IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

GIRIDHAR SINGH,	:	
Appellant	:	CASE NO. 17CV-998
vs.	:	JUDGE FRENCH
STATE MEDICAL BOARD OF OHIO,	:	
Appellee	:	

DECISION AND JUDGMENT ENTRY REVERSING THE ORDER OF THE STATE MEDICAL BOARD AND NOTICE OF FINAL APPEALABLE ORDER

FRENCH, JUDGE

This is an appeal pursuant to R.C. 119.12 from a January 11, 2017 Order of the State Medical Board of Ohio (the "Board").

I. HISTORY OF THIS MATTER

On December 9, 2015, the Board notified Dr. Singh that it intended to determine whether to take disciplinary action against his certificate to practice medicine and surgery in Ohio. (R. 9). The Board alleged as follows:

> In the routine course of your practice, you undertook the medical care of Patients 1 and 2, as identified on the attached Patient Key. (The Patient Key is confidential and shall be withheld from public disclosure.) Despite your concurrent physician-patient relationship, in or around 2012 through 2015, you engaged in sexual misconduct with Patients 1 and 2 on multiple occasions.

The Board alleged that Dr. Singh had violated rules promulgated by the Board, specifically, O.A.C. 4731-26-02(A) and 4731-26-03(A)(1), and that disciplinary action was authorized under R.C. 4731.22(B)(6) and (B)(20).

Dr. Singh requested a hearing, which was held on September 6-8, 2016.

This matter involved allegations of multiple incidents of sexual misconduct by Dr. Singh with Patients 1 and 2. The Hearing Examiner and the Board ultimately found the testimony of Patients 1 and 2 not to be credible, and dismissed all allegations except an allegation that in 2012, Dr. Singh sent a text message to Patient 2 asking her for a date. Accordingly, the allegations found not to be credible will be addressed in summary fashion, while the allegations regarding the 2012 text message will be addressed in detail.

The State presented testimony of Patients 1 and 2.

Patient 1 testified that in 2009, she sought treatment from Dr. Singh for addiction to opiates. (T. 234). She was treated by Dr. Singh and was prescribed Suboxone. (T. 240-242). She stated that the early doctor/patient relationship was normal, but that the relationship became physical in 2011/2012. (T. 245). She stated that the relationship included multiple incidents of kissing and touching and one incident involving oral sex. (T. 248-253). She continued to seek treatment from Dr. Singh. (T. 252). She stated that in November, 2013, she and family members confronted Dr. Singh at his office, alleging sexual misconduct. (T. 257). On the same date, Dr. Singh terminated Patient 1 from treatment. (T. 265).

Patient 2 testified that in 2009, she sought help from Dr. Singh with her addiction to opiates. (T. 55). She testified that she continued treatment with Dr. Singh until 2012, when he began improper physical contact, including hugs, kissing, touching her breasts, and putting his hands in her underwear. (T. 87-91). She stated that the improper physical contact continued from 2012 through 2015. (T. 90). She continued to receive prescriptions for Suboxone from Dr. Singh and did not tell anyone what was going on.

(T. 92). She ultimately completed in-patient rehab, and disclosed her allegations against Dr. Singh during out-patient treatment. (T. 107-112).

One of Patient 2's allegations was that in 2012, Dr. Singh sent her a text message asking her to go out for dinner. (T. 100-101). The text message at issue was not introduced into evidence at the hearing.

Dr. Singh testified that he did not engage in any sexual misconduct or other improper conduct with Patient 1 or Patient 2. (T. 346). He specifically denied ever having solicited a date or romantic relationship with a patient. (T. 459).

During his testimony at the hearing, Dr. Singh offered as Exhibit L a chain of text messages with Patient 2. (T. 382-383). Exhibit L was compiled by Dr. Singh; he copied and pasted text messages from SendHub, a texting facility. (T. 383-384). The document is a compilation of text messages, without identification of the sender of each message. (Ex. L). When Exhibit L was offered into evidence at the close of the hearing, the State's counsel objected that "The problem that I have with this document is that there's nothing on the document to authenticate times, dates, who the message is from, who it's to." (T. 580). Dr. Singh's counsel responded: "If you'll allow us to supplement, we didn't expect a challenge to the authenticity of the document. We can certainly try to get authenticated documents from SendHub, if you'll allow us to supplement." (T. 581). The Hearing Examiner then stated:

> And the record will also be held open by agreement of the parties for the Respondent to submit Exhibit L-1, which will be records from SendHub which will authenticate, at least in part, the compilation that Dr. Singh put together. (T. 582).

After the hearing, Dr. Singh submitted SendHub documents including text messages from his account during the relevant time period. These documents were designated as Exhibits M-2 through M-7. (Report and Recommendation, p. 2).

On November 29, 2016, the Hearing Examiner issued a 50 page Report and Recommendation.

The Hearing Examiner found that "the testimony of Patient No. 1, describing Dr. Singh's alleged sexual misconduct ... was simply not credible ...." (R&R, p. 39). After setting forth numerous credibility issues with Patient 1, the Hearing Examiner stated that "her testimony was too inconsistent with her prior signed police report, and the photographic evidence of Dr. Singh's appearance, to be credible." (*Id.*, p. 40).

With respect to Patient 2, the Hearing Examiner noted a list of items that "cast doubt on the accuracy or veracity of her testimony." (*Id.*). The Hearing Examiner noted inconsistencies in her description of the alleged misconduct, testimony about the text messages that was "at odds" with the content of the text messages, and statements that "suggest that Patient No. 2 was threatening to make allegations against Dr. Singh as a means of controlling him and insuring that she would continue to receive drugs from him." (*Id.*, p. 40-41). The Hearing Examiner added: "But most damaging to the credibility of Patient No. 2 are her text messages to Dr. Singh when viewed as a whole." The Hearing Examiner concluded: "I do not find the sexual misconduct allegations of Patient No. 2, as a whole, to be credible." (*Id.*, p. 41).

The Hearing Examiner then turned to the allegation of Patient 2 that in 2012, Dr. Singh sent her a text asking for a date.

The Hearing Examiner stated as follows regarding the post-hearing submission:

> [B]y agreement of the parties, the record was held open so that the Respondent could submit additional documents authenticating the basis from which he had compiled, by cutting and pasting by hand, a series of text messages between Dr. Singh and Patient No. 2 in early 2015. ... Respondent submitted Resp. Ex. M-2, M-3, M-4, M-5, M-6 and M-7.

(*Id.*, p. 2). Later in the Report and Recommendation, the Hearing Examiner similarly described the purpose of the post-hearing submission:

> The record was held open, however, so that the Respondent could submit spreadsheets, provided directly from SendHub, authenticating Dr. Singh's manually created document used at hearing. (*Id.*, p. 19, ¶71).

The Hearing Examiner then noted that the text message printouts from SendHub for January and February, 2015 (Ex. M-6 and M-7) included text messages not found in Exhibit L. He stated that "several of the messages omitted by Dr. Singh from the exhibit used at the hearing are indeed quite material." (*Id.*, p. 20).

The Hearing Examiner set forth a multiple-page chain of text messages that included several mentions by Patient 2 of the alleged 2012 text asking her for a date. For example, on February 1, 2015, Patient 2 sent a lengthy text containing threats and demands for additional prescriptions that included the following: "It really was you that text me at 2 am asking me to go out." (*Id.*, p. 28). Another text that same day included the following: "I don't want to hv to be honest with them about this either Bc then I'm showing to them I hv been lying for yrs to Jason and for two days to my parents about the fact that it was U that text me that two years ago." (*Id.*, p. 30). There were very few responses by Dr. Singh, other than a statement that a prescription had been discontinued and a statement regarding his office hours. (*Id.*, p. 25, 31).

The Hearing Examiner stated:

> [M]ost damaging to Dr. Singh's credibility is his creation and use at hearing of a heavily edited chain of text messages to and from Patient No.

> 2 that purported to have left only 'some of them [out] that are not important.' (Resp. Ex. I.). What was omitted was an entire chain of messages from late January 31 through February 2, 2015, in which Patient No. 2, on several occasions, reminded Dr. Singh of his having solicited a date from her in September, 2012 .....
>
> In the words of Patient No. 2 (in a different context), these are the actions of a person with 'something to hide.' And that which Dr. Singh attempted to whitewash from the record was Patient No. 2's contemporaneous and repeated allegations, not denied by Dr. Singh at the time, that Dr. Singh had engaged in sexual impropriety by asking her for a date. (*Id.*, p. 42).

The Hearing Examiner then concluded that "the State has demonstrated by a preponderance of the evidence that Dr. Singh solicited a date from Patient No. 2 in or about September, 2012." (*Id.*, p. 45, ¶18).

In discussing the sanction to be recommended, the Hearing Examiner added:

> The primary aggravating factor in determining the appropriate sanction is Dr. Singh's dishonesty before the Board in these proceedings. He denied, under oath, that he ever solicited a date from Patient No. 2. He created and submitted into evidence a text message narrative that whitewashed all mention of his having solicited a date, and Patient No. 2's threats to use that transgression against him. (*Id.*, p. 46-47).

The Hearing Examiner recommended a 180-day license suspension, with conditions for reinstatement. (*Id.*, p. 47-50).

This matter came before the Board at its meeting on January 11, 2017. The State's counsel stated that she agreed with Dr. Singh's counsel that "the Hearing Examiner lost his way in this case." (Minutes, p. 2). Board member Dr. Schachat noted that "the key issue that the Hearing Examiner found credible was the allegation that Dr. Singh texted her at 2:00 a.m. in 2012 inviting her to a dinner date." (*Id.*, p. 3). The minutes include the following:

> Dr. Schottenstein stated that, in trying to determine what the preponderance of the evidence shows, he sees Dr. Singh's 2:00 a.m. text to Patient 2 asking for a date to be key. ... Dr. Schottenstein also noted that

> when Dr. Singh initially supplied evidence of the texting, he indicated that he may have left out some texts that were not important. However, Dr. Singh had omitted a chain of messages between him and Patient 2 from January 31 to February 2, 2015 that relate to Patient 2's allegation. ... Dr. Schottenstein felt that Dr. Singh's lack of response to the allegation at that time lends credibility to Patient 2's allegation.

On January 11, 2017, the Board issued its Order dismissing allegations against Dr. Singh "as set forth in Paragraph (1) of the December 9, 2015, notice of opportunity for hearing ... except as they pertain to the solicitation of a date from Patient No. 2, in or about September, 2012." The Board voted to suspend Dr. Singh's medical license for no less than 180 days, with conditions for reinstatement.

On January 28, 2017, Dr. Singh filed this appeal from the Board's Order.

II. LAW

When considering an appeal from an order of the Medical Board, a common pleas court must uphold the order if it is supported by reliable, probative, and substantial evidence, and is in accordance with law. R.C. 119.12. *Pons v. Ohio State Med. Bd.*, 66 Ohio St.3d 619, 621 (1993).

III. THE COURT'S FINDINGS AND CONCLUSIONS

Appellant's first assignment of error asserts that Dr. Singh was denied due process when the Hearing Examiner and the Board considered evidence without giving Dr. Singh an opportunity to address that evidence at the hearing.

Administrative proceedings must comport with due process. *Flynn v. State Med. Bd. of Ohio*, 10th Dist. No. 16AP-29, 2016-Ohio-5903, ¶45. "A fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner. ... At its core, due process insists upon fundamental fairness, and the requirement to conduct a hearing implies that a fair hearing must occur." *Id.*, ¶46.

The record reflects that at the close of the hearing there was an agreement to hold the record open for Dr. Singh to submit records from SendHub to authenticate the compilation of text messages identified at the hearing as Exhibit L. (T. 582). The Hearing Examiner also confirmed twice in the Report and Recommendation that the purpose of the post-hearing submission was to authenticate Exhibit L. As plainly stated in ¶71 of the Report and Recommendation, "[t]he record was held open, however, so that the Respondent could submit spreadsheets, provided directly from SendHub, authenticating Dr. Singh's manually created document used at hearing."

