a facility located near Dr. Washington's residence or employment location, or to a physician who practices in the same locale as Dr. Washington. Dr. Washington shall ensure that the urine-screening process performed through the alternative DFCS or through the supervising physician

requires a daily call-in procedure; that the urine specimens are obtained on a random basis; and that the giving of the specimen is witnessed by a reliable person. In addition, Dr. Washington shall ensure that the alternative DFCS or the supervising physician maintains appropriate control over the specimen and immediately informs the Board of any positive screening result.

- b. Dr. Washington shall ensure that the alternative DFCS or the supervising physician provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Order, and whether all urine screens have been negative.
 - c. In the event that the designated alternative DFCS or the supervising physician becomes unable or unwilling to so serve, Dr. Washington shall immediately notify the Board in writing. Dr. Washington shall further ensure that the previously designated alternative DFCS or the supervising physician also notifies the Board directly of the inability to continue to serve and the reasons therefor. Further, in the event that the approved alternative DFCS or supervising physician becomes unable to serve, Dr. Washington shall, in order to ensure that there will be no interruption in his urine-screening process, immediately commence urine screening at the Board-approved DFCS chosen by the Board, until such time, if any, that the Board approves a different DFCS or supervising physician, if requested by Dr. Washington.
 - d. The Board, in its sole discretion, may disapprove any entity or facility proposed to serve as Dr. Washington's designated alternative DFCS or any person proposed to serve as his supervising physician, or may withdraw its approval of any entity, facility or person previously approved to so serve in the event that the Secretary and Supervising Member of the Board determine that any such entity, facility or person has demonstrated a lack of cooperation in providing information to the Board or for any other reason.
7. **Reports Regarding Drug and Alcohol Screens:** All screening reports required under this Order from the Board-approved DFCS, the alternative DFCS and/or supervising physician must be received in the

Board's offices no later than the due date for Dr. Washington's declarations of compliance. It is Dr. Washington's responsibility to ensure that reports are timely submitted.

8. **Additional Screening Without Prior Notice:** Upon the Board's request and without prior notice, Dr. Washington shall provide a specimen of his blood, breath, saliva, urine, and/or hair for screening for drugs and alcohol, for analysis of therapeutic levels of medications that may be prescribed for Dr. Washington, or for any other purpose, at Dr. Washington's expense. Dr. Washington's refusal to submit a specimen upon the request of the Board shall result in a minimum of one year of actual license suspension. Further, the collection of such specimens shall be witnessed by a representative of the Board, or another person acceptable to the Secretary and Supervising Member of the Board.
9. **Rehabilitation Program:** Within seven days of being granted a future certificate by the Board, Dr. Washington shall undertake and maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., or C.A., no less than three times per week, or as otherwise ordered by the Board. Substitution of any other specific program must receive prior Board approval.

Dr. Washington shall submit acceptable documentary evidence of continuing compliance with this program, including submission to the Board of meeting attendance logs, which must be received in the Board's offices no later than the due date for Dr. Washington's declarations of compliance.

10. **Modification of Terms:** Dr. Washington shall not request modification of the terms, conditions, or limitations of probation for at least one year after the probation begins.
11. **Releases:** Dr. Washington shall provide authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Dr. Washington's chemical dependency/abuse and/or related conditions, or for purposes of complying with this Order, whether such treatment or evaluation occurred before or after the effective date of this Order. To the extent permitted by law, the above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code, and are confidential pursuant to statute.

Dr. Washington shall also provide the Board written consent permitting any treatment provider from whom he obtains treatment to notify the Board in the event Dr. Washington fails to agree to or comply with any treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Order.

12. **Absences from Ohio:** Dr. Washington shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed. Further, the Secretary and Supervising Member of the Board shall have discretion to waive part or all of the monitoring terms set forth in this Order for occasional periods of absence of 14 days or less.

In the event that Dr. Washington is residing and/or is employed at a location that is within 50 miles of the geographic border of Ohio and a contiguous state, Dr. Washington may travel between Ohio and that contiguous state without seeking prior approval of the Secretary or Supervising Member provided that Dr. Washington is otherwise able to maintain full compliance with all other terms, conditions and limitations set forth in this Order.

13. **Tolling of Probationary Period while Out of Compliance:** In the event Dr. Washington is found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Order.
 14. **Required Reporting of Change of Address:** Dr. Washington shall notify the Board in writing of any change of residence address and/or principal practice address within 30 days of the change.
- D. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Washington's certificate will be fully restored.
- E. **VIOLATION OF THE TERMS OF THIS ORDER:** If Dr. Washington violates the terms of this Order 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. REQUIRED REPORTING IN THE EVENT OF THE GRANTING OF ANY FUTURE APPLICATION FOR A CERTIFICATE:

1. **Required Reporting to Employers and Others:** Within 30 days of the Board granting any future application of Dr. Washington for a certificate, Dr. Washington shall provide a copy of this Order to all employers or entities with which he is under contract to provide healthcare services (including but not limited to third-party payors), or is receiving training; and the Chief of Staff at each hospital or healthcare center where he has privileges or appointments. Further, Dr. Washington shall promptly provide a copy of this Order to all employers or entities with which he contracts in the future to provide healthcare services (including but not limited to third-party payors), or applies for or receives training, and the Chief of Staff at each hospital or healthcare center where he applies for or obtains privileges or appointments. This requirement shall continue until Dr. Washington receives from the Board written notification of the successful completion of his probation.

In the event that Dr. Washington provides any healthcare services or healthcare direction or medical oversight to any emergency medical services organization or emergency medical services provider in Ohio, within 30 days of the effective date of this Order, he shall provide a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services. This requirement shall continue until Dr. Washington receives from the Board written notification of the successful completion of his probation.

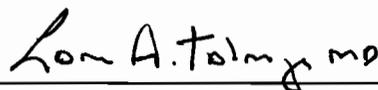
2. **Required Reporting to Other State Licensing Authorities:** Within 30 days of the Board granting any future application of Dr. Washington for a certificate, Dr. Washington shall provide a copy of this Order to the proper licensing authority of any state or jurisdiction in which he currently holds 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. Washington 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. Washington receives from the Board written notification of the successful completion of his probation.

3. **Required Reporting to Treatment Providers/Monitors:** Within 30 days of the Board granting any future application of Dr. Washington for a certificate, Dr. Washington shall provide a copy of this Order to all persons and entities that provide chemical dependency/abuse treatment to or monitoring of Dr. Washington. This requirement shall continue until Dr. Washington receives from the Board written notification of the successful completion of his probation.

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

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

(SEAL)



Lance A. Talmage, M.D. RW
Secretary

March 10, 2010

Date

2010 FEB 11 PM 12: 14

BEFORE THE STATE MEDICAL BOARD OF OHIO

In the Matter of

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Case No. 09-CRF-076

William James Washington, M.D.,

*

Hearing Examiner Petrucci

Respondent.

*

REPORT AND RECOMMENDATION

Basis for Hearing

By letter dated June 10, 2009, the State Medical Board of Ohio [Board] notified William James Washington, M.D., that it intended to determine whether to take disciplinary action against his certificate to practice medicine and surgery in Ohio. The Board based its proposed action on allegations that, following a traffic stop, Dr. Washington had pleaded guilty to Possession of Drugs (marijuana) and Driving under Suspension; and at that traffic stop, Dr. Washington had been in possession of syringes, needles, and two vials that contained anabolic steroids. In addition, the Board alleged that Dr. Washington had provided different information to the Board about the two vials, and had admitted to taking Provigil, a controlled substance that had not been prescribed to him. Moreover, the Board alleged that, following a Board-ordered evaluation, Dr. Washington was diagnosed with drug abuse and found to be impaired.

