BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:	)	
Mohammad Ali Moayeri, M.D.	)	**Case No. 800-2019-053033**
Physician's and Surgeon's Certificate No. C 40554	)	
Respondent	)	

DECISION

The attached Stipulated Surrender of License and Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on November 27, 2019.

IT IS SO ORDERED November 20, 2019.

MEDICAL BOARD OF CALIFORNIA

By: _____
Christine J. Lally
Interim Executive Director

XAVIER BECERRA
Attorney General of California
MARY CAIN-SIMON
Supervising Deputy Attorney General
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Attorneys for Complainant

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **MOHAMMAD ALI MOAYERI, M.D.** **5706 Turney Rd, Suite 206** **Garfield Heights, OH 44125-3971** **Physician's and Surgeon's Certificate** **No. C 40554** Respondent.	Case No. 800-2019-053033 **STIPULATED SURRENDER OF LICENSE AND ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board of California (Board). She brought this action solely in her official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Carolyne Evans, Deputy Attorney General.

2. Mohammad Ali Moayeri, M.D. (Respondent) is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about July 8, 1982, the Board issued Physician's and Surgeon's Certificate No. C 40554 to Mohammad Ali Moayeri, M.D. (Respondent). The Physician's and Surgeon's Certificate is renewed and current and will expire on June 30, 2020, unless renewed.

JURISDICTION

4. Accusation No. 800-2019-053033 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on May 8, 2019. Respondent filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 800-2019-053033 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. 800-2019-053033. Respondent also has carefully read, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 800-2019-053033, agrees that cause exists for discipline and hereby surrenders his Physician's and Surgeon's Certificate No. C 40554 for the Board's formal acceptance.

9. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Physician's and Surgeon's Certificate without further process.

CONTINGENCY

10. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Surrender of License and Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

12. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. C 40554, issued to Respondent Mohammad Ali Moayeri, M.D., is surrendered and accepted by the Board.

1. The surrender of Respondent's Physician's and Surgeon's Certificate and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

2. Respondent shall lose all rights and privileges as a physician and surgeon in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 800-2019-053033 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California. By signing this stipulation to surrender my license, I recognize that upon its formal acceptance by the Board, I will lose all rights and privileges to practice as a physician and surgeon in the State of California and I also will cause to be delivered to the Board any license and wallet certificate in my possession before the effective date of the decision.

DATED: 10-28-19

MOHAMMAD ALI MOAYERI, M.D.
Respondent

My License is included.

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted

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///

for consideration by the Medical Board of California of the Department of Consumer Affairs.

DATED: Nov. 1 '19

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
MARY CAIN-SIMON
Supervising Deputy Attorney General

CAITLIN ROSS
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 800-2019-053033

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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO MAY 8 2019
BY: ANALYST

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **Mohammad Ali Moayeri, M.D.** **5706 Turney Rd, Suite 206** **Garfield Heights, OH 44125-3971** **Physician's and Surgeon's Certificate No. C 40554,** Respondent.	Case No. 800-2019-053033 **ACCUSATION**

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about July 8, 1982, the Medical Board issued Physician's and Surgeon's Certificate Number C 40554 to Mohammad Ali Moayeri, M.D. (Respondent). The Physician's and Surgeon's Certificate is current and renewed with an expiration date of June 30, 2020.

However, on March 25, 2019, the Board suspended Respondent's Physician's and Surgeon's Certificate pursuant to Business and Professions Code Section 2310(a).

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2227 of the Code provides, in part, that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, be publicly reprimanded, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code provides that the Board shall take action against a licensee who is charged with unprofessional conduct.

6. Section 2305 of the Code states:

"The revocation, suspension, or other discipline, restriction or limitation imposed by another state upon a license or certificate to practice medicine issued by that state, or the revocation, suspension, or restriction of the authority to practice medicine by any agency of the federal government, that would have been grounds for discipline in California of a licensee under this chapter shall constitute grounds for disciplinary action for unprofessional conduct against the licensee in this state."

7. Section 141 of the Code states:

"(a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.

"(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by that board that provides for discipline based upon disciplinary action taken against the licensee by another state, an agency of the federal government, or another country."

CAUSE FOR DISCIPLINE

(Discipline, Restriction, or Limitation Imposed by Another State)

8. On or about January 9, 2019, the State Medical Board of Ohio issued an Order permanently revoking Respondent's Ohio medical license (Ohio Order). The Ohio Order found that Respondent's medical license was subject to discipline because Respondent engaged in unprofessional conduct in that he prescribed controlled substances to a family member, and took some of the controlled substances prescribed to the family member for his self-use. The facts are as follows:

9. From May 2014 through December 2017, Respondent, a rheumatologist, prescribed multiple controlled substances to Patient 1, a family member. On multiple occasions from May 2014 through December 2017, Respondent took some of the medications he prescribed to Patient 1, including controlled substances, for his own self-use.

10. The State Medical Board of Ohio concluded that Respondent's unprofessional conduct described in paragraph 9, also "constitute[s] commission of an act that constitutes a felony in this state... to wit: R.C. 2925.22, Deception to Obtain a Dangerous Drug."

11. As a result of Respondent's unprofessional conduct, the State Medical Board of Ohio permanently revoked Respondent's Ohio medical license. The State Medical Board of Ohio concluded that it was necessary to revoke Respondent's license because: "[Respondent] has been violating the Board's rules for an extended period of time, and there is no justifiable excuse for his actions. Further, his inability to tell the truth[1], refusal to take any responsibility for his actions, and nonchalant attitude towards his actions do not make him a good candidate for

[1] The State Medical Board of Ohio found that Respondent "repeatedly gave false testimony at the hearing and lied to the Board's investigators." (Ohio Order at p. 17.)

probation and rehabilitation." (Ohio Order, p. 18). The State Medical Board of Ohio also ordered that Respondent pay a fine of $18,000.00. (Id.)

