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PROHIBITORY

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

BEFORE THE STATE BOARD OF OSTEOPATHIC MEDICINE

IN THE MATTER OF THE APPLICATION FOR LICENSURE
TO PRACTICE OSTEOPATHIC MEDICINE
OF BINYAMIN ROTHSTEIN, D.O.
Applicant

DOCKET NO. 0992-53-07
FILE NO. 07-53-03224

FINAL ADJUDICATION AND ORDER

KATIE TRUE, COMMISSIONER
BUREAU OF PROFESSIONAL AND
OCCUPATIONAL AFFAIRS

JOSEPH C. GALLAGHER, JR., D.O., CHAIRMAN
STATE BOARD OF OSTEOPATHIC MEDICINE

2601 NORTH 3RD STREET
P.O. BOX 2649
HARRISBURG, PA 17105-2649

HISTORY

This matter is before the State Board of Osteopathic Medicine (Board) on an appeal by Binyamin Rothstein, D.O. (Applicant) of the Board's March 27, 2007 provisional denial of Applicant's application for license to practice osteopathic medicine in the Commonwealth. Applicant was notified of the Board's determination by correspondence dated April 6, 2007. The Board's provisional denial of licensure was based upon the Osteopathic Medical Practice Act, Act of October 5, 1978, P.L. 1109, No. 261, *as amended* (Act), at 63 P.S. §271.15(a)(4), which authorizes the Board to refuse to issue a license where the applicant has had a license revoked or suspended, or has had other disciplinary action taken by the proper licensing authority of another state, territory, possession or country. In particular, the Board cited the revocation of Applicant's license to practice osteopathic medicine in Maryland, and the voluntary surrender of Applicant's license to practice osteopathic medicine in New York as the basis for denial of licensure.

On May 11, 2007, Applicant submitted a request for a hearing regarding the Board's provisional denial of licensure. By Order dated May 11, 2007, the Board delegated this matter to a hearing examiner to conduct a hearing and issue a proposed report. On October 19, 2007, Applicant filed a Motion to the State Board of Osteopathic Medicine to Clarify the Scope of Permissible Testimony pursuant to the Board's Order delegating this case to a Hearing Examiner. The Commonwealth filed a response to Applicant's motion on October 30, 2007, and on November 14, 2007, the Board issued an Order denying Applicant's motion for clarification. After numerous continuance requests, a hearing was held in this matter on November 28, 2007 in Harrisburg. Anita P. Shekletski, Esquire was present at the hearing on behalf of the Commonwealth. Charles I. Artz, Esquire appeared on behalf of Applicant, who was also

present. The parties waived the filing of post-hearing briefs, and the record in this matter closed on December 7, 2007 with the filing of the transcript.

On July 13, 2010, hearing examiner Suzanne Rauer issued a proposed adjudication and order denying Applicant's application for licensure because the Applicant has had a license to practice osteopathic medicine disciplined by the proper licensing authority of another state. The Order stated the State Board of Osteopathic Medicine's intent to review the proposed adjudication and order in accordance with 1 Pa. Code § 35.226(a).

The Board reviewed the complete record and now issues this adjudication and order in full disposition of the licensure application.

FINDINGS OF FACT

1. Applicant held licenses to practice osteopathic medicine in Maryland and New York. (N.T. 41; Board Exhibit B-1)
2. Applicant's Maryland license was revoked in 2005. (Board Exhibit B-1)
3. Applicant surrendered his New York license in resolution of reciprocal disciplinary action. (N.T. 94; Board Exhibit B-1)
4. Applicant's last address of record with the Board is 6511 Western Run Drive, Baltimore, MD 21215. (N.T. 40; Board records)
5. Applicant submitted an application for an unrestricted license to practice osteopathic medicine, dated September 10, 2006. (N.T. 40; Board Exhibit B-1)
6. On March 27, 2007, the Board voted to provisionally deny Applicant's application for a license to practice osteopathic medicine in the Commonwealth. (Board records)
7. On March 28, 1996, Applicant entered into a Consent Order with the Maryland State Board of Physicians (Maryland Board) and agreed to a suspension of his license for 90 days and a three year probationary period. (N.T. 95-96; Board Exhibit B-1)
8. On February 23, 2000, Applicant entered into a second Consent Order with the Maryland Board and agreed to the imposition of a three year probationary period with several terms and conditions, which included ceasing to practice alternative or complementary medicine, and cooperating fully with the Board in the monitoring, supervision and investigation of his compliance with the terms of the order. (Board Exhibit B-1)
9. Over a 10 year period, Applicant was required to have peer reviews completed every month to review between 10 and 15 of his charts; approximately 1,700 patient interactions were peer reviewed. (N.T. 84)