The Board alleged that Dr. Washington's acts, conduct and/or omissions constitute:

- (a) "Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of [Chapter 4731] or any rule promulgated by the board," as set forth in Section 4731.22(B)(20), Ohio Revised Code. The Board identified two involved rules: Rules 4731-11-05(A) and 4731-11-08(A), Ohio Administrative Code.
- (b) "Selling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction of, a violation of any federal or state law regulating the possession, distribution, or use of any drug," as set forth in Section 4731.22(B)(3), Ohio Revised Code.
- (c) "Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed," as set forth in Section 4731.22(B)(12), Ohio Revised Code. The Board identified the alleged acts constituting a misdemeanor as those set forth in Section 3719.06(B), Ohio Revised Code.

- (d) "Impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice, as set forth in Section 4731.22(B)(26), Ohio Revised Code.

Accordingly, the Board advised Dr. Washington of his right to request a hearing in this matter. (State's Exhibit 1A) On June 16, 2009, Dr. Washington requested a hearing. (State's Exhibit 1C)

Appearances at the Hearing

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

Eric J. Plinke, Esq., on behalf of Dr. Washington.

Hearing Dates: October 19 and December 11, 2009

PROCEDURAL MATTER

On December 11, 2009, after the hearing concluded, counsel for both parties reviewed photographs of State's Exhibits 9 and 10, which are two physical exhibits that were admitted during the hearing on October 19, 2009. Both parties agreed that the photographs are accurate representations of State's Exhibits 9 and 10, and both parties agreed to the admission of the photographs. Accordingly, the Hearing Examiner marked the photographs as Board Exhibits A and B, reopened the hearing record, admitted Board Exhibits A and B, and closed the hearing record on December 11, 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 Information

1. William James Washington, M.D., was born in 1976 in Seattle, Washington. He earned an undergraduate degree in 1999 from Whitman College in Walla Walla, Washington. Dr. Washington earned his medical degree from the University of Cincinnati in 2003. He completed a three-year residency in emergency medicine at the University of Illinois in Chicago in 2006. (State's Exhibit [St. Ex.] 6 at 7; Hearing Transcript [Tr.] at 18-20)

2. After completing his residency training in 2006, Dr. Washington took some time off. In 2007, he moved to Cincinnati, Ohio, and commenced his own emergency department staffing business. He worked at the following Ohio hospitals as an emergency medicine physician: (a) St. Charles Hospital in Oregon, for nine months; (b) Freemont Memorial Hospital in Freemont, for six months; and (c) Flower Hospital in Sylvania, for eight months in 2008. (Tr. at 20-23; St. Ex. 4 at 7; St. Ex. 7 at 7)

Dr. Washington began working outside Ohio in late 2008, working in Illinois and Wisconsin. In mid-2009, Dr. Washington moved to Seattle, Washington. He is self-employed, owning an emergency department staffing business. (Tr. at 17, 25, 26; St. Ex. 4 at 7)

3. Dr. Washington was licensed to practice medicine and surgery in Ohio (Certificate No. 35.088793), but it expired in October 2009. Dr. Washington testified that he plans to renew his Ohio certificate. He holds active medical licenses in Illinois, Washington and Wisconsin. (Tr. at 17-18; Ohio E-License Center, State of Ohio, February 9, 2000 <<https://license.ohio.gov>>)

Criminal Conviction in 2008

4. On May 21, 2008, Dr. Washington was driving from Sylvania to Columbus, Ohio. As he passed a Marion Police Department patrol car, the police determined that he was exceeding the speed limit, and “appeared to be hiding his face.” The officers checked the vehicle’s registration and found that its owner, Dr. Washington, had a suspended driver’s license.¹ The officers then chose to stop Dr. Washington. He was arrested, and his car and belongings were searched. The police found two vials filled with liquids, syringes and needles, a tobacco grinder, and vegetation that they suspected was marijuana.² When one police officer placed the seized materials in the police cruiser, Dr. Washington made the following comments: “Man I forgot I had that. If I would have known that I had that, I would have smoked that by now.” (St. Ex. 6 at 1-5, 10; St. Ex. 5 at 1; Tr. at 31, 35, 38-39)
5. In complaints dated May 21, 2008, and filed in the Upper Sandusky Municipal Court, the State of Ohio charged Dr. Washington with a misdemeanor charge of Driving under Suspension in violation of Section 4510.11, Ohio Revised Code, and with a minor misdemeanor charge of Possession of Drugs (marijuana) in violation of Section 2925.11, Ohio Revised Code. *State of Ohio v. William J. Washington*, Case Nos. TRD-08-2379 and CRB-08-201 [collectively *State v. Washington*]. (St. Ex. 6 at 7, 11; St. Ex. 5 at 1)

¹The evidence indicates that Dr. Washington has a suspended Illinois driver’s license. He stated that it had been suspended because he had failed to pay outstanding parking tickets in Illinois. Also, the record appears to indicate that Dr. Washington had a suspended Ohio driver’s license, but the record does not reflect why the Ohio driver’s license was suspended. (St. Ex. 6 at 2, 10, 11; Tr. at 30-31)

²The police report states that the marijuana was found in two different suitcases and in a book bag. One of the vials was found in the pocket of his coat and the other was found in the car’s console. Dr. Washington does not fully agree with the police report regarding the location of the marijuana and the vials found in his car. Also, Dr. Washington does not agree with the police report regarding the number and types of containers in which the marijuana was found. Dr. Washington testified that he is not certain the marijuana belonged to him. (St. Ex. 6 at 5; Tr. at 33-38, 142, 171-172)

6. Dr. Washington pleaded guilty to both charges in *State v. Washington*. Altogether, he was fined \$225, required to pay court costs of at least \$84, and sentenced to 30 days in jail, which was suspended if he obtained a valid Ohio driver's license. Also, the court imposed six points on his driver's license. Dr. Washington stated that he thought he was placed on probation for six months as well, although the record is not clear on that point. (St. Ex. 5 at 2; St. Ex. 6 at 11; St. Ex. 4 at 10; Tr. at 141)
7. Dr. Washington testified that he did not have legal counsel at the time he pleaded guilty, and did not understand the ramifications. Now, he has counsel who is "working on the issues with the particular plea." (Tr. at 42-43)

Contents of the Vials

8. In late 2008, a Board investigator submitted for testing the two vials found in Dr. Washington's car. The Bureau of Criminal Identification and Investigation found that both vials contained Testosterone Propionate and Testosterone Enanthate, which are anabolic steroids. One of the vials also contained Boldenone Undecyclenatate. (St. Ex. 3; Tr. at 57, 77-78)

Conversation with a Board Investigator, 2008

9. Sometime between May and December 2008, Dr. Washington spoke with a Board Investigator. Dr. Washington acknowledged that he had told the Board Investigator the following:
 - The vials contained a human growth hormone.
 - He had obtained the steroid from a friend who had given it to him.
 - The friend had obtained the steroid via the Internet.
 - He had not injected himself with the steroid because he was afraid of needles.