12. Respondent's conduct and the actions of the State Medical Board of Ohio, as set forth in paragraphs 8 through 11 above, constitute unprofessional conduct within the meaning of 2305 and conduct subject to discipline within the meaning of section 141(a). The State Medical Board of Ohio's Order is attached as Exhibit A.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number C 40554, issued to Respondent;

2. Revoking, suspending or denying approval of Respondent's authority to supervise physician assistants and advanced practice nurses;

3. Ordering Respondent, if placed on probation, to pay the Board the costs of probation monitoring; and

4. Taking such other and further action as deemed necessary and proper.

DATED:
May 8, 2019

KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

EXHIBIT A

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF	*	
	*	CASE NO. 18-CRF-0082
MOHAMMAD MOAYERI, M.D.	*	

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on January 9, 2019.

Upon the Report and Recommendation of Kimberly A. Lee, Esq., State Medical Board Hearing Examiner, designated in this Matter pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the approval and confirmation by vote of the Board on the above date, the following Order is hereby entered on the Journal of the State Medical Board of Ohio for the above date.

It is hereby ORDERED that:

A. **PERMANENT REVOCATION:** The license of Mohammad Moayeri, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED.

B. **FINE:** Within thirty days of the effective date of this Order, Dr. Moayeri shall remit payment in full of a fine of eighteen thousand dollars ($18,000). Such payment shall be made via credit card in the manner specified by the Board through its online portal, or by other manner as specified by the Board.

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

Kim G. Rothermel, M.D.
Secretary

(SEAL)

January 9, 2019
Date

DEC 1 0 2018
STATE MEDICAL BOARD
OF OHIO

BEFORE THE STATE MEDICAL BOARD OF OHIO

In the Matter of	*	
Mohammad Moayeri, M.D.,	*	Case No. 18-CRF-0082
Respondent.	*	Hearing Examiner Lee

REPORT AND RECOMMENDATION

Basis for Hearing

In a notice of opportunity for hearing dated July 11, 2018 ("Notice"), the State Medical Board of Ohio ("Board") notified Mohammad Moayeri, M.D., that it proposed to take disciplinary action against his certificate to practice medicine and surgery in Ohio. The Board based its proposed action on allegations that, from in or around May 2014 to in or around December 2017, Dr. Moayeri prescribed controlled substances to a family member on multiple occasions, did not document his treatment of the family member, and took some of the controlled substances prescribed to the family member for his self-use. The Board further alleged that this conduct constituted "[c]omission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed" as that clause is used in Ohio Revised Code Section ("R.C") 4731.22(B)(10), to wit: Deception to Obtain a Dangerous Drug, in violation of R.C. 2925.22. The Board further alleged that this conduct constituted "violating or attempting to violate, directly or indirectly, any provisions of this chapter or any rule promulgated by the board" as that clause is used in R.C. 4731.22(B)(20), to wit: Utilizing Controlled Substances for Self and Family Members, Ohio Administrative Code Rule ("Rule") 4731-11-08. (State's Exhibit ("St. Ex.") 1)

Appearances

Michael DeWine, Ohio Attorney General, and Melinda R. Snyder, Assistant Attorney General, on behalf of the State of Ohio. Dr. Moayeri appeared on his own behalf.

Hearing Date: October 18, 2018

PROCEDURAL MATTERS

1. In reviewing the exhibits after the hearing, the Hearing Examiner realized that State's Exhibit 2, which was admitted into evidence at the hearing, contains patient identifying information and other personal identifying information in addition to what was identified at hearing. The Hearing Examiner redacted that information and marked the redacted version as State's Exhibit 2-A and sealed State's Exhibit 2 to protect patient confidentiality.

2. The transcript for the hearing contained patient identifying information. The Hearing Examiner redacted the patient identifying information in the transcript and index. The unredacted versions of the transcript and index are ordered post-hearing to be admitted as sealed Board exhibits.

3. The hearing record was held open until October 31, 2018 to allow Dr. Moayeri to submit additional exhibits, and Respondent's Exhibit B was admitted after the hearing by entry. As it contains photographs of Patient 1, Respondent's Exhibit B is ordered post-hearing to be sealed.

SUMMARY OF THE EVIDENCE

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

Background

1. Mohammad Moayeri, M.D., was born in Iran. He obtained his undergraduate degree in the United States and returned to Iran for medical school. He testified that his medical school was a six-year program that included an externship and internship. He graduated medical school in either 1973 or 1974. Dr. Moayeri returned to the United States in 1977 and completed a three-year internal medicine residency at St. Luke's Hospital in Cleveland. He then completed a two-year fellowship in rheumatology. (Transcript ("Tr.") at 22-23)

2. Dr. Moayeri testified that he has operated a solo practice in several locations since 1982. (Tr. at 24-25) He closed his practice in March 2018. (Tr. at 64) Dr. Moayeri specialized in rheumatology and was board certified until the end of 2016 when his board certification lapsed. (Tr. at 25) Further, Dr. Moayeri testified that, while he previously had hospital privileges at several hospitals, at the time of the hearing he only had honorary privileges at St. Vincent's Charity Medical Center. (Tr. at 26) Dr. Moayeri was 75 years old at the time of the hearing. (Tr. at 26)

3. Dr. Moayeri testified that he was initially licensed in Ohio in 1980. He further testified that he was licensed in California in 1982 and that the California license was still active. (Tr. at 21-22) Dr. Moayeri's Ohio license to practice medicine and surgery is currently active. (Ohio eLicense Center, *<https://elicense.ohio.gov/>*, search terms, "Mohammad" and "Moayeri," accessed December 7, 2018)

July 2017 Arrest

4. On July 27, 2017, Dr. Moayeri was arrested while driving home after dinner with friends. Prior to his arrest, Dr. Moayeri struck a mailbox with his vehicle, but he did not stop and continued driving. The owner of the mailbox happened to see the accident and flagged down a nearby North Royalton police officer. Dr. Moayeri was pulled over shortly

thereafter. (St. Ex. 2) Dr. Moayeri later testified that he did not know he had hit the mailbox because the radio was loud but that he pulled over when he heard the police siren behind him. (Tr. at 28) The passenger side mirror of Dr. Moayeri's vehicle was damaged, and the outer cover of the mirror had fallen off. (St. Ex. 2 at 6, 16, and 18)

5. Dr. Moayeri testified that he was driving a large Range Rover that evening. He further testified:

> And the road was bad and was narrow, and here I'm going on the left and on the right. I was trying to avoid hitting him, so I ended up hitting the mailbox.
>
> At the same time I would say that I have the record that I took the car as the wheel alignment is not good. In other words, it has its own mind. It goes any way that it wants to, not right or left. So it is very hard to control that car. And I fixed that, of course. So that's that.