The Hearing Examiner then considered the post-hearing submission, Ex. M-2 through M-7, as substantive evidence, and relied on these exhibits as a critical basis for the Report and Recommendation. The Hearing Examiner noted that Ex. M-6 and M-7 included text messages not found in Exhibit L, and stated that "several of the messages omitted by Dr. Singh from the exhibit used at the hearing are indeed quite material." (R&R, p. 20). The Hearing Examiner found that the fact "most damaging to Dr. Singh's credibility" was his omission, from Exhibit L, of messages found in Ex. M-6 and M-7. (*Id.*, p. 42). This was also the "primary aggravating factor in determining the appropriate sanction." (*Id.*, p. 46-47). The comments of the Board members show that they too relied on the text messages in Ex. M-6 and M-7 as a critical basis for the Board's Order. *See, e.g.*, the comments of Board members quoted above.

No notice was provided to Dr. Singh that Ex. M-2 through M-7 would be used as substantive evidence rather than for authentication of Exhibit L. Appellee has argued that there was no stipulation that Ex. M-2 through M-7 would be used solely for authentication. As noted, the Hearing Examiner referred to an agreement to this effect.

(T. 582). However, even if there were no such agreement, notice should have been provided that the documents were going to be treated as substantive evidence.

Without such notice, Dr. Singh had no opportunity to address, at the hearing, the issues raised by the Hearing Examiner regarding the text messages in Ex. M-6 and M-7. The Hearing Examiner found critical that Patient 2's allegations in the text messages in these exhibits "were not denied by Dr. Singh at the time." (R&R, p. 42). However, Dr. Singh asserts that Ex. M-6 and M-7 did not even include his "sent messages;" thus, any denial offered by text message would not have been found in these exhibits. (Brief, p. 8-9). The Hearing Examiner seemed to acknowledge this, stating that "Apparently, counsel for Respondent attempted to secure the outgoing messages as well, but they could not be retrieved by SendHub." (R&R, p. 20). Questions as to the completeness of these exhibits could have been addressed if notice had been provided that they would be used as substantive evidence. These exhibits were not subject to examination or cross-examination; there was no opportunity to address them at the hearing. Moreover, given an opportunity at the hearing, Dr. Singh could have testified as to whether he offered a denial to Patient 2's allegations in Ex. M-6 and M-7 and, if so, how and when, and if not, why not.

The use of Ex. M-6 and M-7 in this manner is unfair for an additional reason. The Hearing Examiner had found Patient 1 and Patient 2 not to be credible. The alleged 2012 text message asking Patient 2 for a date was not in evidence. Then the Hearing Examiner found the allegation regarding the 2012 text message to be credible on the sole basis that Dr. Singh did not deny the allegation in the chain of text messages in Ex. M-6

and M-7. This smacks of shifting the burden of proof to Dr. Singh to prove something did not happen, *i.e.*, disprove an allegation from a non-credible witness.

After reviewing the record, the Court finds that the record does not contain reliable, probative, and substantial evidence supporting the Board's Order and that the Order is not in accordance with law.

The Board's Order is **REVERSED**. This is a final, appealable Order. Costs to Appellee. Pursuant to Civil Rule 58, the Clerk of Court shall serve upon all parties notice of this judgment and its date of entry.

Franklin County Court of Common Pleas

Date: 06-26-2017

Case Title: GIRIDHAR SINGH -VS- OHIO STATE MEDICAL BOARD

Case Number: 17CV000998

Type: DECISION/ENTRY

It Is So Ordered.

/s/ Judge Jenifer A. French

Court Disposition

Case Number: 17CV000998

Case Style: GIRIDHAR SINGH -VS- OHIO STATE MEDICAL BOARD

Case Terminated: 18 - Other Terminations

Final Appealable Order: Yes

IN THE COURT OF COMMON PLEAS
FOR FRANKLIN COUNTY, OHIO

Giridhar Singh, Appellant, v. **Ohio State Medical Board,** Appellee.	Case No. 17 CV 000998 Judge Jenifer A. French

ORDER

Giridhar Singh, Appellant, filed a Motion to Suspend/Stay Order of the State Medical Board of Ohio Pending Appeal & Memorandum in Support. In return for the State not opposing the Appellant's Stay pending the Appeal of the case, the parties agree to the following condition:

> While not admitting wrongdoing, in exchange for the State not opposing the motion for a stay, Appellant agrees to have a third party chaperone present during all office visits with and treatment of patients in his private practice.

As such, the Appellant's motion to Suspend/Stay the Order pending appeal is GRANTED.

JUDGE JENIFER A. FRENCH

Franklin County Court of Common Pleas

Date: 02-22-2017

Case Title: GIRIDHAR SINGH -VS- OHIO STATE MEDICAL BOARD

Case Number: 17CV000998

Type: ORDER TO STAY

It Is So Ordered.

/s/ Judge Jenifer A. French

Court Disposition

Case Number: 17CV000998

Case Style: GIRIDHAR SINGH -VS- OHIO STATE MEDICAL BOARD

Motion Tie Off Information:

1. Motion CMS Document Id: 17CV0009982017-01-2899920000
   Document Title: 01-28-2017-MOTION TO STAY - PLAINTIFF: GIRIDHAR SINGH
   Disposition: MOTION GRANTED

COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

GIRIDHAR SINGH, M.D. - APPELLANT 6174 Enke Court Dublin, OH 43017	:	
	:	**Case Number:**
v.	:	
STATE MEDICAL BOARD OF OHIO - APPELLEE 30 E. Broad St., 3rd Floor. Columbus, OH 43215	:	

COMPLAINT / NOTICE OF APPEAL

Now comes Dr. Giridhar Singh, by and through counsel, and files a Notice of Appeal, stating this appeal is being taken from the Order of the State Medical Board of Ohio in Case Number 15-CRF-124. Said decision, dated January 11, 2017, was mailed to appellant by the State Medical Board of Ohio on January 25, 2017, and it was received by him thereafter. The agency's (State Medical Board of Ohio's) order is not supported by reliable, probative, and substantial evidence and is not in accordance with law. This Court has jurisdiction of this appeal under the provisions of R.C. § 119.12(A)(2).

WHEREFORE, appellant demands that the Court overturn the State Medical Board of Ohio's decision / Entry of Order.

The specific grounds for this appeal include, but are not limited to, the following:

A. The "Report and Recommendation" was not filed timely.

(1) The "Report and Recommendation" was not filed timely. Ohio Administrative Code (OAC) 4731-13-15(A) reads: "Within thirty days following the close of a hearing conducted under Chapter 119. of the Revised Code, the hearing examiner shall submit a written report setting forth proposed findings of fact and conclusions of law and a recommendation of the action to be taken by the board. The hearing shall not be considered closed until such time as the record is complete, as determined by the hearing examiner." The hearing was conducted under Chapter 119. of the Revised Code

(see for example Entry, January 21, 2016). As detailed by the hearing examiner on page two of the "Report and Recommendation," the hearing dates were September 6, 7, and 8, 2016 and the record "closed on October 21, 2016." The Hearing Examiner submitted a memorandum, dated November 29, 2016, to "BOARD MEMBERS," enclosing, among other things, his Report and Recommendation. The Report and Recommendation are, in fact, time stamped, "Nov 29 2016 STATE MEDICAL BOARD OF OHIO." No other written report setting forth proposed finding of fact and conclusions of law and a recommendation of the action to be taken by the board was submitted in this case. Therefore, the "Report and Recommendation" was not filed timely. This is improper and it unfairly prejudiced Respondent.

B. <u>The Hearing Examiner erred in providing the State an opportunity to submit a rebuttal to the Respondent's written closing argument</u>.

(2) The hearing examiner erred in providing the State the opportunity to provide a rebuttal to the Respondent's written closing argument. Respondent did, in fact, ask for an extension of time to file its closing argument because a copy of the Transcript was not timely provided to Respondent. However, Respondent had already received a copy of the State's closing argument even before the initial deadline for filing closing arguments. As such, with or without the granting of additional time for Respondent to file its closing argument, it would have been able to examine State's closing argument before submitting its own. Thus, Respondent's request for additional time to file its closing argument, necessitated by not timely receiving a copy of the transcript, did not disadvantage the State. Therefore, the hearing examiner erred in providing the State an

opportunity to submit a rebuttal to the Respondent's written closing argument. This was improper and it unfairly prejudiced the Respondent.

C. <u>The hearing examiner erred in using Exhibits M2-M7 for purposes other than to authenticate Exhibit L.</u>

(3) The hearing examiner erred in using Exhibits M2, M3, M4, M5, M6, and M7 for purposes other than to authenticate Exhibit L. The following was agreed to at the hearing: "And the record will also be held open by agreement of the parties for the Respondent to submit Exhibit L-1[1], which will be records from SendHub which will authenticate, at least in part, the compilation that Dr. Singh put together."[2] (Tr. 582: 18-23; see also Tr. 184: 9-15). The sole purpose for the introduction of Exhibits M2, M3, M4, M5, M6, and M7 was to "authenticate times, dates, who the message is from, who it's to" in Exhibit L (Tr. 580: 22-25). The hearing examiner continued to recognize this following the hearing, stating in his "Report and Recommendation," "The record was held open, however, so that the Respondent could submit spreadsheets, provided directly from SendHub, authenticating Dr. Singh's manually created document used at hearing (Report and Recommendation, ¶ 71). In fact, Exhibits M2-M7, and Exhibits M6 and M7 in particular, do just that: they authenticate that the text messages purported to have come from Patient 2 did, in fact, come from Patient 2 and they authenticate the

[1] It was agreed at the hearing that the SendHub records would be marked Exhibit L-1 (Tr. 582:18-23). However, upon receiving the SendHub records, and in an email to the Board on October 11, 2016, the hearing examiner ordered that the SendHub records be filed as Respondent's Exhibits M-2 through M-7.

[2] The compilation that Dr. Singh put together was admitted as Exhibit L.

date and time of the messages and who they were sent to (all things Patient 2 refuted at the hearing; see Tr. 183 – 190).

(4) Exhibits M2, M3, and M4 further document efforts to get additional records from SendHub, namely all the messages sent *from* Dr. Singh and all messages going back even further in time, though SendHub indicated those messages were not available. Thus, taken together, Exhibits M2-M7 serve the role for which they were admitted—to authenticate the text messages referred to in Exhibit L and to document that no other related records were available or were in anyway being withheld.

(5) Simply put, the record was held open to submit Exhibits M2-M7 for the sole purpose of authenticating Exhibit L. The hearing examiner erred when he attempted to use them for purposes that neither the Respondent nor the State contemplated, agreed to, or had the opportunity to examine witness about. The hearing examiner's use of Exhibits M2-M7 for purposes other than authenticating Exhibit L was improper, prejudicial, and—not inconsequentially—resulted in inaccurate information being considered by the hearing examiner because of his own failed post-hearing investigative efforts (see ¶ D below).

D. <u>In using Exhibits M2-M7 for purposes other than to authenticate Exhibit L, the hearing examiner lost his way.</u>

(6) Even if the hearing examiner did not err in using Exhibits M2 through M7 for purposes other than to authenticate Exhibit L (though Respondent maintains the hearing

examiner did, in fact, err in this regard), his interpretations of the evidence were speculative, were not subject to examination or cross-examination, assumed facts not in evidence, were in several respects wrong, and/or were overall improper.

(7) The hearing examiner on multiple occasions mis-attributed text messages from one person to another person; he omitted certain content from text messages, changing the message; he garbled the content of messages, changing the message; he combined content of multiple messages from different times as if they represented a single message at a single point in time, again changing the message; and he transcribed some messages out of order.

(8) To his credit, the hearing examiner acknowledged the "SendHub reports appear in reverse order and are virtually impossible to read smoothly" and he further acknowledged "the narrative may not be complete" (Report and Recommendation, p. 20). This concession is of little comfort when the hearing examiner improperly went on to rely heavily on his own inaccurate attempt to make sense of what he admitted was "virtually impossible" for him to read smoothly.