(Tr. at 174-176)

Dr. Washington's Interrogatory Responses, November 2008

10. In November 2008, Dr. Washington provided answers to Board interrogatories. With regard to the May 2008 incident, Dr. Washington stated that, at the time of his May 2008 arrest, he was in possession of marijuana and an "unknown" substance in one vial. Although he stated that he did not know what substance was in the vial, he was under the belief that it was a "substance intended to facilitate muscle development." Furthermore, Dr. Washington admitted that he had obtained the vial, as well as needles and syringes, from a person in Freemont, Ohio. He also acknowledged that he had taken the substance in the vial on one occasion in April 2008, "[o]ut of curiosity to enhance the effectiveness of [his] gym work-out." Moreover, Dr. Washington stated that he never had been prescribed testosterone and/or steroids. (St. Ex. 4 at 9, 10-12; see also Tr. at 47-48)

11. Dr. Washington admitted that, on three occasions in August 2008, he had taken a controlled substance and/or dangerous drug that had been prescribed or provided to someone else. In particular, Dr. Washington stated that he had taken Provigil, which had been prescribed to a girlfriend. Provigil is a stimulant, and a Schedule IV controlled substance. (St. Ex. 4 at 14; see also Tr. at 59-60)
12. Dr. Washington also stated that, over the preceding five years, he had never used marijuana, hashish, cocaine and/or any recreational or illegal drugs. (St. Ex. 4 at 15)

Board-Ordered Evaluation, April 2009

13. In or around February 2009, the Board ordered Dr. Washington to a 72-hour evaluation at Glenbeigh Hospital [Glenbeigh] in Rock Creek, Ohio. The evaluation took place from April 6 through 9, 2009. Glenbeigh diagnosed Dr. Washington with drug abuse, and concluded that he is impaired in his ability to practice medicine and surgery. (Tr. at 62, 86-89; St. Exs. 2-4; Respondent's Exhibit [Resp. Ex.] B)
14. Christopher L. Adelman, M.D., is the physician member of the team at Glenbeigh that evaluated Dr. Washington, and the team member who made the ultimate diagnosis.³ Dr. Adelman explained that Dr. Washington's repeated use of multiple, different drugs is what led him to diagnose drug abuse. (Tr. at 86, 91, 103, 121-124; St. Ex. 2) In particular, he testified:

[T]his whole thing got started with the arrest and the discovery of the marijuana and the steroids in the car. You know, the fact that there were – there's marijuana found in three separate locations in the car suggests to me that this wasn't just a random event; that there was, you know, -- that Dr. Washington, in fact, had put that there for, you know, his own use.

And then the steroids, which when apparently sent to a lab were identified as testosterone, again, and the syringes suggested to me that he was injecting himself with those medications. And, of course, he did admit to doing that.

And then in our interview with him, we found out that he used Provigil for – which wasn't his medication. It was a controlled substance. He used it for alertness. And he maintains that – that it's similar to medications he used for ADHD. In fact, stimulants used for ADHD are not used for alertness; they're used to increase concentration. So using them for alertness is not an appropriate use for ADHD.

(Tr. at 99-100)

15. Similarly, Dr. Adelman stated that Dr. Washington's use of marijuana, Provigil and anabolic steroids is "a pattern of illegal and inappropriate use of controlled substances," which suggests

³Dr. Adelman's background and training are set forth in the record. (Tr. at 80-86)

there is a lack of control. Dr. Adelman testified that the diagnosing criteria set forth in the Diagnostic and Statistical Manual of Mental Disorders, Version IV [DSM-IV], were satisfied. (Tr. at 101, 124-125) According to the DSM-IV, substance abuse is:

- A maladaptive pattern of substance use leading to clinically significant impairment or distress as manifested by one (or more) of the following, occurring within a 12-month period:
 1. Recurrent substance use resulting in a failure to fulfill major role obligations at work, school, or home (e.g., repeated absences or poor work performance related to substance use; substance-related absences, suspensions, or expulsions from school; or neglect of children or household).
 2. Recurrent substance use in situations in which it is physically hazardous (such as driving an automobile or operating a machine when impaired by substance use).
 3. Recurrent substance-related legal problems (e.g., arrests for substance-related disorderly conduct).
 4. Continued substance use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of the substance (e.g., arguments with spouse about consequences of intoxication, physical fights).
- The symptoms have never met the criteria for substance dependence for this class of substance.

(Resp. Ex. D)

16. Dr. Adelman acknowledged that the Glenbeigh team had not reached a diagnostic conclusion at the time that Dr. Washington left Glenbeigh on April 9, 2009. The team felt that it was critical to speak with Dr. Washington's residency program director and his girlfriend, and it had not been able to do so at that time. Thereafter, Glenbeigh spoke with Dr. Washington's residency program director; Dr. Washington's girlfriend never responded to the messages left for her. (Resp. Ex. E at 8; Tr. at 114-116)
17. The Discharge Summary was completed in late April 2009. The Discharge Summary lists marijuana/stimulant abuse as a final diagnosis. Additionally, the Discharge Summary states:

[Dr. Washington] reported an arrest where substances were found and later tested positive for marijuana and a steroid compound. He also admitted using

a controlled substance which was not prescribed to him. He admitted getting an unknown substance from a person on the streets that he did not know and injecting himself because it was said to be a body building substance. He reported a long history of marijuana involvement, both by use or by association. He introduced himself twice in group therapy as a pothead. He was resistant to granting a Release of Information to his supervisor in his medical residency program, granted it, revoked it, and later granted another when pressured to do so. He granted a Release of Information to his significant other, a ten year relationship, and refused to assist in getting her to respond to requests to call me back. Several corroborating telephone contacts were made. He maintained he had not smoked marijuana for three or four years, yet refused to give a hair test to substantiate his story. * * * Initially [Dr. Washington] presented relaxed, friendly, and charming. As the evaluation progressed and as it became evident that he was expected to fully cooperate in areas in which he preferred not to go, he became arrogant, demanding, defensive, uncooperative, and resistant. At one point his bags were packed and he came to me and stated he was leaving. * * * He stayed. Because of his hostile nature, the Exit Interview was held with the Director of Nursing, his assigned counselor, and this assessment counselor. * * *

(St. Ex. 8 at 2-3)

18. Dr. Washington disagreed with the statements in the Discharge Summary regarding the release of information for his residency program director, assisting Glenbeigh in contacting his girlfriend so that she would provide additional information, and the circumstances surrounding the request for a hair sample. Dr. Washington agreed that the exit interview was conducted with the Director of Nursing, his assigned counselor, and his assessment counselor. Dr. Washington stated that the assessment counselor had a personal conflict with him and he was surprised by Glenbeigh's final diagnosis. (Tr. at 64, 69-73, 153-157, 160, 169-170, 177-178)

Dr. Washington's Testimony regarding His Substance Use

19. Dr. Washington testified that he first drank alcohol at 18 years of age; first smoked marijuana in college; and had used marijuana "on rare occasions" or "maybe three occasions" during his residency between 2003 and 2006. (Tr. at 27, 67-68, 171)
20. Dr. Washington testified, although he did not know for certain what was in the vials, he had been "sure it was a growth hormone, like a steroid substance." He also stated that he had purchased the substance as a street drug, and had intended to take all of the substance in both vials in order to gain weight/muscle mass. He stated that he injected some of the liquid on one occasion and placed the remainder in his car. He also stated that the steroid had been in his car for a very long time prior to the May 2008 incident. (Tr. at 27-28, 47, 51-53, 56, 171, 173, 178)