10. Applicant received excellent reviews from the supervisory peer reviewers. Some of the reviewers became his patients or students. (N.T. 84)
11. No problems were ever found nor were there complaints, injuries or misdiagnoses. (N.T. 84)
12. On August 13, 2003, the Maryland Board charged Applicant with violation of the February 23, 2000 Consent Order. After hearing, the Maryland Board found that Applicant violated the probationary terms of the February 23, 2000 Consent Order. (Board Exhibit B-1)
13. By Order dated May 25, 2005, the Maryland Board revoked Applicant's license to practice osteopathic medicine in that state. (Board Exhibit B-1)
14. Two of the four patients for whose treatment Applicant was disciplined in Maryland came to Harrisburg for the hearing to testify on Applicants' behalf. (N.T. 6-21, 22-38)
15. One of the four patients named J.S. was a patient of Applicant from February 2000 until May 2005. (N.T. 6)
16. J.S. testified that she went to see Applicant because she had a total hysterectomy and hormonal therapy; she was a basket case, crying and miserable, having difficulty with her eyesight, skin tone, relationships, sleeping at night, stressed hormonally as well as mentally and her quality of life was really going downhill. (N.T. 7, 74-76)
17. J.S. testified that she went to several other doctors who were unable to help her other than the standard treatment, which is Hormonal Replacement Therapy. (N.T. 7)
18. J.S. stated she did not respond well to their therapy so she sought alternative means of treatment. (N.T. 7)

19. Applicant developed a structured plan to work with J.S., slowly introducing natural hormones. J.S. testified that she was able to see improvement every time she went to Applicant. (N.T. 7-8)

20. Applicant testified that he was criticized by the Maryland Board because the full dose of thyroid medicine is 180 milligrams; he started J.S. off on 15 milligrams then increased her dose to 45 milligrams and then adjusted the final dose to 30 milligrams. (N.T. 76)

21. Applicant explained that every doctor has to adjust dosage to see how the patient responds. (N.T. 76)

22. J. S. testified that after treating with Applicant, she was able to concentrate, was able to sleep at night, was less stressed, and once she was regulated and her thyroid was balanced she felt like she got her life back. (N.T. 9, 74-76)

23. J.S. explained that Applicant spends an enormous amount of time with the patient; sees one as the whole patient and not just as one organ. (N.T. 10)

24. J.S. testified that she did not complain to the Maryland Board about Applicant, was not contacted by the Maryland Board and did not know that Applicant's treatment of her formed the basis of the Maryland Board revoking his license. (N.T. 11-12)

25. J.S. stated she did not find out that Applicant's Maryland license was revoked until May 2005 when Applicant sent her a letter to her informing her that his license was revoked. (N.T. 19)

26. When J.S. did find out about Applicant's discipline and the results of the evidence used against him, she was angered because she couldn't understand how they could take his license and say it is to her benefit when she truly was benefiting from his care. (N.T. 14-15)