(9) The hearing examiner noted that Exhibit L was materially different from Exhibits M6 and M7 in that "except for late February, they do not include any outgoing messages from Dr. Singh's phone" (Report and Recommendation, ¶ 71, see first full paragraph, top of page 20).

a. However, this was explained via Exhibits M2-M4.[3] On September 2, 2016, Dr. Singh sent an email to SendHub that read as follows: "Hello Christina[.] Thank you for sending us the send hub phone records. However we did not receive the outgoing call logs for the phone 6146827418. You send [sic] us out going call logs for only four days from February 24th 2015 to 28th Feb 2015. Please send us the reminder [sic] dating back from Feb 24th to December 1st of 2014. Please charge if it incurs additional fee. Thank you[.] Sincerely[,] Giri Singh." SendHub replied that same day as follows: "Hi Giri, Thank you for reaching out to us. The records sent are only for text messages sent and received from your SendHub line. Unfortunately we do not have more than those records. Sorry for the inconvenience."

b. Furthermore, it was understood from the outset that Exhibits M2-M7 would "authenticate, *at least in part*, the compilation that Dr. Singh put together" (Tr. 582: 18-23; see also Tr. 184: 9-15; emphasis added). No one ever represented that Exhibit L was an exhaustive list of all text messages. Indeed, what M2-M7 do, as was the reason the record was held open for their admission, is authenticate what Patient 2 said in the text messages that were in Exhibit 7, to whom she said it, and when it was said.

[3] Exhibits M2-M4 are email exchanges with SendHub personnel. They were largely duplicative since subsequent emails incorporated earlier emails in the later "chain." However, because the purpose of submitting the emails was for authentication purposes, counsel for Respondent elected to submit all emails so there would not be any question as to authenticity. Upon being submitted, the hearing examiner notified the Board that they were to be marked Exhibits M2, M3, and M4. However, counsel for Respondent is uncertain which email chain was marked M2, M3, and M4, respectively. Therefore, they are referred to as a group here, i.e., Exhibits M2-M4.

c. Indeed, the hearing examiner recognized that "Some messages authored by Dr. Singh may be missing because most of his outgoing messages apparently could not be retrieved by SendHub in the reports recently provided by the company. (Resp. Ex. M3 & M4)" (Report and Recommendations ¶ 71, see last two sentences of the third full paragraph, page 20). Yet, for inexplicable reasons, the hearing examiner admitted that "What was said—and what was *not*—is critical to the resolution of Patient No. 2's allegations" (emphasis in original; Report and Recommendations ¶ 71, see fourth full paragraph, page 20). It is unfathomable and fundamentally unfair that the hearing examiner could acknowledge that Dr. Singh's sent messages were unavailable for review and then emphasize that what was not said—or, more accurately, what is not known about what was said or not said by Dr. Singh (since those text messages were not available) was a critical factor in resolving Patient No. 2's allegations in her favor. First, this improperly shifts the burden of proof to the Respondent. Secondly, it unfairly assumes evidence that was authenticated to have been destroyed or otherwise unavailable, in fact, never existed. Thus, when the hearing examiner concluded that "what was said—and what was not—is critical to the resolution of Patient No 2's allegations," he must find that, absent that evidence, the State (not the Respondent) failed to prove its case. He erred in shifting that burden to the Respondent.

(10) The hearing examiner also pointed out that Exhibit L was materially different from Exhibits M6 and M7 in that in that "several of the messages omitted by Dr. Singh from

the exhibit used at hearing are indeed quite material" (Report and Recommendation, ¶ 71, see first full paragraph, top of page 20).

a. First, Respondent does not deny there were messages missing. This was, in fact, testified to (Tr. 388: 9-14) and it was contemplated in ageing to hold the record open for the submission of Exhibits M2-M7 (Tr. 582: 18-23; see also Tr. 184: 9-15.

b. Respondent asserts that that missing text messages further support Respondent's position that Patient 2 was dishonest and used a false allegation in an attempt to manipulate and coerce Dr. Singh. Indeed, the hearing examiner acknowledged that Dr. Singh's testimony was "the gist of many of the texts Dr. Singh omitted from his exhibit" (Report and Recommendation, Footnote 33). It is unclear, then, why the hearing examiner wants to make an issue out of the missing messages that were, according to the hearing examiner, the gist of Dr. Singh's testimony. By contrast, the hearing examiner properly concluded, "Several statements in Patient No. 2's communications in late January and early February...at least when viewed in isolation, suggest that Patient No. 2 was threatening to make allegations against Dr. Singh as a means of controlling him and insuring that she would continue to receive drugs from him. Viewed more broadly, they suggest she did so under pressure from Jason and her parents" (Report and Recommendation, p. 41, second bullet). He goes on to say, "But most damaging to the credibility of Patient No. 2 are her text

messages to Dr. Singh when *viewed as a whole*" (Report and Recommendation, p. 41; emphasis in original).

c. Most notable, if the text messages are properly sorted chronologically, before any discussion in the text messages by Patient 2 about any wrongdoing by Dr. Singh, she said in an admitted drug-abusing, agitated, drug-withdrawing state, "Unbelievable U behave like this. U really are something else. This makes me want to say something along with him..." She then went on to "paper the record" with things she would say, stories she would change, and how she would now "tell the truth" unless, of course, Dr. Singh met some manipulative and threatening demands she placed on him.

(11) The hearing examiner noted the following as well: "Moreover, it is apparent from Resp. Ex. M-2 that Dr. Singh had possession of the files containing SendHub's text message printouts on August 23, 2016, prior to the hearing in this action (Report and Recommendation, ¶ 71, see second full paragraph, page 20). He used this to buttress an unsupported claim that Respondent was somehow trying to avoid revealing the text messages (which is a bizarre claim since it was, in fact, Respondent who sought out, obtained, and provided the text messages). The hearing examiner failed to recognize two important points (again, because he improperly went beyond the record and attempted to undertake his own post-hearing investigation):

a. The State was aware of what Respondent had and was aware that Respondent may not admit Exhibits M6 and M7 into evidence because they are hard to read and may be confusing. Counsel for the State and for the Respondent talked about exhibits prior to the hearing and no issues with authenticity were raised, despite Exhibit L being shared. (Tr. 8: 9-13; see also Respondent's List of Witnesses and Documents, August 23, 2016).

b. Respondent did not anticipate challenges to the authenticity of any of its exhibits that were shared in advance with the State. (Tr. 580:18 to 583:5). Initially, the State indicated it did not want to make a formal objection, but asked for some clarification. (Tr. 149: 20-23). Later, the State objected as to where Exhibit L came from. (Tr. 183:19-21).

c. Counsel for Respondent also noted that text messages sent by Dr. Singh were not included in the records received from SendHub, though they had been requested. Efforts to obtain them continued until after the hearing. (Exhibits M2-M4). Thus, Respondent did not have possession of such files prior to the exchange of documents and witness lists and was not able to confirm it had everything the telecommunications company could provide until after the hearing. That is the very reason the record was held open to submit them after the hearing in an effort to authenticate Exhibit L. Indeed, the hearing examiner ruled during the hearing that if Exhibit L were admitted without Exhibits M2-M7, Exhibit L would be admitted for "what it is, which is a compilation the doctor made" (Tr. 581: 5-8). The hearing

examiner ruled, "It is what it is, and I think your objections go to the reliability of the document and not its admissibility" (Tr. 581: 11-13). So, in fact, the Respondent was under no obligation to submit Exhibits M2-M7. Respondent did so in the interest of transparency and to authenticate Exhibit 7, which was challenged by the State and Patient 2 at the hearing (incidentally, Exhibits M2-M7 prove that Patient 2's claims about Exhibit 7 were not correct).

E. <u>A proper reading of Exhibits M6 and M7 support Respondent' case, not the State's.</u>

(12) When read properly, the text messages in Exhibits M6 and M7 show the following:

a. Patient 2 complained of going into withdrawal on 1-23-15, reportedly because she had lost her medication, though it was later revealed she was abusing her medications.

b. CVS refused to fill her prescriptions so she tried Wal-Mart and personnel there wanted to talk to Dr. Singh first.

c. On 1-24-15, Patient 2 said it is now Saturday, she hasn't had anything since Tuesday and she is getting really upset.

d. A few hours later, Patient 2 thanks Dr. Singh for his help but then needs additional assistance. This time, she said she needs Dr. Singh to talk to Heather at the Kroger pharmacy so Patient 2 can get Adderall, in addition to Subutex and Wellbutrin.

e. Other records (Exhibit J) document that Jason, Patient 2's boyfriend, called Dr. Singh and reported Patient 2 was "sniffing" her Adderall. Dr. Singh maintains he told Patient 2 about this phone call. While it cannot be corroborated by Exhibits M6 and M7 (since they do not include Dr. Singh's sent text messages), Patient 2's response, "Thanks for letting me know. I'll speak to him," suggests Dr. Singh's report is accurate and honest.

f. On 1-30-15, Patient 2 told Dr. Singh she was going to go to a rehab center, that her previous 9-day prescriptions would end the following day, and that she needed a final 10-day supply. She made the case that she did not want to go to the office given her parents were trying to save all the money they could for the expensive rehab program and given that Patient 2 reportedly had a lot to do to get ready to go to rehab in another state.

g. Dr. Singh testified that he told Patient 2 he would not be renewing Adderall because her boyfriend said she had been "sniffing" it. He offered her the opportunity to come to the office on Monday during his normal business hours for a final 10-day prescription of Suboxone, after which he would be closing her case since she would be going into rehab.

h. This appeared to anger Patient 2. She then sent a flurry of text messages, saying among other things, she thought there was something seriously wrong with Dr.

Singh closing her case; that Dr. Singh hanging up on her boyfriend and not talking to him (because Dr. Singh did not have an authorization for release of information form to do so) made her boyfriend suspicious because he was calling to see what guys she had been talking to; and that Dr. Singh was behaving like a child. She demanded she get her drugs before Monday.

i. **Critically**, Patient 2 said at this point: "Unbelievable U behave like this. U really are something else. ***This makes me want to say something along with him***..." (emphasis added). Patient 2 then demanded that she get her drugs by Sunday. This is, in fact, the first threat Patient 2 made and her first reference to saying something negative about Dr. Singh—in the context of her being angry, needing money, going through withdrawal, and being unable to get a fast prescription for drugs she had been abusing.

j. Notably, Patient 2 did not initially say she was thinking about disclosing something that happened, or something that the two had done that would be improper, or that Dr. Singh at some point in the distant past asked her on date. She threatened that, if she did not get her drugs by Sunday (keep in mind she was abusing her drugs and reporting withdrawal symptoms and was preparing to go to an expensive rehab), "This makes [her] *want to say something along with*" Jason.

k. In subsequent text messages, Patient 2 went on to say "everyone" (meaning Jason and her parents given the context of the messages) thinks Dr. Singh needs reported

because Dr. Singh raised suspicions when he refused to talk to Patient 2's boyfriend (according to Dr. Singh's testimony, he could not talk to Jason because he did not have patient authorization to do so).

l. Subsequent text messages went on to claim that Dr. Singh lied (apparently about not being able to talk to Jason); that Dr. Singh handled Jason's call unprofessionally; that it made Dr. Singh look like he was hiding something; that Patient 2's parents were really upset; that Patient 2's parents were paying a lot of money to send her to rehab; that Dr. Singh was discontinuing her from treatment because her boyfriend called Dr. Singh; that Patient 2s family members were getting information from the rehab doctor that Dr. Singh was not handling things properly and that was fueling their (Patient 2's parents') fire; that her parents didn't want her going to the office on Monday; and they feel Dr. Singh is "screwing her over" because he is scared. She again demanded her Subutex be called in or else her dad would be handling this and she thinks he wants to file some kind of report so she's warning (threatening) Dr. Singh again.

m. On 2-1-15, Patient 2 texted more. She said she "warned" Dr. Singh on another number of his. She started giving him a timeline before which she would be "honest." She described what she was talking about, as if Dr. Singh would not have known and she had to clarify what she was going to be saying, which by her own admission was different than what she had been saying for years. She started setting deadlines, as if threatening Dr. Singh: 3:00 p.m.; 30 more minutes; 20 minutes; I'm

done warning you; the only thing stopping this is you doing the right thing (i.e., calling in the medications she was demanding); it's going to get ugly if you don't call it in tonight; the only way you can prevent this is if you do it super fast; you need to do this fast!

n. On 2-2-15, Patient 2 continued to say she needed her Subutex called in before her parents file a police report and, she said, she was not going to pay for an office visit.

o. Patient 2 continued to complain that her prescriptions were not called in for her. She claimed it was "shitty" and her parents were "flipping out"

(13) There were a number of reasons for discrediting Patient 2, which the hearing examiner properly did. Among the reasons, the hearing examiner pointed out that "Several statements in Patient No. 2's communications in late January and early February...at least when viewed in isolation, suggest that Patient No. 2 was threatening to make allegations against Dr. Singh as a means of controlling him and insuring that she would continue to receive drugs from him. Viewed more broadly, they suggest she did so under pressure from Jason and her parents" (Report and Recommendation, p. 41, second bullet). He goes on to say, "But most damaging to the credibility of Patient No. 2 are her text messages to Dr. Singh when *viewed as a whole*" (Report and Recommendation, p. 41; emphasis in original). The hearing examiner then went on to use the discredited text messages to support his finding of sexual misconduct by a

single text message to a single discredited patient four years earlier. The State offered nothing other than the Patient's incredible testimony.