(Tr. at 12)

6. After he was pulled over, Dr. Moayeri was asked to perform several field sobriety tests and was subsequently arrested and transported to the local police station. (St. Ex. 2 at 4-5) At the station, Dr. Moayeri provided a breath sample that showed a BAC of 0.066%. (St. Ex. 2 at 5) At the hearing, Dr. Moayeri falsely testified that "My alcohol test was negative. The test they do with breathing test was negative." (Tr. at 13) According to the police report, Dr. Moayeri told the police that he sometimes would take Tramadol prescribed to Patient 1 and that he had taken one Tramadol at approximately 3:00 p.m. that day[1]. (St. Ex. 2 at 5) Dr. Moayeri was then asked to provide a urine same for testing and released pending the toxicology results of the urine sample. (St. Ex. 2 at 5)

7. During an investigatory interview of Dr. Moayeri with Board Investigators Jason Alameda and Thomas DePoy on February 2, 2018, Dr. Moayeri informed the investigators that the breathalyzer test the police performed was negative despite also admitting that he had one martini at dinner. Upon further questioning, Dr. Moayeri stated that the police had not actually told him the test was negative but that he determined it was negative by their reaction. (St. Ex. 7 at 25:00)

8. When Dr. Moayeri was arrested, his vehicle was searched and towed away. During the search, the police located a black, leather case on the floor behind the driver's seat. In the case was a prescription pill bottle. The label on the bottle indicated the prescription had been written on July 3, 2017, by Dr. Moayeri to Patient 1 for 120 pills of Tramadol 50 mg. The police counted 97 pills in the bottle. (St. Ex 2 at 6, 17, 19, and 20)

9. In December 2017, the toxicology report for Dr. Moayeri's urine sample was provided to the North Royalton Police Department. The report showed a positive result for ethanol at 0.055 g/dL as well as unquantified positive results for Tramadol, o-desmethylTramadol,

[1] However, at the hearing Dr. Moayeri testified that he took the Tramadol in the morning. (Tr. at 32) During the investigatory interview on February 2, 2018, Dr. Moayeri informed the Board investigators that he had taken the Tramadol in the evening. (St. Ex. 7 at 30:15)

norTramadol, gabapentin breakdown, lorazepam, oxazepam, and temazepam[2]. (St. Ex. 2 at 9) At the hearing, Dr. Moayeri testified that his urine alcohol screen was also negative despite also admitting it was positive. He testified "[n]umber one, there was no alcohol in my urine when the police tested. They found not -- the amount wasn't mentioned. It just mentioned it was positive. That doesn't mean anything. That's all on that." (Tr. at 79) Dr. Moayeri was similarly confusing regarding the other positive results. At one point he testified "[a]nd the urine also came back as, yeah, it was showed Tramadol as well as Lorazepam, which I was taking it from the doctor at that time when they test that." (Tr. at 14) He later testified "[t]here was no Tramadol." (Tr. at 76) Dr. Moayeri testified further regarding his issue with the drug test results:

> But the amount -- the thing is I have -- my objection is this test they say positive or negative. They don't tell you how much was in, because negative or positive doesn't mean anything unless you specify the amount of it, how many milligrams or how many grams, or same with alcohol, you know. They give you a number.
>
> But -- so there was no number in either test. So that, I think, is not right, you know. To a doctor or to me, that didn't mean anything. If I check something and it comes back negative or positive, I want to know the amount of it. Negative or positive is not the way to say, doesn't mean anything. So that was it.

(Tr. at 14)

Treatment of Family Member

10. Patient 1 is an 89-year-old family member of Dr. Moayeri. (Tr. at 16, 37, 55) Dr. Moayeri testified that Patient 1 has been living with him and that he has been treating her for about 10 years. (Tr. at 37, 39) According to Dr. Moayeri, Patient 1 suffers from high blood pressure, severe osteoporosis, severe osteoarthritis, anxiety, depression, insomnia, and blindness from macular degeneration. (Tr. at 39-40) When asked which conditions he was treating Patient 1 for, Dr. Moayeri testified "[b]lood pressure, arthritis, anxiety, depression, you know. When you're blind, you have always depressed, anxiety. Basically those are the major ones, major." (Tr. at 39-40)

11. It is not clear from Dr. Moayeri's testimony when Patient 1 last saw a physician other than Dr. Moayeri. When asked, Dr. Moayeri testified: "Once she saw -- once or twice maybe she saw the eye doctor, one of the eye doctors. I can't really remember who she saw. My doctor, she run all the tests and they say there is nothing we can do. She has -- her eyes are gone. The back of the eye, they say she has [macular degeneration]." (Tr. at 39) When asked if he had ever taken Patient 1 outside the home to see a physician, Dr. Moayeri testified "I told -- I said I begged her. She refuses. She says she can't see. She's blind. She's back is just like this when she walks. She only goes to bathroom and -- she even

[2] Dr. Moayeri received multiple citations. Dr. Moayeri's criminal case is not included in the Notice and may not be used as a basis for discipline in the current case.

refuses to go to the bed because there are steps she has to take. So she sleeps on the couch." (Tr. at 54-55) Dr. Moayeri further testified that Patient 1 refuses to see another doctor or even leave the house. (Tr. at 11, 38, 51, and 54) Dr. Moayeri testified that "I had the obligation as a physician, I don't know, to that family member to help her, because she was in pretty bad shape." (Tr. at 11) He further testified:

> So that's the reason, as I said, I maybe broke the law, but I did that for -- for someone very dear to me, someone who was in pain and blind, going to 89 and a half. She is stubborn, very stubborn person. I begged them to go to doctor. No. It's cold outside. She hasn't walked out of the house one day maybe once or twice. I tell her sit outside. Get some sunshine. She doesn't.

(Tr. at 16-17)

12. Even though Dr. Moayeri was treating Patient 1 for 10 years, he never kept a patient record for her. Dr. Moayeri testified:

> For my family -- no. At that point I never thought I should do that. * * * Because you live with someone for 24 hours practically, you give her medications, you know exactly what they're taking. I can show medications right on the desk and every night I'll chose them and give it to her. So that's -- if I know all that, what's the paperwork for that? The paperwork can be destroyed, but I see it live in front of me. That would be very unacceptable as far as I'm concerned to have her -- I mean, yeah. If it was your cousin in Africa or in Iraq and can't visit you and you have prescription, you treated that cousin, yeah, you make a record for that person, but not for someone who lives with you for 24 hours and you know everything about her.