27. J. S. testified that if the Board would decide to give Applicant a license, she would travel to Pennsylvania to see him. (N.T. 9, 16)
28. J.S. stated that she would recommend her family and friends to Applicant because he is the best and is very talented physician. (N.T. 9, 16)
29. Another one of the four patients named F.S. was a patient of Applicant's from 1990 until May 2001. (N.T. 22-23)
30. F.S. testified that he had a pinched nerve in his neck which was rendering his right arm useless; he was waking up in the middle of the night gasping for air and in severe pain. (N.T. 24)
31. F.S. went to Applicant for his severe pain and on his first visit Applicant spent quite a lot of time with him and did a complete history. (N.T. 25-26, 31)
32. Applicant ordered an MRI for F.S. to rule out any physical injury. Applicant determined F.S. had a pinched nerve or thoracic outlet syndrome. (N.T. 25-26)
33. F.S. stated that he knew others who have had similar injuries or pain who had surgery and surgery was not something he wished to go through. (N.T. 27)
34. F.S. testified that Applicant recommended a relaxant (colchine), and gave F.S. pain medicine that he could take if needed. After four months of trying to get the muscle structure in his back to relax F.S. overcame the pain and was able to avoid surgery. F.S. testified that he has not had a reoccurrence of the thoracic outlet syndrome since 2001. (N.T. 26-27)
35. Applicant also used osteopathic manipulative techniques to fix F.S.'s pain. (N.T. 27)
36. F.S. explained that with the pinched nerve he also had a rash on his back and shoulder that was irritating but that it was not the source of his visit to Applicant and it was not something for which he needed treatment. (N.T. 28, 30)

37. Applicant looked at the rash and said it was Patechial and explained to F.S. what it was. (N.T. 29)

38. F.S. stated that did not seek any treatment for the rash because it was not something life changing for him, it was a minor irritant, it was not something that increased and when he switched laundry detergents the symptoms went away. (N.T. 29-30)

39. F.S. described Applicant as a conservative and effective doctor and from his experience with osteopaths in Virginia and Florida, F.S. testified that he believes Applicant's skills are higher and that his approach is superior. (N.T. 31, 34)

40. F.S. never complained to the Maryland Board about Applicant, was not contacted by the Maryland Board, and did not know that Applicant's treatment for him formed the basis of the Maryland Board revoking his license until 2006. (N.T. 32, 35)

41. F.S. stated that it is his impression that Applicant has an approach that is person focused and not chemical focused. (N.T. 34)

42. If the Board were to grant Applicant a license and he practiced in southern York County, F.S. would go back to see him and would recommend his family and friends to go see him. (N.T. 33)

43. While practicing osteopathic medicine in Maryland Applicant was sued for malpractice once, by an alcoholic and smoker who had a heart condition and had a stroke. (N.T. 48)

44. Applicant took the case to trail and the jury found for Applicant. (N.T. 49)

45. Other than that one malpractice suit, Applicant testified that he has never been sued, received a demand letter, received a patient complaint or settled out of court. (N.T. 49-50)

46. Since the date of the Maryland Board's decision revoking his license, Applicant has published a book entitled Brain Fog, authored several articles, was employed for a year as a

consultant for a diagnostic laboratory, and has given seminars on alternative medical procedures.
(N.T. 42-48)

47. Applicant published a chapter in a book on laboratory diagnosis of chronic fatigue in the Textbook of Anti-Aging Medicine which was published in 2006. (N.T. 44)

48. Applicant published a chapter in a book on intravenous nutrients based on a lecture he delivered in Chicago in 2005. (N.T. 44)

49. Applicant has given two seminars on Bioidentical Hormone Replacement Therapy. (N.T. 45)

50. Applicant testified to the difference in treatment between allopathic and osteopathic medicine in treatment of pain. (N.T. 115 – 116)

51. Applicant was served with all pleadings, orders and notices filed of record in this matter.
(Docket no. 0992-53-07)

52. Applicant appeared at the hearing held on November 28, 2007, before Hearing Examiner Suzanne Rauer and was represented by Charles L. Artz, Esquire. (N.T. *passim*)

CONCLUSIONS OF LAW

1. The Board has jurisdiction in this matter. (Findings of Fact Nos. 1 - 6)
2. Respondent received notice of this proceeding and was afforded an opportunity to be heard in accordance with Section 504 of the Administrative Agency Law, 2 Pa. C.S. § 504. (Findings of Fact Nos. 6, 51-52)
3. The Board has the authority to refuse, revoke or suspend a license when a physician has had a license to practice osteopathic medicine revoked or suspended, or have other disciplinary action taken by the proper licensing authority of another state. (Findings of Fact Nos. 7-9, 12-13, Section 15(a)(4) of the Act, 63 P.S. § 271.15(a)(4))
4. The Board may revoke, suspend, limit or otherwise restrict a license or certificate under terms of the Act, pursuant to the Act at 63 P.S. § 271.15(c)(3). (Findings of Fact Nos. 7 – 50, Section 15(c)(3) of the Osteopathic Act, 63 P.S. § 271.15(c)(3))

DISCUSSION

In its provisional denial letter to Applicant, the Board noted the actions taken against Applicant by the states of Maryland and New York. Specifically, Applicant's license to practice osteopathic medicine was revoked in Maryland and he voluntarily surrendered his license in New York. Both of those actions fall within section 15(a)(4) of the Act, 63 P.S. § 271.15(a)(4).