(14) It was established at the hearing that "it wasn't until -- it wasn't until after [Patient 2] told Dr. Singh [she was] going into rehab, and [she] became angry because [she] thought he was ignoring [her] and he wouldn't give [her] the Adderall that [she was] snorting, that [she] made a threat that [she was] *going to say what Jason was saying*." (Tr. 207: 6-25; emphasis added). Indeed, the State helped make the case that "It is fair to say that [Patient 2 was] an addict and [she] would do what [she] could to get [her] drugs." (Tr. 208: 14-17).

(15) Lost in all of this is Patient 2's claim that she showed the police officer that Dr. Singh beckoned to the office in 2012 the text message that she purports is proof that Dr. Singh invited Jason to his office. (Tr. 100:11 – 102:15). That would have been the same timeframe and same string of messages in which Patient 2 claims the never-to-be-seen 2:00 a.m. text message was sent asking her to dinner. (Tr. 100-102 Yet there is no mention of these smoking gun text messages in the police report (Ex. 4A) or in the police officer's testimony. (Tr. 216:4-15 and 221:4 to 225:10). Indeed, no messages at all were produced by the State, though they bear the burden of proof (See Tr. ¶ 60 and footnote 23).

(16) Moreover, common sense should prevail. It doesn't make sense that a single text message was sent at 2:00 a.m., asking Patient 2 out on a date. No other courting type

messages, no flirtatious messages—nothing—just a claimed but never admitted single 2:00 a.m. message that was supposedly read by her boyfriend, shown to the police, and known about by Patient 2's parents—yet no one could testify that they actually saw this message. Furthermore, even Patient 2's explanation of how the text message was "discovered" fails to pass the smell test. One would have to believe that Jason, who was not Patient 2's boyfriend at the time and who was living with his mother, entered Patient 2's house while she was sleeping "to surprise" her (at 2:00 a.m.), went through her text messages, discovered this never-revealed text message (that, coincidentally was also sent at 2:00 a.m., just as Jason entered the house), confronted Dr. Singh about it (who then beckoned the police to his office when, according to Patient 2, she and her boyfriend had evidence of sexual misconduct by way of this purported text message), showed the text messages to the police, but then the police officer left that out of her report and testimony. And, oh by the way, Patient 2 would have us believe that her parents were aware of this, too, but they were not called as witnesses either. (Tr. 100-102). It's absurd.

F. <u>The hearing examiner erred in his assessment of the credibility of Patient 4.</u>

(17) The hearing examiner did not have adequate basis for concluding Patient No. 4 "was not a particularly credible witness" (Report and Recommendation, p. 39, first hanging paragraph). The hearing examiner discredited what Patient No. 4 reported because she heard it (directly) from Dr. Singh's receptionist, "But without explanation, the receptionist herself did not testify" (Report and Recommendation, p. 39, first full paragraph). Patient 4 should not be discredited because another patient was not called

to testify. Indeed, the hearing examiner never asked why the other patient did not testify. But since it is now an issue, it can be noted that she was unavailable—it was Respondent's understanding that her last known whereabouts was in Florida but beyond that Respondent had no way to find her or to compel her to testify at the hearing. Those facts should not and do not discredit another Patient's testimony.

(18) Ironically, while discrediting Patient 4 because another patient / receptionist, who was unavailable, did not testify, the hearing examiner did not mention a word about Patient 2's boyfriend (Jason) and Patient 2's parents not testifying—even though Patient 2's claims invoked all of them at times in support of her otherwise uncorroborated claim of a single 2:00 a.m. text message, inviting her to dinner.

(19) The hearing examiner also raised concerns that three phone messages were preserved but a fourth one was not. The hearing examiner reported that Dr. Singh could not "credibly explain why" this would be. It is not clear how this discredits Patient 4. In any event, Dr. Singh did explain why three messages were preserved but a fourth one was not. It may be that the hearing examiner's memory failed him, understandably after a 3-day hearing and nearly 600 pages of transcripts. But, nonetheless, Dr. Singh did, in fact, testify that the recording that could not be preserved came in on his office phone (Tr. 423: 12-20) which recordings do not get backed up on a server, after which he blocked the caller's number and the caller then left subsequent messages on Dr. Singh's grasshopper line, which saves the messages to a server (Tr. 432-426).

G. <u>The hearing examiner erred in his assessment of the credibility of Dr. Singh.</u>

(20) The hearing examiner improperly called into question Dr. Singh's credibility. The hearing examiner cited to 4 things—not all of which are particularly relevant to the adjudication of this case. Each is discussed below.

a. The hearing examiner noted that Dr. Singh's testimony contained inconsistencies involving times and dates. He cited specifically to ¶¶ 7, 12, and 18. In ¶ 7, the hearing examiner draws attention to the fact that Dr. Singh requested to go part time at Twin Valley in May, 2015, yet Dr. Singh's previous supervisor thought it was in 2010 or 2011. It is not clear why it matters, but the fact is Dr. Singh went part time in 2015 as he testified to—both at trial and in his deposition (see Depo. 18: 18-19). This could have been corroborated post-hearing through employment records for the hearing examiner if he thought it was so important as to question Dr. Singh's credibility over the discrepant testimony. The hearing examiner next cited to ¶ 12 in which the hearing examiner noted that Dr. Singh gave slightly different work hours at the time of his deposition (see Depo 19: 17-22) and at the time of his hearing (Tr. 373, 381-382). However, first, the times provided were not significantly different and certainly not so different that they should be used to discredit someone. Secondly, the question asked in the deposition and the questions asked at the hearing covered different time periods such that different answers, however slight, say nothing about credibility. Finally, the hearing examiner pointed to ¶ 18, noting that Dr. Singh recalled his wife's treatment as having occurred in 2011-12 at his hearing, but in 2013 in his deposition. Indeed, in his deposition, Dr.

Singh testified, "Way back in, I think 2013 I needed to take her to chemotherapy pretty regularly..." (Depo., 81: 17-19). At trial, he testified that her chemotherapy was actually in 2011 and 2012 but other treatments continued into 2013. Again, to the extent the dates were relevant and critical, they could have easily been established through medical records. Certainly, this information does not suggest Dr Singh is somehow lacking in honesty and credibility.

b. The hearing examiner next questioned Dr. Singh's credibility because (1) he did not have the recording of one voicemail message, while he had the recordings of others; and (2) he relied on a conversation reported by his receptionist, who did not testify, documented in a self-emailed progress note that was not introduced. The inability to preserve the voicemail message and the unavailability of the receptionist were addressed in ¶ 19 and 17 *supra*, respectively. It appears the hearing examiner has again lost track of the exhibits that were and were not admitted. The contemporaneous note that he asserted was not introduced was admitted (See State's Ex. 2B, 87-88). Thus, none of these matters cast doubt on Dr. Singh's credibility.

c. The hearing examiner was critical of Dr. Singh's self-emailed progress notes about Patient 2 (St. Ex. 5 & 6). The hearing examiner suggested they read as "self-serving" documents intended to "paper the record." Indeed, contemporaneous notes to files in unusual circumstances or during high risk interactions are intended to "paper the record"—or what might also be considered good risk management. Most

licensed professionals have a process for providing special documentation in unusual and high risk circumstances. That Dr. Singh did just that and that he developed a process that allowed for external independent verification of the date and time of the documentation should bolster his credibility and not diminish it. The hearing examiner, in fact, provides an interesting quandary for physicians: provide extra documentation and you'll be considered self-serving and "papering the record" and, therefore, suspect in credibility; don't and, well, you won't have any documentation of what you will later try to explain. That the hearing examiner did not appreciate the practice as good risk management is concerning (since lawyers, too, often write memos to files for similar reasons and under similar circumstances). That the hearing examiner used it as a reason to question Dr. Singh's credibility is, itself, incredible. A related issue raised by the hearing examiner was that the contemporaneous documents were not filed in Patient No. 2's chart where anyone but he might discover them—until he needed them as "evidence" to protect himself. Dr. Singh, in fact, testified that he had a part-time, solo practice with primarily a paper chart, except for things that were created electronically and those things would sometimes be saved on the computer and sometimes printed and put in the actual chart. In this day and age, especially for small and solo practices, it is not uncommon for healthcare professional to have a hybrid medical documentation system—where some things are still paper and others are electronic. That Dr. Singh had such a system is not a reflection of his credibility.

d. Finally, and most concerning frankly, is the hearing examiner citing to the Respondent's "creation of and use of a heavily edited chain of text messages to and from Patient No. 2 that purported to have left only 'some of them [out] that are not important'" as most damaging to Dr. Singh's credibility. The hearing examiner, at this point in his "Report and Recommendation" (p. 42, 4th full paragraph), characterized the messages as "an entire chain of messages from late January 31 through February 2, 2015, in which Patient No. 2, on several occasions, reminded Dr. Singh of his having solicited a date from her in September, 2012, and recounted the stress to her familial and romantic relationships caused by her continuing to deny to them that Dr. Singh had solicited a date." Notably, the hearing examiner had previously, and more accurately, characterized the text messages as follows: "Several statements in Patient No. 2's communications in late January and early February...at least when viewed in isolation, suggest that Patient No. 2 was threatening to make allegations against Dr. Singh as a means of controlling him and insuring that she would continue to receive drugs from him. Viewed more broadly, they suggest she did so under pressure from Jason and her parents" (Report and Recommendation, p. 41, second bullet). The hearing examiner went on to say, "But most damaging to the credibility of Patient No. 2 are her text messages to Dr. Singh when *viewed as a whole*" (Report and Recommendation, p. 41; emphasis in original). The hearing examiner added that "SendHub had sent Dr. Singh a more-or-less complete printout of messages from Patient No. 2 on August 23, 2016, prior to the hearing. (Resp. Ex. M-2). The hearing examiner characterized Dr. Singh as a "person with 'something to hide,'" and as "attempt[ing] to whitewash from the

record...Patient No. 2's contemporaneous and repeated allegations, not denied by Dr. Singh at the time, that Dr. Singh had engaged in sexual impropriety by asking her for a date." (Report and Recommendation, p. 42, 5th full paragraph). There are so many things wrong with that statement and conclusion.

i. First, Dr. Singh hid nothing. Indeed, he was the one who sought out illustrative text messages from archives through his online account, copying and pasting them into what was eventually admitted as Respondent's Exhibit L. (Tr. 383:16 – 385:2). He readily acknowledged that Exhibit L did not include all the text messages between him and Patient 2. (Tr. 388: 12-14). He also went to lengths to obtain and, as needed, pay for an entire accounting of all text messages between him and Patient 2 directly from the telecommunications company (Ex. M2-M7). Indeed, without his efforts, the hearing examiner would have had no text messages at all, leaving him simply to compare Dr. Singh's testimony (which was the "gist of many of the texts Dr. Singh omitted from his exhibit" [Report and Recommendation, Footnote 33]) and Patient 2's testimony (which included "several contentions and denials at odds with her contemporaneous messages to Dr. Singh [Report and Recommendation, p. 41]). Indeed, she claimed in her testimony that the selected messages in Ex. L were not accurate (Tr. 183: 8-15) and that the dating was not right (Tr. 184: 1-2), and that she simply did not say some of the things that were attributed to her (Tr. 188: 15-22). In fact, the authenticated records (Ex. M2-M7) prove otherwise.

ii. It is absurd to suggest the text messages are evidence of sexual impropriety because Dr. Singh did not deny the allegations at the time. This simply cannot be evidenced because the vast majority of messages sent from Dr. Singh were not available from the company, owing to no fault of Dr. Singh. (Ex. M2-M4). Further, the hearing examiner acknowledged this (see p. 20, footnote 29). So it is entirely inconsistent that the hearing examiner would later suggest that not finding a denial from Dr. Singh in the string of text messages that, by and large, excluded Dr. Singh's messages, is evidence that what was being accused occurred.