(Tr. at 55-56)

Dr. Moayeri was asked about the importance of Patient 1's medical history being understood by emergency room physicians and responded "Trust me, if that ever happen, I'll be there. I'll be there. She will never be alone." (Tr. at 56)

13. Dr. Moayeri testified at the hearing that he had prescribed medication to Patient 1. He unequivocally admitted that he prescribed the Tramadol which was found by the police in his vehicle on July 27, 2017 when he was pulled over after hitting a mailbox. (Tr. at 32) He further admitted that he prescribed Lorazepam to Patient 1 as well. (Tr. at 45)

14. The State presented a number of prescriptions, both controlled and noncontrolled, allegedly issued by Dr. Moayeri to Patient 1. (St. Ex. 3) A significant number of these prescriptions were called in by Dr. Moayeri or his staff while fewer prescriptions were written on a prescription pad. Some of the prescriptions are only identified on the pharmacy's profile list so it is unknown if those prescriptions were written or telephoned in. The following prescriptions for controlled substances were issued under Dr. Moayeri's name to Patient 1:

Date	Drug	Dose	Quantity	Refills	Ex. 3, Pg
05/30/14	Klonopil	1mg	30	1	28
02/05/15	Ativan	2mg	60	3	36
05/05/15	Lorazepam	2mg	120	2	65
09/28/15	Lorazepam	2mg	60	3	38
12/09/15	Lorazepam	2mg	30	3	66, 67, 68
12/23/15	Lorazepam	2mg	30	2	69, 70
01/15/16	Lorazepam	2mg	60	2	73, 74
06/25/16	Robitussin with codeine		6oz	0	64
07/14/16	Lorazepam	2mg	60	2	71
08/01/16	Tramadol	50mg	60	2	72
09/08/16	Tramadol	50mg	60	3	39
11/04/16	Ultram	50mg	90	2	40
12/20/16	Lorazepam	2mg	60	1	42
01/03/17	Ultram	50mg	90	3	43
01/16/17	Tramadol	50mg	90	0	23
01/24/17	Ativan	2mg	60	2	44, 45
01/24/17	Ultram	50mg	60	2	44, 45
03/14/17	Ultram	50mg	90	2	24
04/17/17	Tramadol	50mg	90	0	25
07/03/17	Tramadol	50mg	120	1	26
07/23/17	Gabapentin	300mg	90		4
11/21/17	Lorazepam	2mg	60	0	27
12/20/17	Lorazepam	2mg	60	1	35

(St. Ex. 3)

15. Dr. Moayeri was asked about several of the prescriptions for Patient 1 that were called in to pharmacies. Dr. Moayeri admitted that he called in a prescription for Tramadol with three refills on September 8, 2016. (Tr. at 43; St. Ex. 3 at 39) He further admitted that he wrote a prescription for Lorazepam with two refills on May 5, 2015. (Tr. at 49-50; St. Ex. 3 at 65) He clearly testified that he did not authorize a prescription for Lorazepam with three refills which was called in by Monica Fuller on September 28, 2015. (Tr. at 42-43; St. Ex. 3 at 38) However, Dr. Moayeri testified "I don't believe I authorized" a prescription to Patient 1 for Ativan with three refills on February 5, 2015 which was also called in by Monica Fuller. (Tr. at 40-42; St. Ex. 3 at 36) Further, Dr. Moayeri testified "I'm not sure if I authorized that," when asked about a prescription for Klonopin with one refill purportedly called in by Dr. Moayeri on May 30, 2014. (Tr. at 46; St. Ex. 3 at 28)

16. Dr. Moayeri repeatedly made false statements to Mr. Alameda and Mr. DePoy during the February 2, 2018 interview regarding his treatment of Patient 1. For example, when asked about being listed as the prescribing physician on the prescription bottle of Tramadol found by the North Royalton Police, Dr. Moayeri claimed "I did that for the first time in 10 years

that she has been here, and I have been taking care of her, but I never wrote anything for her. This was the first time because I had no choice." (St. Ex. 7 at 35:00) In fact, as set forth in the chart in paragraph 14 above, Dr. Moayeri had authorized numerous prescriptions to Patient 1 for controlled substances. (St. Ex. 3)

Later, when confronted with Patient 1's OARRS report and a number of prescriptions allegedly issued by him, Dr. Moayeri sated "Well, you know, this may have been the case which I am - I used to tell the secretary * * * 'Call [Patient 1's] medication' which four of them are for blood pressures: Norvask, Metoprolol, Lisinopril, and some diuretic which I stopped." (St. Ex. 7 at 42:00)

17. Dr. Moayeri repeatedly testified that he had been "hacked" by at least one of his practice secretaries. He claimed that this person or people had stolen his prescriptions and/or called in prescriptions without his authorization. (Tr. at 24, 35, 47-49, 62, and 91) The following exchange occurred between Dr. Moayeri and the Assistant Attorney General regarding Dr. Moayeri's claim that some of the prescriptions to Patient 1 were fraudulent:

Q. [By Ms. Snyder] I've got to ask, Doctor. Who else would want to give [Patient 1] these medications but you? I mean, why would somebody have done that? Why would somebody have said well, I think I'm to call in a prescription for Dr. Moayeri's [family member] today without medical authorization?

A. That's what hacking means. My prescription has been stolen and what they do. They called me not too long ago. The guy from the department, drug department wanted to know what should I do about these people. He arrested them. I said leave it alone. You know why? Because if they go to jail, they come out of the jail no time, right? They come after me. Because I know the people who do these things, they are -- can be criminal. So I was trying to protect myself. I said no. No, don't do that. Police in Greenville, Pennsylvania, they left a message for me. I said no. I have to think about it. When I thought about it, one of them went to jail for a while.

Q. But, Doctor, I don't understand what an office person would have to gain by calling in prescriptions unauthorized for [Patient 1], drugs that you have told us you were prescribing to her. Why -- that doesn't make sense to me.