Section 15(a)(4) provides as follows:

§ 15(a). Reasons for refusal, revocation or suspension of license

(a) The board shall have authority to refuse, revoke or suspend the license of a physician for any of the following reasons:

(4) Having a license to practice osteopathic medicine and surgery revoked or suspended or having other disciplinary action taken, or an application for a license refused, revoked or suspended by the proper licensing authority of another state, territory or country.

63 P.S. § 271.15(a)(4).

Section 15(c)(3) provides as follows:

(c) Whenever the board finds that the license or a certificate of a person may be refused, revoked or suspended under the terms of this act, the board may:

(3) Revoke, suspend, limit, or otherwise restrict a license or certificate.

63 P.S. § 271.15(c)(3).

The Commonwealth Court has recognized that the state has the right to license professions "in a manner so as to safeguard the interest of the public from those who are

incompetent or unqualified to engage in practice.” Allen v. State Board of Accountancy, 595 A.2d 771, 773 (Pa. Cmwlth. 1991), citing Keeley v. State Real Estate Commission, 501 A.2d 1155 (Pa. Cmwlth. 1985); Quintana v. State Board of Osteopathic Medical Examiners, 466 A.2d 250 (Pa. Cmwlth. 1983). There is no vested right to practice osteopathic medicine or any licensed profession; rather, the right is conditional upon the police power of the state to protect the public health. Oliver v. Pennsylvania Board of Psychologist Examiners, 404 A.2d 1386 (Pa. Cmwlth. 1979); Reisinger v. State Board of Medical Education and Licensure, 399 A.2d 1160 (Pa. Cmwlth. 1979). Those who wish to engage in the practice of osteopathic medicine in Pennsylvania are required to establish that they meet all of the requirements for licensure. Barran v. State Board of Medicine, 670 A.2d 765 (Pa. Cmwlth. 1996), app. denied, 679 A.2d 230 (Pa. 1996). See also, Reisinger, supra.

Applicant submitted to the Board an application for an unrestricted license to practice osteopathic medicine, which was dated September 10, 2006. On March 27, 2007, the Board voted to provisionally deny Applicant’s application for a license to practice osteopathic medicine in the Commonwealth, and notified Applicant of that decision by correspondence dated April 6, 2007. The Board’s provisional denial was based upon action taken on May 25, 2005, by the Maryland State Board of Physicians (Maryland Board), which revoked Applicant’s license to practice in that state based on his violation of conditions imposed on his practice by a prior Maryland Board Order and based on his New York reciprocal discipline. It is clear from § 15(a)(4), 63 P.S. §271.15(a)(4), that a reciprocal disciplinary action is a basis for denying a license to an applicant. However, the Board believes the record supports that there are mitigating factors that should be considered in reviewing Applicant’s application for licensure.

Applicant testified that his treatment of all patients considered by the Maryland Board have received quality medical or surgical care. Applicant testified that for over a 10-year period, he was obligated to provide to a supervisor every month 10 to 15 of his charts for peer review. This totaled approximately 1,700 patient interactions that were peer reviewed. Applicant testified that he always got excellent reviews and his reviewers never found a problem, complaint, injury or misdiagnosis. Applicant state that some of the reviewers even became his patients or students.

Two of the four patients for which Applicant was disciplined in Maryland came to Harrisburg for the hearing to testify on Applicant's behalf. One of the patients named J.S. testified that she was a patient of Applicant from February 2000 until May 2005. J.S. went to see Applicant because she had a total hysterectomy and hormonal therapy. J.S. was a basket case, crying and miserable, having difficulty with her eyesight, skin tone, relationships, sleeping at night, stressed hormonally as well as mentally. Further, her quality of life was really going downhill. J.S. went to several other doctors who were unable to help her other than the standard treatment, which is Hormonal Replacement Therapy. J.S. did not respond well to their therapy so she sought alternative means of treatment. Applicant developed a structured plan to work with J.S., slowly introducing thyroid medication and natural hormones. J.S. testified that she was able to see improvement every time she went to Applicant.