H. <u>The hearing examiner erred in assessing the standard of care without expert testimony or needed specialized knowledge</u>

(21) The hearing examiner was correct in conceding that no expert testimony was presented from which he could judge the propriety of Dr. Singh's medical treatment of Patient No. 2. (Report and Recommendations, p. 42, last full paragraph). He erred, however, when he nonetheless immediately proceeded to conclude Dr. Singh's "actions in general were not inconsistent with someone who has lost control of the physician-patient relationship. Because he had 'something to hide,' the patient was apparently able to take unusual liberties with the physician-patient relationship." This conclusion was not alleged by the State, it goes beyond the evidence that was presented, it calls for an expert opinion that was not offered, and is simply inaccurate.

(22) The hearing examiner erred when he concluded that "Patient No. 2's repeated allegations, in her text messages of late January and early February, 2015, written impulsively and in anger, do have the reliability of spontaneous utterances." No they don't. And, in fact, this was acknowledged by the hearing examiner, himself, in the "Report and Recommendation" when he concluded the following: "Several statements in Patient No. 2's communications in late January and early February...at least when viewed in isolation, suggest that Patient No. 2 was threatening to make allegations against Dr. Singh as a means of controlling him and insuring that she would continue to receive drugs from him. Viewed more broadly, they suggest she did so under pressure from Jason and her parents" (Report and Recommendation, p. 41, second bullet). He goes on to say, "But most damaging to the credibility of Patient No. 2 are her text messages to Dr. Singh when *viewed as a whole*" (Report and Recommendation, p. 41; emphasis in original). It is hard to understand how the exact same statements can be evidence of Patient 2's incredibility and Dr. Singh's impropriety.

I. <u>The hearing examiner erred in concluding there were any aggravating factors and he failed to account for mitigating factors.</u>

(23) The hearing examiner erred in finding, "The primary aggravating factor in determining the appropriate sanction is Dr. Singh's dishonesty before the Board in these proceedings" and he, therefore, "merits a substantial disciplinary sanction, including a significant suspension of his medical certificate." Indeed, the State did not produce any evidence of the claimed 2:00 a.m. text, asking Patient 2 to go to dinner. By contrast, the Respondent, who does not bear the burden of proof, sought and admitted all

available phone records (over 3,000 pages), all available text messages, all archived audio recordings, and all archived surveillance video. Dr. Singh wasn't just not dishonest; we went above and beyond to produce evidence, as if he somehow bears the burden of proof in this case.

(24) The hearing examiner cited to a number of cases "involving relatively limited sexual misconduct with one patient, most involving consensual sexual relationships" (Report and Recommendations, p. 47, footnote 37). For instance, he cited to the Board giving 180-day suspensions for consensual sexual relationships with multiple patients and for a long consensual sexual relationship with a single patient; a 120-day suspension for a consensual affair with a patient for whom the physician provided prescriptions; a 60-day suspension for a long consensual relationship with a patient; and a 60-day suspension for the exchange of innuendo-laden Facebook messages with a patient. Here, the hearing examiner (albeit over Respondent's objections) concluded Respondent sent one text message 4 years ago, asking a single patient to dinner one time. Precedent mandates that if the Board finds, over Respondent's objection, that such a text message was sent, the penalty be less than what was imposed in the cited to cases, as Respondent's case is less severe than all the others referenced in that Respondent's case deals with a single text message purportedly asking a single patient to go to dinner four years ago on one occasion. Accordingly, the hearing examiner's proposed order and recommendations should be rejected as it relates to any suspension of Dr. Singh's certificate to practice medicine and surgery.

(25) By contrast, there was exceptional mitigation that was not recognized.

a. Dr. Giridhar Singh is a 62-year-old psychiatrist who grew up in a below-average income household. (Tr. p. 239: 14-24). As a teenager, following his father's death when Dr. Singh was just 16 years old, he worked hard to provide for his family. (Tr. 330: 4-16). In addition to working to provide for his family, Dr. Singh worked to put himself through medical school. (Tr. 330: 17-21). He graduated from medical school, completed a three-year residency in dermatology and sexually transmitted diseases, and then completed a two-year residency in psychiatry. (Tr. 334: 6-19). He worked for three years in England and then was accepted into the Psychiatry residency at the University of Pennsylvania in Philadelphia. (Tr. 331: 6-11). After that residency, he was contacted by the Ohio Department of Mental Health for a position as a psychiatrist. (Tr. 331: 13-15). He eventually obtained his United States citizenship and has worked in the United States for the past 19 years. (Tr. 331: 16-18).

b. Along the way, Dr. Singh has become triple board certified, being board certified by the American Board of Psychiatry and Neurology, the American Board of [Addiction] Medicine, and the American Board of Psychosomatic Medicine. (Tr. 336: 13-16). Additionally, he was granted a DATA 2000 Waiver and was authorized to treat patients with Suboxone. (Tr. 336: 19-21). In addition to working for the Ohio Department of Mental Health for the past 19 years, Dr. Singh has operated a Suboxone practice for about the past 10 years. (Tr. 337: 5-6). Dr. Singh

has also worked for four (4) different mental health centers, a juvenile residential facility, another hospital, and a substance abuse / addictions facility. (Tr. 338:24-339:12). He has treated an estimated more than 5,000 psychiatry patients and an additional 1,500 Suboxone patients, male and female. (Tr. 340:23-341:14). Across his 28 years of professional experience, roughly 6,500 patients, and being licensed in three different states and two other countries, Dr. Singh has never been sued for malpractice and he has never even had a Board complaint filed against him.

c. This has been an anxiety provoking and traumatic experience for Dr. Singh. (Tr. 332: 14). Serving as a doctor is the only thing he has ever done; he knows of no other profession. (Tr. 333: 23-25). Dr. Singh is married and is the father of two daughters. (Tr. 331: 21-22). He has a cardiac condition and his wife is a cancer survivor. He knows of no other way to provide for himself and his family. (Tr. 334: 1).

d. Dr. Singh's unblemished personal and professional record should not be allowed to be tarnished by uncorroborated, unsupported, untrue bare assertions. Dr. Singh is in an especially unenviable position because, while he does not bear the burden of proof, **it is impossible for him to prove something <u>did not</u> happen**. The State bears the burden of proof by a preponderance of the evidence. It cannot meet this burden because it, too, cannot prove something that **<u>did not</u>** happen.

J. <u>The hearing examiner ultimately erred in his findings of fact and conclusions of law.</u>

(26) The hearing examiner's 17th finding of fact is incorrect to the extent he stated some of the longer messages were partially obscured; no messages were obscured.

(27) The hearing examiner's 18th fact of law is not supported by reliable, probative, and substantial evidence and is not in accordance with law.

(28) The hearing examiner's 19th finding of fact is in error to the extent he excepted the conduct described in Finding of Fact ¶ 18 from his finding that the State failed to demonstrate that Dr. Singh engaged in sexual misconduct with Patient No. 2, within the meaning of O.A.C. § 4731-26-02(H).

(29) As such, Conclusions of Law 2 and 6 must be rejected as they are not supported by reliable, probative, and substantial evidence and are not in accordance with law.

(30) The hearing examiner erred in finding that the State has proven that Dr. Singh committed "sexual misconduct" and a "sexual impropriety" within the meaning of O.A.C. § 4731-26-01(H)(1)(d), when in September, 2012, he purportedly solicited a date from Patient No. 2. This finding is not supported by reliable, probative, and substantial evidence and is not in accordance with law.

K. <u>The State Medical Board of Ohio erred in considering allegations that were not proven by a Preponderance of the Evidence; in adopting an Order that is not supported by reliable, probative, and substantial evidence and that is not in accordance with law; and is ordering a penalty that is disproportionate to the cited violation and precedence.</u>

WHEREFORE, appellant demands that the Court overturn the State Medical Board of Ohio's decision / Entry of Order.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy the foregoing **COMPLAINT / NOTICE OF APPEAL** was filed electronically in the Franklin County Court of Common Pleas on 1-28-17.

I hereby certify that a true and accurate copy of the foregoing **COMPLAINT / NOTICE OF APPEAL** was sent facsimile and U.S. Mail on 1-28-17 to the following:

(1) State Medical Board of Ohio
30 E. Broad Street, 3rd Floor
Columbus, OH 43215-6127
Facsimile: 614-728-5946

(2) Ohio Attorney General's Office
Health and Human Services Section
30 E. Broad Street, 26th Floor
Columbus, OH 43215-3400
Facsimile: 614-466-6090

State Medical Board of
Ohio

30 E. Broad St., 3rd Floor
Columbus, Ohio 43215
(614) 466-3934
www.med.ohio.gov

January 11, 2017

Giridhar Singh, M.D.
P. O. Box 23041
Columbus, OH 43223

RE: Case No. 15-CRF-124

Dear Doctor Singh:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Jack W. Decker, Esq., Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on January 11, 2017, including motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio, and adopting an Amended Order.

Section 119.12, Ohio Revised Code, may authorize an appeal from this Order. Any such appeal must be filed in accordance with all requirements specified in Section 119.12, Ohio Revised Code, and must be filed with the State Medical Board of Ohio and the Franklin County Court of Common Pleas within (15) days after the date of mailing of this notice.

THE STATE MEDICAL BOARD OF OHIO

Kim G. Rothermel, M.D.
Secretary

KGR:jam
Enclosures

CERTIFIED MAIL NO. 91 7199 9991 7036 9431 3387
RETURN RECEIPT REQUESTED

cc: Bob Stinson, Esq.
CERTIFIED MAIL NO. 91 7199 9991 7036 9431 3394
RETURN RECEIPT REQUESTED

Shakeba DuBose, Esq.
CERTFIED MAIL NO. 91 7199 9991 7036 9431 3400
RETURN RECEIPT REQUESTED

Mailed 1-25-17

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Jack W. Decker, State Medical Board Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on January 11, 2017, including motions approving and confirming the Findings of Fact, Conclusions and Proposed Order of the Hearing Examiner as the Findings and Order of the State Medical Board of Ohio, and adopting an amended Order; constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Giridhar Singh, M.D., Case No. 15-CRF-124, as it appears in the Journal of the State Medical Board of Ohio.

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

Kim G. Rothermel, M.D.
Secretary

(SEAL)

January 11, 2017
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF	*	
	*	CASE NO. 15-CRF-124
GIRIDHAR SINGH, M.D.	*	

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on January 11, 2017.

Upon the Report and Recommendation of Jack W. Decker, 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 modification, approval, and confirmation by vote of the Board on the above date, the following Order is hereby entered on the Journal of the State Medical Board of Ohio for the above date.

It is hereby ORDERED that:

A. **SUSPENSION OF CERTIFICATE**: The certificate of Giridhar Singh, M.D., to practice medicine and surgery in the State of Ohio shall be SUSPENDED for an indefinite period of time, but not less than 180 days.

B. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Singh's certificate to practice medicine and surgery until all of the following conditions have been met:

1. **Application for Reinstatement or Restoration:** Dr. Singh shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.

2. **Course(s) Concerning Physician/Patient Boundaries:** At the time he submits his application for reinstatement or restoration, or as otherwise approved by the Board, Dr. Singh shall provide acceptable documentation of successful completion of a course or courses on maintaining physician/patient boundaries. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any course(s) taken in compliance with this provision shall be in addition to the Continuing Medical Education

requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.

In addition, at the time Dr. Singh submits the documentation of successful completion of the course(s) on maintaining physician/patient boundaries, he shall also submit to the Board a written report describing the course(s), setting forth what he learned from the course(s), and identifying with specificity how he will apply what he has learned to his practice of medicine in the future.