Dr. Washington stated that he had not done much to gain weight/build body mass prior to purchasing the steroids. (Tr. at 178)

21. Dr. Washington explained that he had taken Provigil in August 2008 prior to starting a shift at work, in order to be more alert. He acknowledged that it was “not okay” to have taken the Provigil because it was someone else’s medication, but he stated that it was an appropriate medication for one of his existing medical conditions. (Tr. at 60-62, 166)

He explained that, years earlier, he has been diagnosed with Attention Deficit/Hyperactivity Disorder [ADHD] and previously taken several ADHD medications (Adderall, Dexedrine and Ritalin). He noted that he did not like being on those medications, but that the ADHD affected his alertness. He stated that he had taken the Provigil in 2008 in order improve his alertness due to his ADHD and because he was no longer in touch with his prior physicians and did not then have a physician or any health insurance. (Tr. at 75-76, 144-147; Resp. Ex. C)

22. With regard to his opinion about his use of drugs, the following exchange took place:

Q. Do you believe, Dr. Washington, that you have a problem with abusing drugs?

A. No.

Q. Even after using an illegal steroid that you secured off the street?

A. Yes, but I just figured there was a difference – there’s a difference between obtaining the medication and an actual problem with using the medication.

* * *

Q. Even after being caught with an illegal drug in your possession, do you still – is it still your position that you do not have a problem with using drugs?

A. Yes. Again, I do think abuse is different than possession.

Q. Even after a conviction for possessing an illegal drug, you still believe that you do not have a problem with abusing drugs.

A. Correct.

(Tr. at 65-66)

23. Dr. Washington also stated that he has not been unable, nor has he failed to perform a major role obligation at work, at school or at home because of substance use. He further stated that

no social or interpersonal problems were caused or exacerbated by the effects of any substance he has used. Moreover, he does not believe that he has used recurrently any substance in situations where it was physically hazardous. (Tr. at 143-144) Dr. Washington explained:

I understand, looking at this, how this is perceived, and I'm aware of that. And I did make a mistake in judgment on all of these charges, both the stimulant, marijuana and the steroid. And, number one, I am apologetic; and also, number two, I've learned from my – from my experience, and I've learned from also hanging around and being influenced by the wrong crowds. I think that was sort of a central theme.

And, obviously, I – I have to take responsibility for my – my poor judgment at the time. And the, again, you know, I actually did understand it fairly soon thereafter, but then having it on me and in my car and not being careful to discard of these items, as well. So I guess in the end, what I'm trying to say is I learned from my mistakes, poor judgment.

(Tr. at 148-149)

Hazelden Springbrook Evaluation, September 2009

24. Dr. Washington attended a 72-hour evaluation at Hazelden Springbrook from September 7 to 10, 2009. The record contains Dr. Washington's medical records from the evaluation, and the discharge summary. (Tr. at 161, 163; St. Ex. 11; Resp. Ex. A) No one from Hazelden Springbrook testified at hearing.⁴
25. The Hazelden Springbrook documents do not reflect a final diagnosis of Dr. Washington. The diagnosis was deferred pending receipt of laboratory results and contact with some collateral sources. The documents note that one sample for testing was insufficient, and that not all collateral sources were reached. (St. Ex. 11 at 5-7; Resp. Ex. A)
26. The Hazelden Springbrook documents reflect that Dr. Washington was cooperative in the process, but he left before the last requested check with nursing. (St. Ex. 11 at 7, 8) Also, the Hazelden Springbrook documents reflect the following:
 - Regarding Dr. Washington's use of Marijuana: "First use at 21 years of age. Current use none. Last use 4-6 years ago. Patient reports that the marijuana discovered in his car during the 4/08 arrest was not his but someone who had used his car. He had been living out of his car for approximately nine months and shared transportation with others." (St. Ex. 11 at 14)

⁴Dr. Washington attempted to secure the testimony of personnel from Hazelden Springbrook by executing a waiver, making oral requests, and obtaining a Board subpoena. Hazelden Springbrook took the position that its personnel would not testify at the hearing without a court order from an Oregon court. No such court order was obtained. (Tr. at 201-211)

- Dr. Washington reported that he had been prescribed Ritalin and Provigil for his ADHD. (St. Ex. 11 at 13)
- Regarding Dr. Washington's use of Provigil: "First use in 2000. Last use: The patient reports that while working a night shift he used one tablet from his girlfriend. This was about one year ago. Prior to that time he had not had any Provigil or other stimulants for his ADHD in over three years. (St. Ex. 11 at 13-14)
- Regarding Dr. Washington's use of Ambien: "The patient reports that he self-prescribed this medication approximately six months ago. Reports that he uses it up to two nights per week 5 mg at a time to offset unusual sleep cycle with night shift work. Last use four months ago. (St. Ex. 11 at 14)
- "No other drug use is acknowledged as current including anabolic steroids. Patient reports that while he was in possession of anabolic steroids he was not able to administer it to himself out of a needle phobia. He reports that he has never used steroids." (St. Ex. 11 at 14)

(See also St. Ex. 11 at 20-21, 25, 28)

27. The Hazelden Springbrook documents also include:

The patient also was not able to submit an effective hair sample due to lack of body hair. The nurse practitioner, who completed a history and physical exam, noted that the patient had no body hair to collect for a hair sample. The patient had contradictory statements regarding lack of body hair. At one point during the evaluation the patient reported to the nurse practitioner that he shaved his hair for sports performance. Another time during the evaluation the patient reported that he removed body hair due to hygiene reasons. The patient did submit a small amount of nail material in lieu of hair analysis. The results are pending and may impact or may not impact a final outcome of this evaluation.

The patient at times during the assessment was a poor historian in terms of specific dates, frequencies and amounts of his marijuana use. The patient also shared that he used Provigil without a proper prescription, instead of acquiring the drug from his then significant other. The patient reported using Provigil three times in August of 2008.

* * *

Addendum 1 [Urine Drug Screen] UDS/Hair sample. UDS negative for substances tested. Hair and nail sample not sufficient for testing. See Addendum 2 in Discussion section.

Addendum 2 Last paragraph in Discussion Section of Discharge Summary. 9/10/2009 before final discharge the patient agreed to submit a nail sample in lieu of lack of body hair for drug testing. According to the nursing note dated

9/10/2009, when the nail sample was attempted the patient became “very anxious” and told the nurse that he feared pain and bleeding. The test sampling was stopped. The patient offered to have his head shaved, (no other body hair was present and scalp hair was very short). As nursing staff was attempting to re order the hair test, the patient stated he had to “get on the road,” and the patient left the treatment center property.

The patient did not provide a hair test at a previous provider evaluation in a similar fashion, stating that the provider requested a hair sample prior to discharge and the patient chose to not stay at the program and provide a hair sample.

(St. Ex. 11 at 5-6; See also St. Ex. 11 at 30, 36 and Resp. Ex. A at 2-3)

RELEVANT OHIO STATUTES AND ADMINISTRATIVE RULES

Section 3719.41, Ohio Revised Code, lists controlled substance schedules. Schedule III of that statute includes anabolic steroids, and defines “anabolic steroids” as “any drug or hormonal substance that is chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) and that promotes muscle growth. “Anabolic steroids” does not include an anabolic steroid that is expressly intended for administration through implants to cattle or other nonhuman species and that has been approved by the United States secretary of health and human services for that administration, unless a person prescribes, dispenses, or distributes this type of anabolic steroid for human use. The list of anabolic steroids includes Boldenone and Testosterone.