Applicant was criticized by the Maryland Board because the full dose of thyroid medicine is 180 milligrams; he started J.S. off on 15 milligrams then increased her dose to 45 milligrams and then adjusted the final dose to 30 milligrams. Applicant explained that every doctor has to adjust dosage to see how the patient responds.

J. S. testified that after treating with Applicant, she was able to concentrate, was able to sleep at night, was less stressed, and once she was regulated and her thyroid was balanced she felt like she got her life back. J.S. stated that Applicant spends an enormous amount of time with the patient; sees you as the whole patient and not just as one organ. J.S. testified that she did not complain to the Maryland Board about Applicant, was not contacted by the Maryland Board and did not know that Applicant's treatment of her formed the basis of the Maryland Board revoking his license. J.S. did not find out that Applicant's Maryland license was revoked until May 2005 when Applicant issued a letter to her informing her that his license was revoked. J. S. testified that when she found out about Applicant's discipline and the results of the evidence used against him, she was angered because she could not understand how they could take his license and say it was to her benefit when she truly was benefiting from his care. If the Board decides to give Applicant a license, J.S. testified that she would travel to Pennsylvania to see him. J.S. stated that she would recommend her family and friends to Applicant because he is the best and is very talented physician.

Another one of the four patients named F. S. was a patient of Applicant from 1990 until May 2001. F.S. had a pinched nerve in his neck which was rendering his right arm useless; he was waking up in the middle of the night gasping for air and in severe pain. F.S. testified that he went to Applicant for his severe pain. On his first visit Applicant spent quite a lot of time with him and did a complete history. Applicant ordered an MRI and determined he had a pinched nerve or thoracic outlet syndrome. F.S. stated that he knew others who have had similar injuries or pain who had surgery and surgery was not something he wished to go through. Applicant recommended colchine to F.S. which is a relaxant, and gave F.S. pain medicine that he could take if needed. F.S. testified that after four months of trying to get the muscle structure in his

back to relax he overcame the problem and was able to avoid surgery. F.S. testified that he has not had a reoccurrence of the thoracic outlet syndrome since.

Applicant also used osteopathic manipulative techniques to fix F.S.'s pain. F.S. explained that with the pinched nerve he also had a rash on his back and shoulder that was irritating but that it was not the source of his visit to Applicant and it was not something he needed care for. F. S. stated that Applicant looked at the rash and said it was Patechial and explained to F.S. what it was. F.S. did not seek any treatment for the rash because it was not something life changing for him, it was a minor irritant, it was not something that increased and when he switched laundry detergents the symptoms went away.

F.S. described Applicant as a conservative and effective doctor and testified that from his experience with osteopaths in Virginia and Florida, he believes Applicant's skills are higher and that his approach is superior to the other two. F.S. stated that he never complained to the Maryland Board about Applicant, was not contacted by the Maryland Board and did not know that Applicant's treatment for him formed the basis of the Maryland Board revoking his license until 2006. F.S. believes Applicant has an approach that is person focused and not chemical focused. If the Board would decide to give Applicant a license and he practiced in southern York County, F.S. stated that he would go back to see Applicant and would recommend his family and friends to go see him.

Applicant testified that he was sued for malpractice once while practicing osteopathic medicine in Maryland by an alcoholic and smoker who had a heart condition and had a stroke for which he blamed Applicant. Applicant took the case to trial and the jury found for Applicant. Other than that one malpractice suit, Applicant has never been sued, received a demand letter, received a patient complaint or settled out of court. Since the date of the Maryland Board's

decision revoking his license, Applicant stated that he has published a book entitled Brain Fog, authored several articles, was employed for a year as a consultant for a diagnostic laboratory, and has given seminars on alternative medical procedures. Applicant published a chapter in a book on laboratory diagnosis of chronic fatigue in the Textbook of Anti-Aging Medicine which was published in 2006. Applicant published a chapter in a book on intravenous nutrients based on a lecture he delivered in Chicago in 2005. Applicant has given two seminars on Bioidentical Hormone Replacement Therapy.