3. **Personal/Professional Ethics Course(s)**: At the time he submits his application for reinstatement or restoration, or as otherwise approved by the Board, Dr. Singh shall submit acceptable documentation of successful completion of a course or courses dealing with personal/professional ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any course(s) taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.

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

4. **Additional Evidence of Fitness to Resume Practice.** In the event that Dr. Singh has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of his fitness to resume practice.

C. **PROBATION.** Upon reinstatement or restoration, Dr. Singh's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of two years:

1. **Obey the Law**: Dr. Singh shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in the state in which he is practicing.

2. **Declarations of Compliance**: Dr. Singh shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received

in the Board's offices on or before the first day of the third month following the month in which this Order becomes effective. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

3. **Personal Appearances**: Dr. Singh shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which this Order becomes effective, or as otherwise directed by the Board. Subsequent personal appearances shall occur every six months thereafter, and/or as otherwise directed by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

D. TERMINATION OF PROBATION: Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Singh's certificate will be fully restored.

E. REQUIRED REPORTING WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS ORDER:

1. **Required Reporting to Employers and Others**: Within 30 days of the effective date of this Order, Dr. Singh shall provide a copy of this Order to all employers or entities with which he is under contract to provide healthcare services (including but not limited to third-party payors), or is receiving training, and the Chief of Staff at each hospital or healthcare center where he has privileges or appointments. Further, Dr. Singh shall promptly provide a copy of this Order to all employers or entities with which he contracts in the future to provide healthcare services (including but not limited to third-party payors), or applies for or receives training, and the Chief of Staff at each hospital or healthcare center where he applies for or obtains privileges or appointments.

   In the event that Dr. Singh provides any healthcare services or healthcare direction or medical oversight to any emergency medical services organization or emergency medical services provider in Ohio, within 30 days of the effective date of this Order, he shall provide a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services.

   These requirements shall continue until Dr. Singh receives from the Board written notification of the successful completion of his probation.

2. **Required Reporting to Other Licensing Authorities**: Within 30 days of the effective date of this Order, Dr. Singh shall provide a copy of this Order to the proper licensing authority of any state or jurisdiction in which

he currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Administration, through which he currently holds any professional license or certificate. Also, Dr. Singh shall provide a copy of this Order at the time of application to the proper licensing authority of any state or jurisdiction in which he applies for any professional license or reinstatement/restoration of any professional license. This requirement shall continue until Dr. Singh receives from the Board written notification of the successful completion of his probation.

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

F. VIOLATION OF THE TERMS OF THIS ORDER: If Dr. Singh violates the terms of this Order in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.

G. PARTIAL DISMISSAL OF ALLEGATIONS: The allegations against Dr. Singh, as set forth in Paragraph (1) of the December 9, 2015, notice of opportunity for hearing in Case No. 15-CRF-124, except as they pertain to the solicitation of a date from Patient No. 2, in or about September, 2012, shall be DISMISSED.

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 11, 2017
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

In the Matter of	*	
	*	**Case No. 15-CRF-124**
Giridhar Singh, M.D.,	*	
	*	**Hearing Examiner Decker**
Respondent.	*	

REPORT AND RECOMMENDATION

Basis for Hearing

By letter dated December 9, 2015, the State Medical Board of Ohio ("Board") notified Giridhar Singh, M.D., that the Board intended to determine whether to "limit, revoke, permanently revoke, suspend, refuse to register or reinstate [his] certificate to practice osteopathic medicine and surgery, or to reprimand [him] or place [him] on probation," and/or to impose a fine of up to $20,000 for any offenses occurring on or after September 29, 2015, based upon the following allegations:

(1) In the routine course of your practice, you undertook the medical care of Patients 1 and 2, as identified on the attached Patient Key. (The Patient Key is confidential and shall be withheld from public disclosure.) Despite your concurrent physician-patient relationship, in or around 2012 through 2015, you engaged in sexual misconduct with Patients 1 and 2 on multiple occasions.

The Board charged that the foregoing acts as described in ¶ 1 above, individually and/or collectively, constituted "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board," within the meaning of O.R.C. § 4731.22(B)(20). Specifically, the Board charged Dr. Singh with a violation of O.A.C. § 4731-26-02(A), which provides that a "licensee shall not engage in sexual misconduct with a patient" as "sexual misconduct" is defined, in detail, at O.A.C. § 4731.26-01(H). O.A.C. § 4731-26-03(A)(1) provides that a physician's violation of § 4731-26-02 constitutes a "'departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established,'" within the meaning of O.R.C. § 4731.22(B)(6). (St. Ex. 1 at 10-11)

Finally, the Board advised Dr. Singh of his right to request a hearing in this matter and, on January 6, 2016, through counsel, Dr. Singh timely requested a hearing. (St. Ex. 1 at 2).

Appearances

Mike DeWine, Attorney General, and Emily A. Pelphrey, Associate Assistant Attorney General, for the State of Ohio.

Bob Stinson, Attorney at Law, for the Respondent.
Shakeba DuBose, Attorney at Law, for the Respondent

Hearing Dates: September 6, 7 and 8, 2016.

POST-HEARING FILINGS

By agreement and my order, the parties were to have filed post-hearing briefs simultaneously, on October 7, 2016. (Tr. 456, 582). The Respondent, however, received a last-minute extension to file his memorandum, and the State was then given the opportunity to file a reply brief. The record, therefore, closed on October 21, 2016, and shall include the following additional exhibits, which shall be maintained as part of the record:

- Board Ex. 1: State's Closing Argument, filed October 7, 2016;
- Board Ex. 2: Respondent's Closing Argument, filed October 14, 2016; and
- Board Ex. 3: State's Rebuttal Closing Argument, filed October 21, 2016.

At the same time, the record was held open for the same period so that the Respondent could submit additional records describing and documenting Dr. Singh's 1998 heart surgery and resultant scarring. The Respondent submitted Resp. Ex. L-1, L-2, L-3, L-4 and L-5, consisting of photographs of Dr. Singh, and Resp. Ex. M-1,which appears to be a discharge record verifying when the surgery was performed. Without objection by the State, Resp. Ex. L-1, L-2, L-3, L-4 and L-5, and Resp. Ex. M-1, are hereby admitted into evidence and shall be maintained, *under seal,* as part of the record.

In addition, by agreement of the parties, the record was held open so that the Respondent could submit additional documents authenticating the basis from which he had compiled, by cutting and pasting by hand, a series of text messages between Dr. Singh and Patient No. 2 in early 2015. (Tr. 582-83; *see* Singh, Tr. 384-88; Resp. Ex. L). Respondent submitted Resp. Ex. M-2, M-3, M-4, M-5, M-6 and M-7. Resp. Ex. M-2 through M-5 appear to be copies of email correspondence between Dr. Singh & SendHub sent in an effort to retrieve SMS text messages. Resp. Ex. M-6 and M-7 appear to be SendHub's responsive production of SMS text message traffic to and, in part from, Dr. Singh's account for January and February, 2015. Without objection by the State, Resp. Ex. M-2, M-3, M-4, M-5, M-6 and M-7, are hereby admitted into evidence and shall be maintained, *under seal*, as part of the record.

Board Ex. 4, an email to this Hearing Examiner, documenting the submission of Resp. Ex. L-1 through L-5 and M-1 through M-7, containing images of some of the exhibits submitted, shall be made part of the record, and maintained *under seal*, as well.

SUMMARY OF THE EVIDENCE

All evidence admitted in this matter, even if not specifically mentioned, was thoroughly reviewed and considered by the Hearing Examiner prior to preparing this Report and Recommendation.

Background Information.

1. Giridhar Singh, M.D., is 62 years old. He was born in Medros, India. His father, a governmental employee, died of a heart attack at age 40, leaving his mother, a homemaker with little education, and Dr. Singh at a young age, to provide for the family. (Singh, Tr. 329-30).

2. Dr. Singh attended Gandhi Medical College in Hyderabad, in southern India, and graduated in 1985. (Singh, Tr. 330, 334; Singh Dep. 9).[1] Dr. Singh's sister also became a physician and practices pathology in India. (Singh, Tr. 330). A three-year residency in dermatology and sexually transmitted diseases, and a two-year residency in psychiatry followed. (Singh, Tr. 334).

3. Dr. Singh was married in 1988. He and his wife, Shoba, have two daughters. (Singh, Tr. 331; Singh Dep. 13, 20). His wife has been in India since 2015 attending to family business, but his daughters remain in the United States. (Singh, Dep. 90).

4. In 1990, Dr. Singh moved to the British Isles, where he worked in Ireland while passing his Step I, Step II and Step III examinations. (Singh, Tr. 334-35).

5. In 1994, Dr. Singh was accepted into a residency program at the University of Pennsylvania, Department of Psychiatry, in Philadelphia. He completed that program in August, 1997. (Singh, Tr. 335; Singh, Dep. 9-10).

6 In 1997, Dr. Singh was recruited by the Ohio Department of Mental Health to practice as a staff psychiatrist at the Twin Valley Behavioral Healthcare Hospital, operated in Columbus by the Ohio Department of Mental Health, where he still works. (Singh, Tr. 335). Throughout most of his career, Dr. Singh has practiced at Twin Valley as a forensic psychiatrist on a unit of 26 patients, providing competency, restoration and sanity evaluations in connection with Not Guilty by Reason of Insanity pleas, as well as treatment. (Singh, Tr. 336; Singh, Dep. 17-18).

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[1] St. Ex. 7 is the transcript of an investigative deposition taken of Dr. Singh October 22, 2016. Sworn testimony from the deposition will be referred to as "Singh Dep. __," with reference made to the deposition transcript page.

7. Recently, Dr. Singh has suffered from a number of health problems and stress, and was under a "lot of pressure from my wife to reduce my work hours." (Singh, Dep. 20). In May, 2015, he requested that he be reduced to part-time status at Twin Valley, and was offered a position on the Admissions Unit.[2] Dr. Singh now evaluates everyone admitted to the facility, whether or not on a forensic basis. (Singh, Tr. 342, 465-66; Singh, Dep. 18-19),

8. In addition, while in Columbus, Dr. Singh has practiced at MedCentral Hospital Emergency Room in Mansfield and at Foundations for Living, a juvenile residential facility in Mansfield, as well as at the Columbus Area Mental Health Center, Southeast Mental Health Center, Knox Community Mental Health Center, North Central Mental Health Center, and the Woods at Parkside all in Columbus. (Singh, Tr. 337, 338-39). Finally, Dr. Singh briefly worked at Dublin Springs Hospital in Dublin, Ohio, as a consulting psychiatrist on an *ad hoc* basis, 2014-15. (Singh, Tr. 341-42).

9. In addition to his license in India and an expired temporary license in Ireland, Dr. Singh is licensed to practice in the States of Ohio and Pennsylvania, and also holds an inactive license to practice medicine in New Jersey. (Singh, Tr. 345, 467; Singh, Dep. 11). Dr. Singh is board certified in Psychiatry (2006) and in Psychosomatic Medicine (2007). Dr. Singh was also board certified in Addiction Medicine in 2004 and recertified in 2015. (Singh, Tr. 336; Singh, Dep. 11-13). Dr. Singh has a DEA license with a "DATA 2000 waiver"[3] to prescribe Suboxone. (Singh, Dep. 11-12).

10. Dr. Singh has never been subject to Board discipline, in the United States, in the British Isles, or in India. (Singh, Tr. 332-33, 344-45).

Dr. Singh's Addiction Practice.

11. Beginning about 2007-08, Dr. Singh opened a part-time addiction medicine practice in Dublin, Ohio, called the Neuro Biological Recovery Center ("NBRC"). (Singh, Tr. 339-40; Singh Dep. 15). In 2009, Dr. Singh moved his office from its original quarters on Blazer Parkway to 6205 Emerald Parkway, also in Dublin. (Singh, Tr. 337-38, 355; Singh, Dep. 15).

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[2] Dr. Alan Freeland, Dr. Singh's former supervisor at Twin Valley, recalled that the change to part-time status occurred in 2010 or 2011. (Freeland, Tr. 492-93).