Rule 4731-11-05(A), Ohio Administrative Code, states: “A physician shall not utilize anabolic steroids, growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of enhancing athletic ability.”

Rule 4731-11-08(A), Ohio Administrative Code, states in relevant part: “Accepted and prevailing standards of care presuppose a professional relationship between a patient and physician when the physician is utilizing controlled substances. By definition, a physician may never have such a relationship with himself or herself. Thus, a physician may not self-prescribe or self-administer controlled substances.”

Section 3719.06(B), Ohio Revised Code, states: “No licensed health professional authorized to prescribe drugs shall prescribe, administer, or personally furnish a schedule III anabolic steroid for the purpose of human muscle building or enhancing human athletic performance and no pharmacist shall dispense a schedule III anabolic steroid for either purpose, unless it has been approved for that purpose under the ‘Federal Food, Drug, and Cosmetic Act,’ 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended.” A violation of Section 3719.06, Ohio Revised Code, is a misdemeanor, per Section 3719.99(E), Ohio Revised Code.

FINDINGS OF FACT

1. On May 21, 2008, William James Washington, M.D., was stopped by police officers with the Marion Police Department while operating his motor vehicle in Upper Sandusky, Ohio. During a search of his vehicle, the officers found green vegetation (suspected to be marijuana), syringes, needles, and a liquid substance in two vials. On May 21, 2008, in the Upper Sandusky Municipal Court in Upper Sandusky, Ohio, Dr. Washington pled guilty to and was found guilty of Possession of Drugs (marijuana) and Driving under Suspension.

Between May and December 2008, Dr. Washington was interviewed by a Board investigator. Dr. Washington told the investigator that the liquid substance in the vials found in his car by the Marion Police Department was human growth hormone that one of his friends had obtained via the internet and given to him. However, Dr. Washington further informed the investigator that he did not inject himself because he is afraid of needles, and that he had not used any of the human growth hormone.

2. In November 2008, Dr. Washington submitted interrogatory responses to the Board, and stated under oath that he had never been prescribed testosterone and/or steroids; he did not know whether he had ever taken testosterone and/or steroids; he took the substance in the brown vial that the police found in his car on one occasion; that the substance was represented to him to "be a substance intended to facilitate muscle development;" and that he took the substance to enhance the effectiveness of his gym work-out.

It was subsequently determined that one of the vials found in Dr. Washington's car by the police officers contained Testosterone Propionate, Testosterone Enanthate, and Boldenone Undercyclenate; and the second vial contained Testosterone Propionate and Testosterone Enanthate.

3. Dr. Washington stated under oath that on three occasions in August 2008, he took a controlled substance, Provigil, which had not been prescribed to him, but to someone else.
4. The Board notified Dr. Washington of its determination that it had reason to believe that he is in violation of Section 4731.22(B)(26), Ohio Revised Code, and ordered him to undergo a 72-hour inpatient examination to determine if he is in violation of Section 4731.22(B)(26), Ohio Revised Code.
5. By letter dated April 17, 2009, from Christopher Adelman, M.D., of Glenbeigh Hospital, a Board-approved treatment provider, the Board was notified that, following the Board-ordered evaluation that commenced on April 6, 2009, Dr. Washington was diagnosed with drug abuse. Dr. Adelman further reported that Dr. Washington met the definition of impairment, which is impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol or other substances that impair ability to practice, and that Dr. Washington requires treatment by an approved treatment provider that complies with the administrative rules, which requires inpatient treatment.

CONCLUSIONS OF LAW

1. Dr. Washington's acts, conduct and/or omissions as set forth in Findings of Fact 1 and 2, constitute "[v]iolating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of [Chapter 4731] or any rule promulgated by the board," as set forth in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-11-05(A), Ohio Administrative Code.
2. Dr. Washington's acts, conduct and/or omissions as set forth in Findings of Fact 2 and 3, constitute "[v]iolating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of [Chapter 4731] 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(A), Ohio Administrative Code.
3. Dr. Washington's acts, conduct and/or omissions as set forth in Findings of Fact 1 through 3, constitute "[s]elling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction of, a violation of any federal or state law regulating the possession, distribution, or use of any drug," as set forth in Section 4731.22(B)(3), Ohio Revised Code.
4. Dr. Washington's acts, conduct and/or omissions as set forth in Findings of Fact 1 and 2, constitute "[c]ommission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed," as set forth in Section 4731.22(B)(12), Ohio Revised Code, to wit: Section 3719.06(B), Ohio Revised Code.
5. Dr. Washington's acts, conduct and/or omissions as set forth in Findings of Fact 1 through 5, constitute "[i]mpairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice, as set forth in Section 4731.22(B)(26), Ohio Revised Code.

Rationale for the Proposed Order

Dr. Washington acknowledges nearly all alleged statutory and rule violations; he disputes the impairment allegation.

Dr. Washington admitted: (a) repeat marijuana use, (b) the "street purchase" and use of anabolic steroids, and (c) use of another's controlled substance prescription for Provigil. In addition, the evidence reflects that Dr. Washington also self-prescribed Ambien. This evidence of Dr. Washington's own admissions demonstrates the *illegal* use of numerous drugs.

In addition, the evidence demonstrates that, from 2008 to 2009, Dr. Washington lied on a number of occasions about his drug use, and was uncooperative during two impairment evaluations: (a) he told the Board investigator and stated in his interrogatory responses that he had not used the anabolic

steroids that he had purchased, but told Glenbeigh and Hazelden Springbrook that he had used the anabolic steroids; (b) he stated in his interrogatory responses that he had not used marijuana in the preceding five years, but admitted at hearing that he had done so on multiple occasions; (c) he told Glenbeigh that he had been prescribed medications other than Provigil for his ADHD, but told Hazelden Springbrook that he had been prescribed Provigil in 2000 for his ADHD; and (d) he refused to provide a hair sample to Glenbeigh and presented to Hazelden Springbrook without any body hair such that a hair sample could not be provided.

When considered altogether, the evidence convincingly demonstrates that Glenbeigh correctly diagnosed substance abuse and impairment, and that the alleged violations have occurred. It is recommended that Dr. Washington's certificate to practice medicine and surgery in Ohio be revoked (and not suspended) because Dr. Washington denies his impairment, had been uncooperative in the evaluation processes at two Board-approved facilities, has relocated to the state of Washington and has established a medical business there. A nonpermanent revocation is proposed so that Dr. Washington has the ability to resume the practice of medicine and surgery in Ohio, if he obtains appropriate treatment and can demonstrate an ability to practice.

PROPOSED ORDER

It is hereby ORDERED, that:

- A. **REVOCATION OF CERTIFICATE:** The certificate of William James Washington, M.D., to practice medicine and surgery in the State of Ohio, Certificate No. 35.088793, is hereby **REVOKED**.
- B. **CONDITIONS PLACED ON ANY FUTURE APPLICATION:** Dr. Washington shall not apply in the future for a certificate to practice medicine and surgery in the State of Ohio, or for any other certificate issued by the Board, until all of the following conditions are met.
 1. **Application:** Dr. Washington shall submit an application, accompanied by appropriate fees.
 2. **Demonstration of Ability to Practice:** Dr. Washington shall demonstrate to the satisfaction of the Board that he can practice in compliance with acceptable and prevailing standards of care. Such demonstration shall include but shall not be limited to the following:
 - a. Certification from a treatment provider approved by the Board that Dr. Washington has successfully completed any treatment required by the Board, including treatment required by statutes and/or administrative rules in effect at the time of the application. Under current law, Dr. Washington would be required to provide certification from a treatment provider approved under Section 4731.25, Ohio Revised Code, that he has successfully completed a

minimum of 28 days of inpatient/residential treatment for chemical dependency/abuse from a Board-approved treatment provider.