A. Well, they take it themselves.

Q. So is it your testimony that [Patient 1] was not receiving these prescriptions?

A. Some of them I'm not sure of that she -- I wrote for her or I wanted her to take, but the ones that I'm sure, I -- I stand by. But this one wasn't -- girl wasn't even at that time with me, the Monica Fuller. It sounds suspicious.

> The reason is they said they stole my prescription. They wrote this prescription.

(Tr. at 47-49)

18. During the investigatory interview, Dr. Moayeri also claimed that at least one of his secretaries had stolen his prescription pad and was writing medications. (St. Ex. 7 at 45:20) However, when asked if this person was writing prescriptions to Patient 1, Dr. Moayeri answered "No. Some other people." (St. Ex 7 at 45:30) Upon further questioning regarding the prescriptions for Patient 1, Dr. Moayeri stated:

> Dr. Moayeri: I may have. No, no. I may have but I'm not 100% sure. Let's put it this way.
>
> Inv. DePoy: So you may have wrote all those scripts?
>
> Dr. Moayeri: I may have ordered it, telling the secretary to call it.
>
> Inv. Alameda: * * * This is your [family member]. You wouldn't have – and she lives at the same house with you. You don't monitor her medication at all? * * *
>
> Dr. Moayeri: I do monitor her medication.
>
> Inv. Alameda: So, yeah. So that didn't concern you as to where these medications were coming from if you weren't writing them and your name was on them?
>
> Dr. Moayeri: No. I, well- I know, ok? I know. I tell you, I know we're not supposed to write prescriptions, everything else except if it's under controlled, but, as I mentioned, I never considered Tramadol or Ultram it used to be called as a narcotic. I don't know when it became narcotic because if someone was really in pain, I would write prescription for oxycodone or hydrocodone. Maybe I did.

(St. Ex. 7 at 46:40)

Later in the interview, Mr. Alameda tried to confirm the prescriptions that Dr. Moayeri issued to Patient 1. Dr. Moayeri responded "As I said, let's assume I did because I'm not 100% sure." (St. Ex. 7 at 1:13:00)

19. At the hearing, Dr. Moayeri was asked about a prescription for Tramadol with one refill purportedly called in by Dr. Moayeri on July 3, 2017. (St. Ex. 3 at 26) Dr. Moayeri testified:

> As I said, I am suspicious of the ones which are called by phone. Anybody can do that and write my name and say "self." The pharmacy is not there to know if I really -- I'm not sure if this is really -- as I said, these phones calls

are suspicious based on what I said, that I have a lot of people who have called prescriptions. They stole my prescriptions.

(Tr. at 61-62)

20. Dr. Moayeri's suspicions concerning this particular prescription for Tramadol continued after it was noted that this prescription matched the bottle of Tramadol that was found in his vehicle by the police on July 27, 2017.

Q: [By the Hearing Examiner] All right. Now, [St. Ex. 2 at 17] is two pictures of a prescription bottle that was -- I believe this is the bottle that was found in your vehicle by the police department after they pulled you over for the mailbox incident.

A: Right.

Q: Okay. Now, I believe you testified earlier, though the picture here is not very good, but this was a prescription bottle that was actually issued to patient 1 by yourself, correct?

A: That is correct.

Q: Okay. And I wanted to ask you about this, because if you note, it says the fill date on this bottle is July 3rd, 2017, which was the prescription we were just looking at in Exhibit 3.

* * *

And the prescription we were talking about previously on State's Exhibit 3, page 26, that was a prescription that was telephoned in on 7-3-17, the same date, for 120 Tramadol, 50 milligrams. Does seeing this, this picture here, does that jog your memory that maybe you did authorize the prescription back on State's Exhibit 3, page 26?

* * *

A: Okay. You see, the writing is -- if you look at my handwriting, my writing is --

Q: Oh, I know you didn't hand write this, Doctor. It says it was a telephone prescription. The question is whether you called in this prescription for patient 1, because it has the same date as the date of the bottle that the police found in your vehicle.

A: They said is telephone prescription. I just am not sure.

(Tr. at 67-69)

21. The Rx# on the copy of the July 3, 2017 telephone prescription for Tramadol matches the Rx# on Patient 1's Tramadol bottle found by the police in Dr. Moayeri's vehicle. (St. Ex. 2 at 17 and 19; St. Ex. 3 at 26) Further, Dr. Moayeri had previously admitted that he prescribed the Tramadol which was found by the police. (Tr. at 32)

22. Dr. Moayeri also testified that pharmacies would call either his cell phone or his office when Patient 1's prescriptions were ready to be picked up. (Tr. at 63-64). He further testified that he had never received a phone call from a pharmacy regarding a prescription for Patient 1 that he had not authorized though he did receive such calls for other patients. (Tr. at 66)

23. Dr. Moayeri testified at the hearing that he thought it was acceptable for him to prescribe controlled substances to Patient 1:

> Q. [By Ms. Snyder] You knew when you were writing these prescriptions that you were not legally authorized to prescribe controlled substances to that family member, correct?
>
> A. I really wasn't sure. I told you and [Mr. Alameda] that I didn't know.
>
> Q. That you what?
>
> A. I thought it is okay for your close family member if you're allowed to do so --
>
> Q. Well --
>
> A. -- especially in such bad shape and under those circumstances.
>
> Q. You knew it was okay in an emergency, right?
>
> A. Well, I consider that an emergency. Somebody who's so close to you and is suffering and refuses to go see another doctor and tells you oh, you. What the hell are you? You're a doctor, aren't you there, Doctor, she tells me.
>
> Q. But when you were writing the prescriptions for the controlled substances, you knew you were only authorized to do that for your family member in an emergency, correct?
>
> A. More or less, I -- maybe yes, or no, I didn't.
>
> Q. And we'll talk about what you think is an emergency. But you understood you were only allowed to do it for an emergency, right?
>
> A. Now I know.
>
> Q. Is that your testimony, then, you didn't know?

A. I didn't know at the time that I was –

Q. So when you were writing prescriptions for the benzodiazepine, you thought it was okay that you write those for your family member?