During his testimony, Applicant stated that in the allopathic medicine world, treatment of pain was generally by way of narcotics. Osteopathic manipulation and other training treated the causes of pain, not just the pain itself. This facilitates resolution of patients' pain conditions.

The duty of the Board is to protect the health and safety of the citizens of the Commonwealth, and ensure any denial or limitation of licensure relates to that end. Applicant has acknowledged his responsibility for his actions that precipitated the disciplinary action against his Maryland and New York licenses. Applicant has explained in detail the steps he uses to diagnose and treat his patients. Applicant has provided credible testimonial evidence that tends to support his version of the events which lead up to his license revocation in Maryland. In deliberating on this case, the Board reviewed all of the evidence and filings of record.

The Board believes that although the hearing examiner's proposed decision in this matter is well considered, a denial of Applicant's application for licensure is not warranted. The Board is cognizant of the fact that allopathic medicine and osteopathic medicine can often diverge in the manner of treatment of patients. Based on the evidence of record, including the testimony of two of the individuals who Applicant successfully treated, but were used by the Maryland Board in their disciplining of Applicant, the Board believes that Applicant should be provided an

opportunity to practice osteopathic medicine with the proper restrictions in place to monitor Applicant's progress and to protect the public.

Accordingly, the following order will issue:

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF OSTEOPATHIC MEDICINE

In RE: Application for a License	:		
To Practice Osteopathic Medicine	:	Docket No.	0992-53-07
Of Binyamin Rothstein, D.O.	:	File No.	07-53-03224
Applicant	:		

FINAL ORDER

AND NOW, this 10th day of August 2012, in accordance with the foregoing findings of facts, conclusions of law and discussion, it is hereby ORDERED that the application for a license to practice osteopathic medicine in the Commonwealth of Pennsylvania of **Binyamin Rothstein, D.O.**, is GRANTED, conditioned upon the payment of all fees and administrative requirements, included an updated/new application. Upon receipt of the above, the Board will issue Applicant a license to practice osteopathic medicine which shall remain in PROBATIONARY STATUS for FIVE YEARS. In addition to the probationary terms below, during the period of probation Respondent is restricted from using chelation or peroxide drips in his practice.

The probationary terms are as follows:

GENERAL PROBATIONARY TERMS AND CONDITIONS

1. Applicant shall abide by and obey all laws of the United States, the Commonwealth of Pennsylvania and its political subdivisions and all rules and regulations and laws pertaining to the practice of the profession in this Commonwealth or any other state or jurisdiction in which Respondent holds a license to practice a health care profession. Summary traffic violations shall not constitute a violation of this Order.

2. Applicant shall at all times cooperate with the Bureau of Professional and Occupational Affairs (Bureau), any of its agents or employees and the Bureau of Enforcement and Investigation (BEI), and its agents or employees in the monitoring, supervision and investigation of Applicant's compliance with the terms and conditions of this Order, including requests for, and causing to be submitted at Applicant's expense, written reports, records and verifications of actions that may be required by the Bureau, BEI or any of its agents or employees.
3. Applicant's failure to fully cooperate with and successfully comply with the terms and conditions of this probation shall be deemed a violation of this Order.
4. Applicant shall not falsify, misrepresent or make material omission of any information submitted pursuant to this Order.
5. Applicant shall notify the Bureau and BEI, in writing, within ten (10) days of the filing of any criminal charges against Applicant, the initiation of any legal action pertaining to Applicant's practice of the profession, the initiation, action, restriction or limitation relating to Applicant by a professional licensing authority of any state or jurisdiction or the Drug Enforcement Agency of the United States Department of Justice, or any investigation, action, restriction or limitation relating to Applicant's privileges to practice the profession at any health care facility.
6. Applicant shall notify the BEI by telephone within 72 hours and shall notify both BEI and the Bureau in writing within ten (10) days of any change of Applicant's home address, phone number, employment status, employer and/or change in practice at a health care facility at which Applicant will practice as an osteopathic medical physician and surgeon, and a description of Applicant's duties and responsibilities at such places of

practice.