- b. Evidence of continuing full compliance with an aftercare contract with a treatment provider approved under Section 4731.25, Ohio Revised Code. Such evidence shall include, but shall not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with Rule 4731-16-10, Ohio Administrative Code.
- c. Two written reports indicating that Dr. Washington's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care.

The reports shall be made by physicians knowledgeable in the area of addictionology and who are either affiliated with a current Board-approved treatment provider or otherwise have been approved in advance by the Board to provide an assessment of Dr. Washington. Further, the two aforementioned physicians shall not be affiliated with the same treatment provider or medical group practice. Prior to the assessments, Dr. Washington shall provide the assessors with copies of patient records from any evaluations and/or treatment that he has received, and a copy of this Order. The reports from the evaluators shall include any recommendations for treatment, monitoring, or supervision of Dr. Washington, and any conditions, restrictions, or limitations that should be imposed on Dr. Washington's practice. The reports shall also describe the basis for the assessor's determinations.

All reports required pursuant to this paragraph shall be based upon examinations occurring within the three months immediately preceding any application for licensure. Further, at the discretion of the Secretary and Supervising Member of the Board, the Board may request an updated assessment and report if the Secretary and Supervising Member determine that such updated assessment and report is warranted for any reason.

- d. In the event that Dr. Washington has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to his application for a future certificate, the Board may exercise its discretion under Section 4731.222 of the Revised Code to require additional evidence of his fitness to resume practice.
3. **Personal/Professional Ethics Course(s)**: Dr. Washington shall submit acceptable documentation of successful completion of a course or courses dealing with personal/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 course(s) 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. Washington submits the documentation of successful completion of the course(s) dealing with personal/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.

C. **PROBATIONARY CONDITIONS TO BE PLACED ON ANY FUTURE CERTIFICATE GRANTED BY THE BOARD:** In the event that the Board should grant a future application by Dr. Washington for a certificate to practice medicine and surgery in the State of Ohio, or for any other certificate issued by the Board, that certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:

1. **Obey the Law:** Dr. Washington 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. Washington shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which the future certificate is issued, or as otherwise directed by the Board. 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. Washington shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which the Board issues the future certificate, or as otherwise directed by the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise directed 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. **Sobriety**
 - a. **Abstention from Drugs:** Dr. Washington shall abstain completely from the personal use or personal possession of drugs, except those prescribed, dispensed or administered to him by another so authorized by law who has full knowledge of Dr. Washington's history of chemical dependency and/or abuse and who may lawfully prescribe for him (for example, a physician

who is not a family member). Further, in the event that Dr. Washington is so prescribed, dispensed or administered any controlled substance, carisoprodol, or tramadol, Dr. Washington shall notify the Board in writing within seven days, providing the Board with the identity of the prescriber; the name of the drug Dr. Washington received; the medical purpose for which he received the drug; the date the drug was initially received; and the dosage, amount, number of refills, and directions for use. Further, within 30 days of the date the drug is so prescribed, dispensed, or administered to him, Dr. Washington shall provide the Board with either a copy of the written prescription or other written verification from the prescriber, including the dosage, amount, number of refills, and directions for use.

- b. **Abstention from Alcohol:** Dr. Washington shall abstain completely from the use of alcohol.

5. **Drug & Alcohol Screens; Drug-testing Facility and Collection Site**

- a. Dr. Washington shall submit to random urine screenings for drugs and alcohol at least four times per month, or as otherwise directed by the Board. Dr. Washington shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis. The drug-testing panel utilized must be acceptable to the Secretary of the Board, and shall include Dr. Washington's drug(s) of choice.
- b. Dr. Washington shall submit, at his expense and on the day selected, urine specimens for drug and/or alcohol analysis. (The term "toxicology screen" is also used herein for "urine screen" and/or "drug screen.")

All specimens submitted by Dr. Washington shall be negative, except for those substances prescribed, administered, or dispensed to him in conformance with the terms, conditions and limitations set forth in this Order.

Refusal to submit a specimen, or failure to submit a specimen on the day he is selected or in the manner as the Board may request, shall constitute a violation of this Order.

- c. Dr. Washington shall abstain from the use of any substance that may produce a positive result on a toxicology screen, including the consumption of poppy seeds or other food or liquid that may produce a positive result on a toxicology screen.

Dr. Washington shall be held to an understanding and knowledge that the consumption or use of various substances, including but not limited to mouthwashes, hand-cleaning gels, and cough syrups, may cause a positive toxicology screen, and that unintentional ingestion of a substance is not distinguishable from intentional ingestion on a toxicology screen, and that, therefore, consumption or use of substances that may produce a positive result on a toxicology screen is prohibited under this Order.

- d. All urine screenings for drugs and alcohol shall be conducted through a Board-approved drug-testing facility and Board-approved collection site pursuant to the global contract between the approved facility and the Board, which provides for the Board to maintain ultimate control over the urine-screening process and to preserve the confidentiality of positive screening results in accordance with Ohio Revised Code Section 4731.22(F)(5). The screening process for random testing shall require a daily call-in procedure. Further, in the event that the Board exercises its discretion, as provided in Paragraph 6 below, to approve urine screenings to be conducted at an alternative drug-testing facility, collection site, and/or supervising physician, such approval shall be expressly contingent upon the Board's retaining ultimate control over the urine-screening process in a manner that preserves the confidentiality of positive screening results.
- e. Within 30 days of the Board granting Dr. Washington any future certificate, Dr. Washington shall enter into the necessary financial and/or contractual arrangements with the Board-approved drug-testing facility and/or collection site ("DFCS") in order to facilitate the screening process in the manner required by this Order.

Further, within 30 days of making such arrangements, Dr. Washington shall provide to the Board written documentation of completion of such arrangements, including a copy of any contract entered into between Dr. Washington and the Board-approved DFCS. Dr. Washington's failure to timely complete such arrangements, or failure to timely provide written documentation to the Board of completion of such arrangements, shall constitute a violation of this Order.

- f. Dr. Washington shall ensure that the urine-screening process performed through the Board-approved DFCS requires a daily call-in procedure; that the urine specimens are obtained on a random basis; and that the giving of the specimen is witnessed by a reliable person.

In addition, Dr. Washington and the Board-approved DFCS shall ensure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening result.