A. I thought I was.

(Tr. at 50-52)

24. However, this testimony is contradicted by Dr. Moayeri's previous statements to the Board's investigator. At that interview, Dr. Moayeri stated:

> I tell you, I know we're not supposed to write prescriptions, everything else except if it's under controlled, but, as I mentioned, I never considered Tramadol or Ultram it used to be called as a narcotic. I don't know when it became narcotic because if someone was really in pain, I would write prescription for oxycodone or hydrocodone. Maybe I did.

(St. Ex. 7 at 47:30)

Later in the interview, Mr. Alameda provided Dr. Moayeri with a copy of the Board rules regarding prescribing to family members and self-prescribing. He also asked Dr. Moayeri if he was familiar with those guidelines, and Dr. Moayeri responded "I was." When asked by Mr. Alameda "So if you understand that, what happened here that this is going on?", Dr. Moayeri responded "Look. If you have an over 88 years old [family member] who is blind and she gets so depressed and she doesn't want to go to any other doctors. So are you the only caregiver, right? And you're a doctor. Is that really a sin to do that?" (St. Ex. 7 at 59:00)

When informed by Mr. Alameda that Dr. Moayeri can only write controlled substances for family members in an emergency, Dr. Moayeri responded "Isn't [my family member] an emergency case?" (St. Ex. 7 at 1:09:15)

25. At the hearing, when asked why he did not find a doctor to write the prescriptions for Patient 1, Dr. Moayeri answered:

> They don't. My own doctor doesn't -- I go with severe back pain and he's hesitant to give me any pain medication, but he's ready to shoot me with the steroid in my back.
>
> So now the atmosphere is such that doctors are so afraid, and if you read some articles, different opinions, that there's a such an atmosphere that it has created such anxiety among the doctors and are scared to write the prescription opioids, which is not right. People buy heroin easier. Trust me; I've seen it. They told me, the patient, they can easier and cheaper to buy heroin out there than get a prescription from the doctor. And now they're trying to stop that, right?

(Tr. at 54)

26. Dr. Moayeri described this situation as "love over law." (Tr. at 95 and 106) He further testified:

> If I made a mistake, if you haven't faced some situation like that, you would understand. When it's someone you love, you don't care. You break the law for the person you love, you take care of. You write medication. She doesn't want to get out. She says no way. If it were your family member, what would you do? Would you hang out a rope and take her to the doctor? You can't force people to do anything. I have to force her sometimes to take the medication. She says she just wants to die. So it's a different situation. As I said, it's love over law.

(Tr. at 93)

27. In his closing argument at the hearing, Dr. Moayeri testified:

> I agree we're not supposed to break the law and sometimes emotions allow you to break the law, but it's not like kill somebody. Did I harm somebody? Did I rape a patient? They're out there, but the Board doesn't know it. But why don't you go after them and go after someone who is not taking care of their family member who refuses, she's stubborn to get out of the house. What can I do? I can't push her out of the house. I can't carry her out. Then she thinks I am her enemy, not her family member.
>
> You know, I agree with you. You're not supposed to break the law, but I'm sorry if I did. I apologize to the Board, but that doesn't mean they should stop my livelihood. I need to work. That's all I have to say.

(Tr. at 110-111)

Self-Use of Drugs Prescribed to Patient 1

28. Dr. Moayeri testified during the hearing that he had taken Tramadol he prescribed to Patient 1 but "not always, not too often," as well as the Lorazepam "[o]nce in a while." (Tr. at 57) He further admitted that he taken one of Patient 1's Tramadol the morning of July 27, 2017, from the prescription bottle in his vehicle. (Tr. at 32)

However, Dr. Moayeri initially told Mr. Alameda during the investigatory interview in February 2018 that July 27, 2017 was the only time he had taken one of Patient 1's Tramadol pills. Dr. Moayeri stated "Isolated. One time. I can swear to that." (St. Ex. 7 at 34:00) When asked if he had ever taken anything else from Patient 1, Dr. Moayeri answered "No." (St. Ex. 7 at 34:20) However, Mr. Alameda later confronted Dr. Moayeri with the urine drug screen results from the North Royalton Police Department which showed positive results for alcohol, Tramadol, Gabapentin, and Lorazepam, and pointed out that the OARRS reports show that that Patient 1 was prescribed those medications but

not Dr. Moayeri. (St. Ex. 7 at 54:30) Dr. Moayeri then admitted that he also prescribed Gabapentin to Patient 1 on July 23, 2017 and further stated "Occasionally I take that because it's good for neuropathy." (St. Ex. 7 at 55:10; St. Ex. 3 at 4) When further asked if he had ever taken Patient 1's Lorazepam, Dr. Moayeri once again answered "Occasionally." (St. Ex. 7 at 56:20) When asked how many times, Dr. Moayeri stated "Once in a while. Once a week maybe. Sometimes I can't sleep." (St. Ex. 7 at 56:30)

Further, when Mr. Alameda asked where Dr. Moayeri had obtained the Tramadol during the investigatory interview in February 2018, Dr. Moayeri falsely stated "I, I don't know. I had some left. See, I have a doctor called Dr. Irina Chteingardt. I should have brought the bottle that I had. I don't know. I can't be sure." (St. Ex. 7 at 32:20) After further questioning, Dr. Moayeri admitted to Mr. Alameda that he had taken a Tramadol from the prescription bottle in his vehicle which he issued to Patient 1. (St. Ex. 7 at 33:50)

29. At the hearing, when asked why a prescription bottle from July 3, 2017 was still in his vehicle on July 27, 2017, Dr. Moayeri could not provide a reason. He testified as follows:

Q: [By the Hearing Examiner] According to the picture here on Exhibit 2, 17, it looks like this bottle was filled on July 3rd, 2017. Was it your habit to pick up prescriptions as soon as they were ready at the pharmacy?

A: Not necessarily. Sometimes it was a few days after. It wasn't exactly.

Q: All right. Because I was wondering if you could explain why this bottle was in your car still on July 27th, 2017, which was the date of the incident with the police.

A: It was in my car, but you mean -- if your question is why it was in my car?

Q: Yes.

A: I may have picked it up and it stayed in the car. I'm not sure.

Q: Why would you have --

A: Unless somebody would have picked it up and put it in my car.

Q: Why would you have picked it up and put it in your car?

A: Where else should I put it?

Q: Well, you also testified that patient 1 never leaves the house --

A: I know.