[3] A "DATA 2000 Waiver" is issued pursuant to 21 U.S.C. § 823(g)(2). 21 U.S.C. § 832(g)(1), requires that "practitioners who dispense narcotic drugs to individuals for maintenance treatment or detoxification treatment shall obtain annually a separate registration for that purpose." Subparagraph (g)(2) states that "the requirements of paragraph (1) are waived" for prescribing Suboxone if, among other things, "the practitioner meets the conditions specified in subparagraph (B)," including a pledge to prescribe Suboxone to at most 30 patients at a time, a number that can be increased to 100 after a year. Effective August 8, 2016, HHS has promulgated a new rule permitting practitioners to request approval to treat up to 275 patients at a time under § 823(g)(2). 81 Fed. Reg. 44711 (Jul. 8, 2016).

12. Dr. Singh's Dublin Office was normally open from 5:00 pm to 8:00 pm or 8:30 pm, Monday through Friday, and 12:30 or 1:00 pm to 3:00 or 3:30 pm on Saturdays.[4] In late 2014, because of health issues and his wife's concerns, Dr. Singh reduced his private office hours to a Monday-Wednesday-Friday-Saturday schedule. (Singh, Tr. 381-82; Singh, Dep. 19-20). Because he usually left Twin Valley at about 4:30 pm, Dr. Singh did not ordinarily arrive at his Dublin office until about 5:00 pm during the week. (Singh, Tr. 373). Dr. Singh would occasionally see patients on Sunday; he and his wife routinely visited the office on Sunday to take care of paperwork, cleaning and supplies. (Singh, Tr. 382). He would also occasionally see patients at NBRC during his lunch hour. (Singh, Tr. 381-82).

13. Dr. Singh's private practice at NBRC is limited, for the most part, to addiction medicine, so his patient census is between 90 and 100, as required under his DATA 2000 waiver. (Singh, Dep. 33-34). He does not dispense Suboxone. (Singh, Dep. 34). Ordinarily, Dr. Singh treats only his patients' addiction and substance abuse disorders and "did not want to involve myself in psychiatry." (Singh, Tr. 478, 517, 545-46, 549).[5] Dr. Singh has made exceptions, on "compassionate" grounds, to treat conditions such as ADHD. (Singh, Tr. 518, 549-50). ADHD has high co-morbidity with substance abuse, and Dr. Singh may have undertaken to treat such patients, *e.g.*. with Adderall, if he was sure of his diagnosis. (Singh, Dep. 70-71).

14. Appointments with established patients are usually 15-20 minutes in duration. (Singh, Tr. 560-62). Dr. Singh normally has a receptionist, either a paid staff person or volunteer, on duty when patients are present. (Singh, Dep. 77-78, 92-93). In addition, his wife and one daughter assist him and are present on the premises from time to time, especially on weekends, to assist with janitorial supplies, cleaning and bookkeeping. (Singh, Dep. 20-23, 25).

15. Dr. Singh's office consists of a vestibule between two entry doors, a patient waiting area, a receptionist's desk, and Dr. Singh's office behind the receptionist's desk. (Singh, Dep. 24-25; Pt. 4, Tr. 312-13; Resp. Ex. G). There is also a conference room containing two sofas and a television. The conference room door was not usually kept open. But the air conditioning unit serving the front area of Dr. Singh's office was inefficient, the one serving the conference room less so, so the conference room door was sometimes left open during the summer months to draw cold air into the patient waiting area. When this

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[4] In his deposition, Dr. Singh gave different weekday office hours, of from 3:30 to 4:00 pm until 7:00 pm. (Singh Dep. 19-20).

[5] Dr. Singh believes, however, his psychiatric training and skills are an asset in "managing an addictive patient," due to the "comorbidity of substance abuse," which is "higher in psychiatric patients." (Singh, Tr. 548). Although he does not believe it inappropriate for a Suboxone doctor to address psychiatric conditions, "you do not want to roll over yourself by promoting both." (Singh, Tr. 549). Dr. Singh did provide "brief" "supportive psychotherapy" to Suboxone patients in the form of 15-20 minutes of education about Suboxone, monitoring of withdrawal symptoms, and identifying "trigger factors for relapse." (Singh. Tr. 558-59). For more in-depth counseling, Dr. Singh referred patients to outside counselors and, usually, 12-step meetings. (Singh, Tr. 558-59).

happened, patients could peer into Dr. Singh's conference room. (Singh, Tr. 451-52; Pt. 4, Tr. 314).

16. Dr. Singh uses one business cell phone, but has three numbers, one of which connects to his phone through a SendHub interface, another of which uses Grasshopper to forward calls and messages to his phone. (Singh, Tr. 347-50; Singh, Dep. 85-89). Although Dr. Singh did not intend for patients to have his actual cellular number, it was given to several patients for direct access to Dr. Singh in emergency situations, because SendHub and Grasshopper depended on a Wi-Fi connection that was not always immediately available, in order to download data to Dr. Singh's phone. (Singh, Tr. 350-52, 470-71).

17. Dr. Singh provides only small spaces on the forms he uses for patient visits to record progress notes – a focused, brief assessment that is "pretty crappy" for recording unusual events or detailed descriptions. (Singh, Dep. 177, 538-40; *e.g.,* St. Ex. 2A, 3). Dr. Singh has maintained at least three email accounts, under fictitious names, so that hackers or other intruders cannot easily detect that any traffic to and from those accounts relates to Dr. Singh's patients. If Dr. Singh needs to compose a detailed progress note, he composes a contemporaneous email using a "fictitious" account, sends it to himself, then sometimes prints the progress note and inserts it into a chart. The email system automatically authenticates the time and date of the note. (Singh, Tr. 358, 365, 368, 474, 476-77, 532, 540-42; Singh, Dep. 177-78; St. Ex. 5).[6]

18. There was an interruption of Dr. Singh's practice from mid-2011 until the Spring of 2012 (or 2013),[7] when his wife developed a particular form of cancer different from that identified by Patient Nos. 1 and 2 in their testimony,[8] a situation that caused a great deal of anxiety for Dr. Singh. Dr. Singh's wife required surgery, followed by a course of chemotherapy, often on short notice. Because Dr. Singh accompanied his wife throughout her treatment, he had to postpone or rearrange many appointments for NBRC patients. As a result, he told several patients of his wife's illness, and that she was going through chemotherapy. (Singh, Tr. 412-13, 563-68; Singh Dep. 81-82).

Patient No. 1:

19. Patient No. 1[9] is a married woman, age 34, with five children, ages 14, 10, 8, 8 and 2½ years who has been married for seven years. (Pt. 1, Tr. 231-32; St. Ex. 2A). She is "very close" to her older sister, Patient No. 3. (Pt. 1, Tr. 232-33).

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[6] Dr. Singh testified that he was inspired to use this technique for recording progress notes from his participation in a SAMHSA forum for Suboxone doctors, although establishing email accounts under fictitious names as a security precaution was Dr. Singh's own idea. (Singh, Tr. 530-32).

[7] Dr. Singh recalled his wife's treatment as having occurred in 2011-12 at hearing, and in 2013 in his deposition. *Id.*

[8] The portion of the transcript in which Dr. Singh discussed the details of his wife's illness was placed under seal by my written order shortly after the hearing.

[9] The patient key is to be found at Jt. Ex. 2.

20. Patient No. 1 had been prescribed Vicodin for back pain from scoliosis in 2002, which was later replaced with Percocet for three years. (Pt. 1, Tr. 234-36). Patient No. 1 entered OSU for opioid addiction as an inpatient in 2007, then received outpatient treatment, and was prescribed Methadone for addiction, but it made her drowsy and interfered with infant care. (Pt. 1, Tr. 234, 237-39). Patient No. 1 may have returned to Talbot Hall where she received Suboxone. (Pt. 1, Tr. 234, 240). In any event, she located Dr. Singh on the internet as providing Suboxone treatment and sought his services. (Pt. 1, Tr. 240).

21. Dr. Singh treated Patient No. 1 from April, 2009 to the around November 2013. Patient No. 1 was diagnosed as opioid dependent and was treated with Suboxone. (Singh, Tr. 415; Pt. 1, Tr. 234; Pt. 1, Tr. 244; St. Ex. 2A). After about nine months of treatment, Patient No. 1 introduced her sister, Patient No. 3, to Dr. Singh. Thereafter, according to Dr. Singh, Patient No. 1 normally came to NBRC with her children and sister. (Singh, Tr. 415, 417). According to Patient No. 1, she attended appointments alone "most of the time, unless my children were with me," or unless accompanied by her sister to about 10 appointments in 2013. (Pt. 1, Tr. 244-45, 254, 267). According to Dr. Singh's chart and drug logs signed by Patient No. 1, she visited Dr. Singh's office roughly every two weeks throughout the course of treatment. (St. Ex. 2A; Pt. 1, Tr. 276-77).

22. Patient No. 1 had no secondary mental health diagnoses that were evident to Dr. Singh, and he did not undertake any psychiatric services for her. (Singh, Tr. 417, 518). According to Dr. Singh, at one point during treatment, Patient No. 1 had expressed interest in conducting groups of other patients in Dr. Singh's office under his supervision, and Dr. Singh had showed her his conference room as potential meeting space. (Singh, Tr. 450-51).

23. According to Patient No. 1, "It was a really good relationship [with Dr. Singh]. I looked at him as a friend, a father figure, someone that I trusted very much. I told him things that I couldn't talk to my husband about." "He just made me feel comfortable." (Pt. 1, Tr. 244).

24. Patient No. 1 testified, "Every time I would leave I would always give Dr. Singh a hug. And I know he was having a lot of problems in his marriage with his wife." According to Patient No. 1, Dr. Singh had told Patient No. 1 that his wife "was pregnant and she had lost the baby, and he had to take her back and forth to appointments, and he was pretty stressed out about it." (Pt. 1, Tr. 245-46).

25. Patient No. 1 testified that about two years before she stopped seeing Dr. Singh (*i.e.,* about November, 2011), Dr. Singh made an advance and "kissed me." (Pt. 1, Tr. 245). She did "nothing" in response, and although surprised, told no one. "It continued. He would kiss me every time that I would leave." (Pt. 1, Tr. 246-48). At another point,

Patient No. 1 testified that Dr. Singh made sexual advances to her, including kissing, a total of 5-6 times. (Pt. 1, Tr. 262).

26. According to her handwritten, signed statement, provided to the Dublin police on November 22, 2013, Patient No. 1 alleged:

> Approx. 2 yrs ago Dr. Singh began telling me about his personal life. He told me his wife was pregnant and had a tubal pregnancy. She also wasn't able to have sex any longer....
>
> About a year after him telling me about his wifes [*sic*] poor health I had went in for an appointment and as I got up to leave Dr. Singh came around his desk and hugged me and told me I smelled good. From this day on things only got more tense as the appointments went on. When I would go in he would always hug me and squeeze me tight. He began slipping his hands down my pants and would squeeze and caress my buttox [*sic*]. While all this was going on he would make comments to me about him being lonely and he would ask me to come out and meet him for drinks.

(St. Ex. 4 at 6). In her sworn testimony at hearing, Patient No. 1 mentioned only the alleged hugging.

27. According to Patient No. 1's testimony, when she was pregnant, Dr. Singh would "always tell me that he thought pregnant women were hot and he would make comments about how I had nice legs and things that were inappropriate." (Pt. 1, Tr. 248-49). Around July-September, 2013, Dr. Singh invited her to visit his office one Sunday to pick up pills, *i.e.,* Xanax, which Dr. Singh was not prescribing for her, but her family doctor was. (Pt. 1, Tr. 249, 251, 282).[10] When Patient No. 1 arrived at Dr. Singh's office, he led her to his conference room, which contained two white sofas and a small television, on which "lesbian porno" was playing to help Dr. Singh "get in the mood." (Pt. 1, Tr. 249-50). Dr. Singh had Patient No. 1 remove her shirt, they kissed and he touched her breasts, and then he "wanted me to give him a blow job. I did for a minute, and he said that was enough, he was unable to get an erection." (Pt. 1, Tr. 250). Afterwards, Dr. Singh took a shower, offered one to Patient No. 1, who declined, and gave her a few Xanax, supposedly given him by other patients, after which Patient No. 1 left. (Pt. 1, Tr. 251-52).[11]

28. According to her handwritten, signed statement, provided to the Dublin police on November 22, 2013, Patient No. 1 alleged:

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[10] In his deposition, Dr. Singh testified that Patient No. 1 was frequently "pushing" him to prescribe Xanax for her. (Singh, Dep. 152-57).