- g. Dr. Washington shall ensure that the Board-approved DFCS provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Order, and whether all urine screens have been negative.
 - h. In the event that the Board-approved DFCS becomes unable or unwilling to serve as required by this Order, Dr. Washington shall immediately notify the Board in writing, and make arrangements acceptable to the Board, pursuant to Paragraph 6 below, as soon as practicable. Dr. Washington shall further ensure that the Board-approved DFCS also notifies the Board directly of its inability to continue to serve and the reasons therefor.
 - i. The Board, in its sole discretion, may withdraw its approval of any DFCS in the event that the Secretary and Supervising Member of the Board determine that the DFCS has demonstrated a lack of cooperation in providing information to the Board or for any other reason.
6. **Alternative Drug-testing Facility and/or Collection Site:** It is the intent of this Order that Dr. Washington shall submit urine specimens to the Board-approved DFCS chosen by the Board. However, in the event that using the Board-approved DFCS creates an extraordinary hardship on Dr. Washington, as determined in the sole discretion of the Board, then, subject to the following requirements, the Board may approve an alternative DFCS or a supervising physician to facilitate the urine-screening process for Dr. Washington.
- a. Within 30 days of the date on which Dr. Washington is notified of the Board's determination that utilizing the Board-approved DFCS constitutes an extraordinary hardship on Dr. Washington, he shall submit to the Board in writing for its prior approval the identity of either an alternative DFCS or the name of a proposed supervising physician to whom Dr. Washington shall submit the required urine specimens.

In approving a facility, entity, or an individual to serve in this capacity, the Board will give preference to a facility located near Dr. Washington's residence or employment location, or to a physician who practices in the same locale as Dr. Washington.

Dr. Washington shall ensure that the urine-screening process performed through the alternative DFCS or through the supervising physician requires a daily call-in procedure; that the urine specimens are obtained on a random basis; and that the giving of the specimen is witnessed by a reliable person. In addition, Dr. Washington shall ensure that the alternative DFCS or the supervising physician maintains appropriate control over the specimen and immediately informs the Board of any positive screening result.

- b. Dr. Washington shall ensure that the alternative DFCS or the supervising physician provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Order, and whether all urine screens have been negative.
 - c. In the event that the designated alternative DFCS or the supervising physician becomes unable or unwilling to so serve, Dr. Washington shall immediately notify the Board in writing. Dr. Washington shall further ensure that the previously designated alternative DFCS or the supervising physician also notifies the Board directly of the inability to continue to serve and the reasons therefor. Further, in the event that the approved alternative DFCS or supervising physician becomes unable to serve, Dr. Washington shall, in order to ensure that there will be no interruption in his urine-screening process, immediately commence urine screening at the Board-approved DFCS chosen by the Board, until such time, if any, that the Board approves a different DFCS or supervising physician, if requested by Dr. Washington.
 - d. The Board, in its sole discretion, may disapprove any entity or facility proposed to serve as Dr. Washington's designated alternative DFCS or any person proposed to serve as his supervising physician, or may withdraw its approval of any entity, facility or person previously approved to so serve in the event that the Secretary and Supervising Member of the Board determine that any such entity, facility or person has demonstrated a lack of cooperation in providing information to the Board or for any other reason.
7. **Reports Regarding Drug and Alcohol Screens:** All screening reports required under this Order from the Board-approved DFCS, the alternative DFCS and/or supervising physician must be received in the Board's offices no later than the due date for Dr. Washington's declarations of compliance. It is Dr. Washington's responsibility to ensure that reports are timely submitted.

8. **Additional Screening Without Prior Notice:** Upon the Board's request and without prior notice, Dr. Washington shall provide a specimen of his blood, breath, saliva, urine, and/or hair for screening for drugs and alcohol, for analysis of therapeutic levels of medications that may be prescribed for Dr. Washington, or for any other purpose, at Dr. Washington's expense. Dr. Washington's refusal to submit a specimen upon the request of the Board shall result in a minimum of one year of actual license suspension. Further, the collection of such specimens shall be witnessed by a representative of the Board, or another person acceptable to the Secretary and Supervising Member of the Board.
9. **Rehabilitation Program:** Within seven days of being granted a future certificate by the Board, Dr. Washington shall undertake and maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., or C.A., no less than three times per week, or as otherwise ordered by the Board. Substitution of any other specific program must receive prior Board approval.

Dr. Washington shall submit acceptable documentary evidence of continuing compliance with this program, including submission to the Board of meeting attendance logs, which must be received in the Board's offices no later than the due date for Dr. Washington's declarations of compliance.

10. **Modification of Terms:** Dr. Washington shall not request modification of the terms, conditions, or limitations of probation for at least one year after the probation begins.
11. **Releases:** Dr. Washington shall provide authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Dr. Washington's chemical dependency/abuse and/or related conditions, or for purposes of complying with this Order, whether such treatment or evaluation occurred before or after the effective date of this Order. To the extent permitted by law, the above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code, and are confidential pursuant to statute.

Dr. Washington shall also provide the Board written consent permitting any treatment provider from whom he obtains treatment to notify the Board in the event Dr. Washington fails to agree to or comply with any treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Order.

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

Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed. Further, the Secretary and Supervising Member of the Board shall have discretion to waive part or all of the monitoring terms set forth in this Order for occasional periods of absence of 14 days or less.

In the event that Dr. Washington is residing and/or is employed at a location that is within 50 miles of the geographic border of Ohio and a contiguous state, Dr. Washington may travel between Ohio and that contiguous state without seeking prior approval of the Secretary or Supervising Member provided that Dr. Washington is otherwise able to maintain full compliance with all other terms, conditions and limitations set forth in this Order.

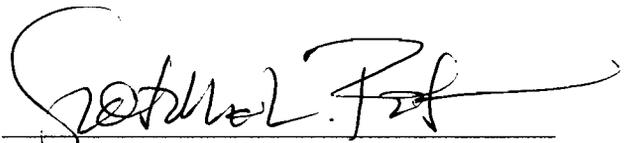
13. **Tolling of Probationary Period while Out of Compliance:** In the event Dr. Washington is found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Order.
 14. **Required Reporting of Change of Address:** Dr. Washington shall notify the Board in writing of any change of residence address and/or principal practice address within 30 days of the change.
- D. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Washington's certificate will be fully restored.
- E. **VIOLATION OF THE TERMS OF THIS ORDER:** If Dr. Washington violates the terms of this Order 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. **REQUIRED REPORTING IN THE EVENT OF THE GRANTING OF ANY FUTURE APPLICATION FOR A CERTIFICATE:**
1. **Required Reporting to Employers and Others:** Within 30 days of the Board granting any future application of Dr. Washington for a certificate, Dr. Washington shall provide a copy of this Order to all employers or entities with which he is under contract to provide healthcare services (including but not limited to third-party payors), or is receiving training; and the Chief of Staff at each hospital or healthcare center where he has privileges or appointments. Further, Dr. Washington shall promptly provide a copy of this Order to all employers or entities with which he contracts in the future to provide healthcare services (including but not limited to third-party payors), or applies for or receives training, and the Chief of Staff at each hospital or healthcare center where he

applies for or obtains privileges or appointments. This requirement shall continue until Dr. Washington receives from the Board written notification of the successful completion of his probation.

In the event that Dr. Washington provides any healthcare services or healthcare direction or medical oversight to any emergency medical services organization or emergency medical services provider in Ohio, within 30 days of the effective date of this Order, he shall provide a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services. This requirement shall continue until Dr. Washington receives from the Board written notification of the successful completion of his probation.