Q: -- and it's her prescription. So if she doesn't leave the house, why would you place it in your car?

A: To take it home.

Q: So are you saying it never came out of your car from the pharmacy?

A: No; probably was – it came out of the pharmacy, but somebody put it in my car. It could be a secretary who put it in my car sometimes.

Q: So you don't -- you don't recall --

A: I'm not sure.

Q: You don't recall why the prescription bottle was in your car that day?

A: Exactly.

Q: Okay.

A: I'm not sure. Again, you know, this is so many different things.

(Tr. at 69-71)

30. Dr. Moayeri was also unable to provide an explanation as to why only 97 pills of the original 120 pills remained in the prescription bottle. When asked what happened to the other pills, he testified "I have no idea. I have no idea. As I said, who put it there, that prescription, may have taken some. It's possible. As I said, I have people around me working for me that they've been dishonest." (Tr. at 101)

31. Dr. Moayeri testified that either himself or one of his secretaries would pick up the prescriptions he authorized for Patient 1. (Tr. at 62) Previously, his wife would also pick up the prescriptions, but his wife returned to Iran approximately four year ago. (Tr.at 55; St. Ex. 7 at 37:00)

32. Dr. Moayeri does have chronic medical conditions for which he is currently prescribed Tramadol and receives injections in his back. He testified:

> But [Patient 1] was to fall all the time and both of us fell together and I have pretty bad back myself. I have spinal stenosis. And each time we fell, we both having the most severe pain. The pain was aggravated. I think that's why I took one of her -- that family medication for my own pain. And I'm not showing it. The Court will show that I went to the doctor after that and I've been taking it from Dr. Laham, who injects my back if he do injections, and also see my primary doctor, Dr. Chteingardt, Irina Chteingardt, and she gives me medication now for these conditions.

(Tr. at 11-12; St. Ex. 4)

33. Dr. Moayeri's insurance profile from a pharmacy shows a Tramadol prescription issued to him by his primary care physician on August 1, 2017, five days after his arrest. (St. Ex. 3

at 48) When asked about this prescription and why at the same time he was using Patient 1's medication, Dr. Moayeri cryptically testified, "Well, yeah. I decided to see them here and she wrote the prescription. Sometimes did I get that into a prescription? Probably I didn't, but I probably did. So that's legal, no?" (Tr. at 60)

34. According to his medical records, Dr. Moayeri was prescribed Tramadol, Norco, and Lorazepam by his primary care physician in April 2016, more than a year prior to his arrest. (St. Ex. 4 at 42, 44 and 47) However, these prescriptions do not appear in the pharmacy insurance profile though it is possible he filled them at a different pharmacy. Further, the North Royalton Police Department noted in its report that it checked Dr. Moayeri's personal OARRS report which showed no filled prescriptions for Tramadol from January 1, 2015 through July 30, 2017. (St. Ex. 2 at 5)

35. During the February 2018 investigatory interview, Mr. Alameda ask Dr. Moayeri why his primary care physician was not writing him prescriptions for Gabapentin or Lorazepam. Dr. Moayeri responded:

> Dr. Moayeri: Well, she did write once.
>
> Inv. Alameda: Well that was years ago.
>
> Dr. Moayeri: The habit is sometimes you put two or three medications together in one bottle and maybe – but I did take that Lorazepam once in a while.
>
> Inv. Alameda: You see why we're concerned about you. You're writing medication for your [family member] and you're taking those.
>
> Dr. Moayeri: Occasionally I've done that, yeah.

(St. Ex. 7 at 57:30)

36. Dr. Moayeri further testified that the Board had ordered him to an evaluation at Shepherd Hill and that evaluation resulted in a finding that he was not impaired in his ability to practice medicine. (Tr. at 13-14, 98-99, and 109)

37. Mr. Alameda pointed out during the investigatory interview that Dr. Moayeri was involved in a minor motor vehicle accident, was arrested, and had alcohol and three drugs in his system which were prescribed to Patient 1 but not Dr. Moayeri. Dr. Moayeri's response was a fairly flippant "I hope it will not happen again." (St. Ex. 7 at 1:00:15)

Testimony of Board Investigator Jason Alameda

38. Jason Alameda is an investigator for the Board. (Tr. at 72) He testified that it is his job to investigate complaints received by the Board. (Tr. at 73) He further testified that he was assigned a complaint regarding Dr. Moayeri in January 2018 and that he made an announced visit to Dr. Moayeri's office. Mr. Alameda testified that he recorded his

conversation with Dr. Moayeri. (Tr. at 74) The recorded interview was submitted as State's Exhibit 7. The interview has been discussed throughout this Summary of the Evidence as appropriate.

39. Mr. Alameda testified that, in his opinion, Dr. Moayeri had not been forthcoming during the interview. Mr. Alameda testified "[Dr. Moayeri] would deny something at first, then it would be a partial admission, then I would actually confront him with actual evidence and then, okay, well, yeah, it looks like it." (Tr. at 75-76) He further testified "So it was only when he was confronted with additional evidence was he -- would he then be more forthcoming than he was when I initially asked him that question." (Tr. at 76)

40. During his cross-examination of Mr. Alameda, Dr. Moayeri asserted that the visit by Mr. Alameda was actually unannounced and unexpected. (Tr. at 81) In response, Mr. Alameda testified that he had reached out to Dr. Moayeri via email, and, after no response for several days, did make an unannounced visit but that the office was closed. Several days later, Dr. Moayeri's secretary responded to the email and apologized for the delay. He further testified that he and Dr. Moayeri spoke on the telephone and that Dr. Moayeri said it was all right for Mr. Alameda to visit that day. (Tr. at 81) During the recorded interview, Mr. Alameda states that he called Dr. Moayeri's answering service and let them know that he was running late which strongly indicates that the meeting was arranged with Dr. Moayeri ahead of time. (St. Ex. 7 at 3:50)

FINDINGS OF FACT

1. Patient 1 is a family member of Mohammad Moayeri, M.D. From May 2014 through December 2017, Dr. Moayeri treated Patient 1 and issued multiple prescriptions for controlled substances to Patient 1.

2. On multiple occasions from May 2014 through December 2017, Dr. Moayeri took some of the medications he issued to Patient 1, including controlled substances, for his own self-use.