7. If Applicant will be absent from the Commonwealth of Pennsylvania for any period exceeding twenty (20) days, Applicant must notify BEI, in writing, of Applicant's absence and must provide a list of the jurisdiction(s) where Applicant is practicing osteopathic medicine.
8. Applicant consents to the release by the Bureau or BEI of any information or data produced as a result of this Order or probation to the proper licensing authority of any jurisdiction in which Applicant intends to remain for greater than forty-eight (48) hours.
9. Applicant consents to the release by the Bureau or BEI of any information or data produced as a result of this Order or probation to any professional employer or prospective professional employer.
10. During any period of active suspension or ordered probation, Applicant shall supply any current professional employer with a copy of this Order.
11. Within fifteen (15) days of the date of this Order, and within fifteen (15) days of the date of change in professional employer, Applicant shall have his professional employer submit to BEI written verification that the professional employer *a)* has received a copy of this Order, *b)* understands the conditions of this probation, and *c)* agrees to report any suspected violation by Applicant of this probation. If Applicant is or becomes self-employed, Applicant shall submit a statement to that effect to BEI and shall produce any requisite documentation to BEI to substantiate such a statement.
12. Unless otherwise directed, Applicant, his professional employer, and any other person needing or required to make reports under this Order concerning Applicant's practice and contact information shall cause these reports, data or other information to be filed with

BEI at:

Probation Compliance Officer
Bureau of Enforcement and Investigation
Box 2649
Harrisburg, PA 17105-2649

MONITORED/SUPERVISED PRACTICE

13. "Practice" includes employment within the commonwealth of Pennsylvania in any position requiring the maintenance of a current professional license.
14. Applicant shall for a minimum period of five (5) years submit to workplace monitored/supervised practice.
15. Applicant shall submit to practice monitored/supervised practice by a physician approved by the Board. In the event the approved physician is unable to complete his duties as the workplace monitor/supervisor, then the five (5) year period of workplace monitored/supervised practice will be tolled, if necessary, until such time that an acceptable practice monitor/supervisor approved by the Board and Applicant can be found.
16. Applicant shall within five (5) days of the effective date of this Order, provide his workplace monitor/supervisor with a true and correct copy of this Order.
17. Applicant shall meet on a quarterly basis with his practice monitor/supervisor to discuss any issues that may arise in his practice, and to ensure that Applicant continues to safely and competently practice. The practice monitor/supervisor shall submit to the BEI Compliance Officer quarterly work performance evaluations.
18. The practice monitor/supervisor shall within 45 days of the effective date of the Order,

provide the BEI Compliance Officer with notice verifying that she/he has received a copy of the Order and that she/he had met with Applicant.

The practice monitor/supervisor shall provide copies of all reports to the BEI Compliance Officer as follows:

Probation Compliance Officer Bureau of Enforcement and Investigation Box 2649 Harrisburg, PA 17105-2649
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19. Applicant shall give any employer and supervisor a copy of this Order within five (5) days of the effective date of this Order.
20. Applicant shall give any prospective employer and supervisor a copy of this Order when applying for employment in the practice of the profession.

COSTS

21. Applicant shall be responsible for all costs incurred in complying with the terms of this Order.

VIOLATION OF THIS ORDER

22. Notification of a violation of the terms or conditions of this Order shall result in the **IMMEDIATE TERMINATION** of the period of probation, and **ACTIVATION** of a **FIVE YEAR** suspension of Respondent's license(s) to practice the profession in the Commonwealth of Pennsylvania as follows:

- a. The prosecuting attorney for the Commonwealth shall present to the Board's Probable Cause Screening Committee ("Committee") a Petition that indicates that Applicant has violated any terms or conditions of this Order.