2. **Required Reporting to Other State Licensing Authorities:** Within 30 days of the Board granting any future application of Dr. Washington for a certificate, Dr. Washington 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. Washington 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. Washington receives from the Board written notification of the successful completion of his probation.
3. **Required Reporting to Treatment Providers/Monitors:** Within 30 days of the Board granting any future application of Dr. Washington for a certificate, Dr. Washington shall provide a copy of this Order to all persons and entities that provide chemical dependency/abuse treatment to or monitoring of Dr. Washington. This requirement shall continue until Dr. Washington receives from the Board written notification of the successful completion of his probation.
4. **Required Documentation of the Reporting Required by Paragraph G:** Dr. Washington shall provide this Board with **one** of the following documents as proof of each required notification within 30 days of the date of each such notification: (1) the return receipt of certified mail within 30 days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Order was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Order to the person or entity to whom a copy of the Order was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the e-mail transmission of a copy of the Order to the person or entity to whom a copy of the Order was e-mailed.

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

A handwritten signature in black ink, appearing to read "Gretchen L. Petrucci", written over a horizontal line.

Gretchen L. Petrucci
Hearing Examiner

State Medical Board of Ohio

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

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EXCERPT FROM THE DRAFT MINUTES OF MARCH 10, 2010

REPORTS AND RECOMMENDATIONS AND PROPOSED FINDINGS AND PROPOSED ORDERS

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

Dr. Amato asked whether each member of the Board had received, read and considered the hearing records; the Findings of Fact, Conclusions of Law and Proposed Orders, and any objections filed in the matters of: William Michael Cox, M.D.; Mark Edward Davis, D.O.; Geralyn M. Meny, M.D.; Richard C. Stewart, D.P.M.; David Eric Symer, M.D.; and William James Washington, M.D. A roll call was taken:

ROLL CALL:	Dr. Strafford	- aye
	Mr. Hairston	- aye
	Dr. Madia	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Amato	- aye
	Dr. Varyani	- aye
	Dr. Suppan	- aye
	Mr. Ogg	- aye

Dr. Amato 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. Strafford	- aye
	Mr. Hairston	- aye
	Dr. Madia	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Amato	- aye
	Dr. Varyani	- aye
	Dr. Suppan	- aye
	Mr. Ogg	- aye

Dr. Amato 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.

.....

WILLIAM JAMES WASHINGTON, M.D.

.....

DR. MADIA MOVED TO APPROVE AND CONFIRM MS. PETRUCCI'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF WILLIAM JAMES WASHINGTON, M.D. MR. HAIRSTON SECONDED THE MOTION.

.....

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

ROLL CALL:	Dr. Strafford	- aye
	Mr. Hairston	- aye
	Dr. Madia	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Amato	- aye
	Dr. Varyani	- aye
	Dr. Suppan	- aye
	Mr. Ogg	- 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

June 10, 2009

Case number: 09-CRF-076

William James Washington, M.D.
1511 Cascade Drive
Grove City, OH 43123

Dear Doctor Washington:

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 May 21, 2008, you were stopped by police officers with the Marion Police Department while operating your motor vehicle in Upper Sandusky, Ohio. During a search of your vehicle, the officers found green vegetation (suspected to be marijuana), syringes, needles, and a liquid substance in two vials. On or about May 21, 2008, in the Upper Sandusky Municipal Court in Upper Sandusky, Ohio, you pled guilty to and were found guilty of Possession of Drugs (marijuana) and Driving Under Suspension.

On or about August 29, 2008, you were interviewed by a Board investigator. You told the investigator that the liquid substance in the vials found in your car by the Marion Police Department was human growth hormone that one of your friends had obtained via the internet and given to you. You also indicated that the syringes were for injecting yourself with the human growth hormone. However, you further informed the investigator that you did not inject yourself because you were afraid of needles, and that you had not used any of the human growth hormone.

- (2) In or around November 2008, you stated under oath that you have never been prescribed testosterone and/or steroids; you did not know whether you had ever taken testosterone and/or steroids; you took the substance in the brown vial that the police found in your car on one occasion; that the substance was represented to you to "be a substance intended to facilitate muscle development;" and that you took the substance to enhance the effectiveness of your gym work-out.

It was subsequently determined that one of the vials found in your car by the police officers contained Testosterone Propionate, Testosterone Enanthate, and

Mailed 6-11-09



Boldenone Undercyclenate; and the second vial contained Testosterone Propionate and Testosterone Enanthate.

- (3) You further stated under oath that on three occasions in August 2008, you took a controlled substance, Provigil, which had not been prescribed to you, but to someone else.
- (4) By letter dated February 26, 2009, the Board notified you of its determination that it had reason to believe that you are in violation of Section 4731.22(B)(26), Ohio Revised Code, and ordered you to undergo a 72-hour inpatient examination to determine if you are in violation of Section 4731.22(B)(26), Ohio Revised Code. The Board's determination was based upon one or more of the reasons outlined in such letter, which included the information set forth in paragraphs (1) through (3) above.
- (5) By letter dated April 17, 2009, from Christopher Adelman, M.D., of Glenbeigh Hospital, a Board approved treatment provider, the Board was notified that following the Board ordered evaluation conducted on April 6, 2009, you were diagnosed with drug abuse. Dr. Adelman further reported that you met the definition of impairment, which is impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol or other substances that impair ability to practice, and that you require treatment by an approved treatment provider that complies with the administrative rules, which requires inpatient treatment.

Section 4731.22(B)(26), Ohio Revised Code, provides that if the Board determines that an individual's ability to practice is impaired, the Board shall suspend the individual's certificate and shall require the individual, as a condition for continued, reinstated, or renewed certification to practice, to submit to treatment and, before being eligible to apply for reinstatement, to demonstrate to the Board the ability to resume practice in compliance with acceptable and prevailing standards of care, including completing required treatment, providing evidence of compliance with an aftercare contract or written consent agreement, and providing written reports indicating that the individual's ability to practice has been assessed by individuals or providers approved by the Board and that the individual has been found capable of practicing according to acceptable and prevailing standards of care.

Further, Rule 4731-16-02(B)(3), Ohio Administrative Code, provides that if an examination discloses impairment, or if the Board has other reliable, substantial and probative evidence demonstrating impairment, the Board shall initiate proceedings to suspend the license.

Your acts, conduct, and/or omissions as alleged in paragraphs (1) and (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 4731-11-05(A), Ohio Administrative Code.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (2) and (3) 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(A), Ohio Administrative Code.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (1) through (3) above, individually and/or collectively, constitute “[s]elling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction of, a violation of any federal or state law regulating the possession, distribution, or use of any drug,” as those clauses are used in Section 4731.22(B)(3), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (1) and (2) above, individually and/or collectively, constitute “[c]ommission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed,” as that clause is used in Section 4731.22(B)(12), Ohio Revised Code, to wit: Authority of Licensed Health Care Professional; Contents of Prescription, in violation of Section 3719.06(B), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (1) through (5) above, individually and/or collectively, constitute “[i]mpairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice,” as that clause is used in Section 4731.22(B)(26), 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.

William James Washington, M.D.

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

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Lance A. Talmage, M.D.
Secretary

LAT/MRB/flb
Enclosures

CERTIFIED MAIL #91 7108 2133 3936 3071 2508
RETURN RECEIPT REQUESTED

Duplicate Mailing:

William James Washington, M.D.
4072 Primrose Place, Apt. 5
Beavercreek, OH 45431

CERTIFIED MAIL #91 7108 2133 3936 3083 4361
RETURN RECEIPT REQUESTED
RESTRICTED DELIVERY

cc: Robert D. Noble, Esq.
Matan, Wright & Noble
261 South Front Street
Columbus, OH 43215

CERTIFIED MAIL #91 7108 2133 3936 3071 2485
RETURN RECEIPT REQUESTED