CONCLUSIONS OF LAW

1. The acts, conduct, and/or omissions of Mohammad Moayeri, M.D., as set forth in Findings of Fact 1 above, individually or collectively, constitute, "violating or attempting to violate, directly or indirectly, any provisions of this chapter or any rule promulgated by the board" as that clause is used in R.C. 4731.22(B)(20), to wit: Rule 4731-11-08, Utilizing Controlled Substances for Self and Family Members.

Pursuant to R.C. 4731.225, the Board is authorized to impose a civil penalty for this violation. The Board's fining guidelines provide as follows:

Maximum Fine: $10,000

Minimum Fine: $ 1,500

2. The acts, conduct, and/or omissions of Mohammad Moayeri, M.D., as set forth in Findings of Fact 1 and 2 above, individually or collectively, constitute, "[c]omission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed" as that clause is used in R.C. 4731.22(B)(10), to wit: R.C. 2925.22, Deception to Obtain a Dangerous Drug.

Pursuant to R.C. 4731.225, the Board is authorized to impose a civil penalty for this violation. The Board's fining guidelines provide as follows:

Maximum Fine: $20,000
Minimum Fine: $18,000

RATIONALE FOR PROPOSED ORDER

Dr. Moayeri repeatedly gave false testimony at the hearing and lied to the Board's investigators. He is simply not a credible witness. There is no doubt that Dr. Moayeri has been treating Patient 1 for years and that he has been prescribing her multiple medications, including controlled substances. There is also no doubt that Dr. Moayeri took at least some of those prescriptions for himself.

While this Hearing Examiner sympathizes with Patient 1's medical condition, that does not justify Dr. Moayeri's repeated violations of the Board's rule regarding prescribing controlled substances to family members. Further, Dr. Moayeri's argument that an emergency situation existed for 10 years is unreasonable. Dr. Moayeri presented zero evidence that he attempted to locate a physician who would make house calls or provide telemedicine services. Also, Dr. Moayeri kept no patient chart for Patient 1. Such a patient chart would have answered many questions regarding the prescriptions Dr. Moayeri issued to Patient 1, and such questions only exist due to Dr. Moayeri's convenient uncertainty and variable memory over which prescriptions he may have issued.

While Dr. Moayeri did admit he wrote some of the prescriptions to Patient 1, he also attempted to lay blame at the feet of one or more of his former employees who he alleged fraudulently issued prescriptions. This was wholly unbelievable. Dr. Moayeri issued many of the prescriptions to Patient 1 identified in State's Exhibit 3 and is attempting to downplay his actions. Further, he also alleged that some unnamed secretary put the prescription bottle of Tramadol in his vehicle on July 27, 2017 and stole a number of the pills despite having already admitted to taking a pill out of that bottle for himself on the same day. This particular theory lacks a rational basis and is another attempt by Dr. Moayeri to conceal the degree of his use of Patient 1's medication.

As Dr. Moayeri has not been charged with a violation of R.C. 4731.22(B)(6), the Board may not consider the quality of the care he provided to Patient 1 when making its final decision. The Board may also not consider any impairment issues as there is no allegation of a violation of

R.C. 4731.22(B)(26) and, based on testimony, Dr. Moayeri was evaluated for impairment by the Board and not found to be impaired.

Dr. Moayeri has been violating the Board's rules for an extended period of time, and there is no justifiable excuse for his actions. Further, his inability to tell the truth, refusal to take any responsibility for his actions, and nonchalant attitude towards his actions do not make him a good candidate for probation and rehabilitation. Therefore, the Proposed Order would permanently revoke Dr. Moayeri's license to practice medicine and surgery and impose a fine of $18,000.

PROPOSED ORDER

It is hereby ORDERED that:

A. **PERMANENT REVOCATION:** The license of Mohammad Moayeri, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED.

B. **FINE:** Within thirty days of the effective date of this Order, Dr. Moayeri shall remit payment in full of a fine of eighteen thousand dollars ($18,000). Such payment shall be made via credit card in the manner specified by the Board through its online portal, or by other manner as specified by the Board.

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

Kimberly A. Lee
Hearing Examiner

State Medical Board of
Ohio

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EXCERPT FROM THE DRAFT MINUTES OF JANUARY 9, 2019

REPORTS AND RECOMMENDATIONS

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

Dr. Schachat asked whether each member of the Board had received, read and considered the hearing records, the Findings of Fact, Conclusions of Law, Proposed Orders, and any objections filed in the matters of: Michael Herman Anikeev, M.D.; Larry Lee Doss, M.D.; and Mohammad Ali Moayeri, M.D. A roll call was taken:

ROLL CALL:

Dr. Saferin	- aye
Mr. Giacalone	- aye
Dr. Edgin	- aye
Dr. Schottenstein	- aye
Dr. Schachat	- aye
Mr. Gonidakis	- aye
Dr. Factora	- aye
Ms. Montgomery	- aye
Dr. Johnson	- aye
Dr. Bechtel	- aye

Dr. Schachat 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. Saferin	- aye
Mr. Giacalone	- aye
Dr. Edgin	- aye
Dr. Schottenstein	- aye
Dr. Schachat	- aye
Mr. Gonidakis	- aye
Dr. Factora	- aye
Ms. Montgomery	- aye
Dr. Johnson	- aye
Dr. Bechtel	- aye

Dr. Schachat noted that, in accordance with the provision in section 4731.22(F)(2), Ohio Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further

participation in the adjudication of any disciplinary matters. In the matters before the Board today, Dr. Rothermel served as Secretary and Dr. Saferin served as Supervising Member, and Dr. Bechtel served as Secretary and/or Supervising Member.

Dr. Schachat 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.

.....

MOHAMMAD ALI MOAYERI, M.D.

.....

Dr. Schottenstein moved to approve and confirm Ms. Lee's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Mohammad Ali Moayeri, M.D. Mr. Giacalone seconded the motion.

.....

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

ROLL CALL:

Dr. Saferin	- abstain
Mr. Giacalone	- aye
Dr. Edgin	- aye
Dr. Schottenstein	- aye
Dr. Schachat	- aye
Mr. Gonidakis	- aye
Dr. Factora	- aye
Ms. Montgomery	- aye
Dr. Johnson	- aye
Dr. Bechtel	- abstain

The motion to approve carried.