- b. Upon a probable cause determination by the Committee that

Applicant has violated any of the terms or conditions of this Order, the Committee shall, without holding a formal hearing, issue a preliminary order vacating the stay of the within suspension, terminating this probation and activating the suspension of Applicant's license.

c. Applicant shall be notified of the Committee's preliminary order within three (3) business days of its issuance by certified mail and first class mail, postage prepaid, sent to the Applicant's last registered address on file with the Board, or by personal service if necessary.

d. Within twenty (20) days of mailing of the preliminary order, Applicant may submit a written answer to the Commonwealth's Petition and request that a formal hearing be held concerning Applicant's violation of probation, in which Applicant may seek relief from the preliminary order activating the suspension. Applicant shall mail the original answer and request for hearing to the Bureau of Professional and Occupational Affairs' Prothonotary, 2601 N. Third Street, Harrisburg, PA 17110, and a copy to the prosecuting attorney for the Commonwealth, as well as all subsequent filings in the matter.

i. If the Applicant submits a timely answer and request for a formal hearing, the Board or a designated hearing examiner shall convene a formal hearing within forty-five (45) days from the date of the Prothonotary's receipt of Applicant's request for a formal hearing.

ii. Applicant's submission of a timely answer and

request for a hearing shall not stay the suspension of Applicant's license under the preliminary order. The suspension shall remain in effect unless the Board or the hearing examiner issues an order after the formal hearing staying the suspension again and reactivating the probation.

iii. The facts and averments in this Order shall be deemed admitted and uncontested at this hearing.

iv. If the Board or hearing examiner after the formal hearing makes a determination against Applicant, a final order will be issued sustaining the suspension of Applicant's license and imposing any additional disciplinary measures deemed appropriate.

v. If Applicant fails to timely file an answer and request for a hearing, the Board, upon motion of the prosecuting attorney, shall issue a final order affirming the suspension of Applicant's license.

vi. If Applicant does not make a timely answer and request for a formal hearing and a final order affirming the suspension is issued, or the Board or the hearing examiner makes a determination against Applicant sustaining the suspension of Applicant's license, after at least 5 years of active suspension and any additional imposed discipline, Applicant may petition the Board for reinstatement upon

verification that Applicant has complied with the Board's order, abided by and obeyed all laws of the United States, the Commonwealth of Pennsylvania and its political subdivisions, and all rules and regulations pertaining to the practice of the profession in this Commonwealth.

vii. Applicant's failure to fully comply with any terms of this Order may also constitute grounds for additional disciplinary action.

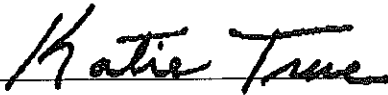
23. Nothing in this Order shall preclude the prosecuting attorney for the Commonwealth from filing charges or the Board from imposing disciplinary or corrective measures for violations or facts not contained in this Order.

24. After successful completion of probation, Applicant may petition the Board to reinstate Applicant's license to unrestricted, non-probationary status upon an affirmative showing that Applicant has complied with all terms and conditions of this Order and is fit to practice.

This order shall take effect upon Applicant obtaining a workplace/monitor/supervisor satisfactory to the Board.

BY ORDER:

BUREAU OF PROFESSIONAL
AND OCCUPATIONAL AFFAIRS



KATIE TRUE,
COMMISSIONER

STATE BOARD OF OSTEOPATHIC
MEDICINE



JOSEPH C GALLAGHER, JR. DO
CHAIRMAN

Applicant's Attorney:

Charles I. Artz, Esquire
ARTZ HEALTH LAW
200 North 3rd Street
12th Floor, Suite 12-B
Harrisburg, PA 17101

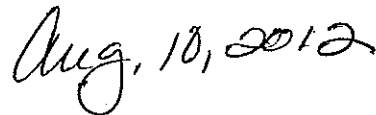
Prosecuting Attorney:

Anita P. Shekletski, Esquire
P.O. Box 2649
Harrisburg, PA 17105-2649

Board Counsel:

Sabina I. Howell, Esquire
P.O. Box 2649
Harrisburg, PA 17105-2649

Date of Mailing:



NOTICE

The attached Adjudication and Order represents the final agency decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a Petition for Review with that Court within 30 days after the entry of the order in accordance with the Pennsylvania Rules of Appellate Procedure. See Chapter 15 of the Pennsylvania Rules of Appellate Procedure entitled "Judicial Review of Governmental Determinations," Pa. R.A.P 1501 – 1561. Please note: An order is entered on the date it is mailed. If you take an appeal to the Commonwealth Court, you must serve the Board with a copy of your Petition for Review. The agency contact for receiving service of such an appeal is:

Board Counsel
P.O. Box 2649
Harrisburg, PA 17105-2649

The name of the individual Board Counsel is identified on the Order page of the Adjudication and Order.