[11] According to Patient No. 1, Dr. Singh was also equipped with a bottle of KY Jelly in a Wal-Mart bag, along with a purple lingerie top that was much too large in the bust for Patient No. 1, which she surmised was for someone else. (Pt. 1, Tr. 263-64)

> [P]robably sometime in July or late August ... I went in, had my appointment, and he asked me to perform oral sex on him for a minute. I did put his penis in my mouth but he was flaccid and he was only in my mouth for maybe 2 or 3 minutes and he said that was enough and zipped his pants up. [H]e also said thank you and asked if I wanted money.
>
> In September I went in for an appointment and I asked Dr. Singh for Ativan. Dr. Singh told me he had some and for me to come back later after all the other patients he had were gone for the evening. I went back to his office later that evening and when I got there, Dr. Singh asked me if I wanted to take a shower. I said no and he took me into [his conference room, which is described]. There was a pornographic movie playing and he took his clothes off and sat completely naked on one of the couches. He asked me to take my shirt off and I did. I brought him to climax with my hand and when he was finished he got dressed. He was touching and kissing my body that was exposed while my shirt was off. Afterwards he took a shower and then got dressed. Once he was dressed he went to his office and got me 10 or 11 Ativan....

(St. Ex. 4A at 6-7). According to Patient No. 1, however, there was only one incident in which Dr. Singh exposed himself to her, and that both paragraphs in the police report actually describe the same incident. (Pt. 1, Tr. 270-73). She explained, "I was on Xanax." "I'm not now, everything is completely different. But I know that it happened." (Pt. 1, Tr. 273).

29. Patient No. 1 testified that when she performed fellatio on Dr. Singh, he was "completely naked." (Pt. 1, Tr. 270). Although Patient No. 1 described Dr. Singh's conference room in detail (Pt. 1, Tr. 269), and claimed to be able to describe Dr. Singh's underwear, penis size, and body hair,[12] she was unable to describe any other unusual body features or identifying marks on his chest or groin area. (Pt. 1, Tr. 270-71). Dr. Singh, however, underwent a quadruple bypass heart operation in 1998, as a result of which he retains a clearly visible "zipper scar" on his chest, and a prominent long scar along his leg as the result of the removal of a vein for the bypass surgery. (Resp. Ex. L-1, L-2, L-3, L-5, M-1).

30. Patient No. 1 told no one, including her sister, about Dr. Singh's kissing or other sexual misconduct. She was afraid "he would not see me as a patient anymore." (Pt. 1, Tr. 248, 254, 260-61, 268, 283-84). She testified that she did not feel as if she could leave Dr. Singh's treatment, and feared that she could not find another doctor who could prescribe Suboxone. (Pt. 1, Tr. 262). Patient No. 1 believes, however, that Patient No. 3 knew

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[12] According to Dr. Singh, he ordinarily wears an open-collar shirt to his NBRC office, as he does not wear ties to Twin Valley for safety reasons. (Singh, Tr. 444-45).

something was not quite right. "There were quite a few times that I left the office and I would have to pull over when she was with me, or just start having panic attacks." (Pt. 1, Tr. 254).

31. On November 19, 2013, Dr. Singh began to receive voicemail messages, apparently from Patient No. 1's brother-in-law, Patient No. 3's husband. The first, of which a recording exists, stated, "I need a call back as soon as possible. It's very urgent. I'd like to speak with you or Dr. Singh. It is very important...." (Singh, Tr. 424, Resp. Ex. B). The second, also recorded, stated, "You need to call me before I call the authorities to tell them what I need to tell them, but I thought I'd call you first. Give me a call right now." (Singh, Tr. 425, Resp. Ex. C). According to Dr. Singh, a subsequent third message, for which the recording no longer exists, alleged that Dr. Singh had asked Patient No. 1 to share medication with Patient No. 3, and proposed either that Dr. Singh pay him, or the caller would contact the authorities. (Singh, Tr. 425). A fourth message stated, "You need to call me back with a time we can come down and see you tomorrow." (Singh, Tr. 426-27; Resp. Ex. D).

32. Curiously, Dr. Singh testified that he does not have a recording of the third, the allegedly most explicit of the voicemails, because "I did not know this would come this far." The gravity of the situation was not clear until the next day, when Patient No. 1's brother-in-law called his secretary and "clearly asked for money." Dr. Singh then referred to a self-emailed progress note, not to be found in the chart, which documented the call. (Singh, Tr. 528-30). Patient No. 4 testified, however, that she was smoking outside with Dr. Singh's receptionist, Patient No. 7, who told her that the preceding night she had received a call from someone's brother-in-law demanding money and stating that if they got none, they were going to "f**k his license." (Pt. 4, Tr. 305-06, 320-21).[13]

33. On November 22, 2013, Patient No. 1 and her brother-in-law, who had somehow "found out what had happened," along with Patient No. 3, appeared at Dr. Singh's office. (Pt. 1, Tr. 256-57; Resp. Ex. E). According to Patient No. 1, Dr. Singh had invited her that day to pick up a check from an insurance company. (Pt. 1, Tr. 257).[14] "I just went to go pick up this check. I don't know what [my brother-in-law's] intentions were." (Pt. 1, Tr. 258). The brother-in-law's conduct upset Dr. Singh's receptionist. Dr. Singh told his receptionist to summon the Dublin police, and the receptionist reported to the dispatcher that the male with Patient No. 1 had stated, "There will be repercussions if he doesn't see the doctor." (Singh, Tr. 428-29; St. Ex. 4B).

34. When the Dublin police arrived, Patient No. 1's brother-in-law was "calm with us, and respectful." (Griffith, Tr. 218). Officer Griffith asked Dr. Singh if any threats had been

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[13] According to Patient No. 4, she mentioned this conversation to Dr. Singh, who confirmed, "We did have an episode. I had to call the police because they was demanding money from me." (Pt. 4, Tr. 306).

[14] The chart for Patient No. 1 does contain a copy of a check, dated November 13, 2013, payable to Dr. Singh from "CPC Logistics, Inc. – Medical Acct," in the amount of $40, endorsed by Dr. Singh and Patient No. 1.. (St. Ex. 2A).

made, "and he said no." (Griffith, Tr. 218). It is possible, however, that the threats had been made to the receptionist. (Griffith, Tr. 225-26). A warning was issued but no charges filed. (Griffith, Tr. 219). Patient No. 1, who was "very upset" and "crying," gave her statement alleging sexual improprieties by Dr. Singh. (Pt. 1, Tr. 259-60; Griffith, Tr. 219-20).

35. The day of her police report or the next, Patient No. 1 was discharged as a patient by Dr. Singh. (Singh, Tr. 433; Pt. 1, Tr. 265). Dr. Singh believed that the "doctor/patient relationship [was] already ruptured." (Singh, Tr. 433, 527-28). According to Patient No. 1, Dr. Singh had given her a prescription after the police report had been made, "and he said if I came back in six months, then he would think about taking me back as a patient." (Pt. 1, Tr. 261). In her testimony, Patient No. 1 expressed resentment at the manner in which her relationship with Dr. Singh ended. "I didn't do anything to you, I'm just going to kick your ass out of here, you know, you didn't belong here, when I've been his patient. You know, it was disrespectful in every way possible. It was like I was a dog." (Pt. 1, Tr. 264). On November, 26, 2013, Dr. Singh notified Patient No. 1, by certified mail, that her "treatment contract with NBRC" was "closed" as of that date. (Pt. 1, Tr. 260; St. Ex. 2A).

36. Nonetheless, around Thanksgiving, Patient No. 1 left a voicemail for Dr. Singh, asking to speak to him right away, and to "apologize." (Singh, Tr. 430-32; Resp. Ex. F). On November 29, 2013, immediately after Dr. Singh's receptionist had left for the evening, Patient No. 1 appeared unannounced at Dr. Singh's office. (Singh, Tr. 435-39). Dr. Singh contacted his receptionist, who agreed to return. (Singh, Tr. 439). The receptionist and Patient No. 1 entered the office together, and the three talked in the waiting area for 10-15 minutes – apparently about an additional Suboxone prescription to tide her over until she located another doctor, which Dr. Singh provided. (Singh, Tr.441-43, 555-57). The incident is recorded on security video. (Resp. Ex. G). Dr. Singh interprets this incident as an effort by Patient No. 1 to see Dr. Singh alone – perhaps to persuade him to continue to treat her with Suboxone. (Singh. Tr. 438-39).

37. Dr. Singh also received voicemails from Patient Nos. 1 and 3 on December 16, 2013. Patient No. 1 stated that she was pregnant and had been unable to locate another doctor, and that she was "begging" Dr. Singh for "help," *i.e.* another prescription, "one last time." (Resp. Ex. H). The voicemail from Patient No. 3 stated in part, "That was not my sister's idea. My husband had overheard me talking to my sister on the phone, and it had caused an argument between my husband and myself, and then he wanted to be the one to bring [Patient No. 1] to her appointment that day. [Patient 1] didn't want to leave your practice. And she's been upset with me ever since." "I wanted to call and at least let you know it was not her fault." "And I never intended for anything to get out of hand." (Singh, Tr. 447-49; Resp. Ex. I).

38. The Respondent presented the testimony of Patient No. 4, a current patient of Dr. Singh, who lived in Mt. Vernon, Knox County, Ohio for six years, where she met Patient No. 5

and Patient No. 6. (Pt. 4, Tr. 298, 324, 325). According to Patient No. 4, she was approached by Patient No. 5, who told her that Patient No. 5 and Patient No. 6 planned to allege that Dr. Singh had touched them inappropriately. "And we can get money." Patient No. 4 refused to participate. (Pt. 4, Tr. 305-05). This conversation occurred in 2014. (Pt. 4, Tr. 322). Patient No. 1, however, denies knowing anyone but her sister who receives treatment from Dr. Singh. (Pt. 1, Tr. 285). The only addresses in Patient No. 1's chart are Richwood and Marysville, both in Union County, Ohio. (St. Ex. 2A). So the link between the Mt. Vernon connection and Patient No. 1's allegations is difficult to detect.

39. On or about August 11, 2016, Patient No. 1 entered a guilty plea in the Union County, Ohio, Court of Common Pleas, to Count 1 of an indictment charging her with Theft of Drugs in violation of O.R.C. §§ 2913.02(A)(1) and (B)(6). Specifically, the indictment alleged that Patient No. 1 stole about 50 Vicodin tablets from a "friend or acquaintance," on or about September 3, 2015. Sentence had not been imposed as of the time of Dr. Singh's hearing, although Patient No. 1 had signed a "Drug Court (FSTR) Participation Agreement" containing conditions of community control supervision, and is currently undergoing treatment and counseling. (Jt. Ex. 1; Pt. 1, Tr. 262-63, 274-75). Patient 1 testified that she had "allegedly" stolen Vicodin and pled guilty because "I had to." (Pt. 1, Tr. 274-75).[15]

40. Dr. Singh denies any sexual misconduct, impropriety, interaction or contact with Patient No. 1. (Singh, Tr. 346, 457-63, 536). He has hugged patients, "sometimes, if they ask." (Singh, Tr. 461).

Patient No. 2.

41. Patient No. 2 is a 31-year-old female, unmarried, with two male children born in 2008 and 2011. (Pt. 2, Tr. 23, 25-26; St. Ex. 3). Patient No. 2 graduated from Hilliard Davidson High School in 2003, where she was a "straight A student." (Pt. 2, Tr. 23-24, 36). She received a bachelor's degree from the Ohio State University School of Business in 2012. She studied finance, which is "hard to get into." (Pt. 2, Tr. 24).

42. Patient No. 2 was introduced to opioids for about a year as a high school freshman, when she injured her back skiing, but discontinued their use at her parents' urging. (Pt. 2, Tr. 27-28). She was reintroduced to them as a college sophomore while living off-campus. (Pt. 2, Tr. 29). As the result of a traumatic robbery at a Hilliard gas station in 2004-05, Patient No. 2 met, bonded with, and dated a Syrian citizen and OSU student named Khaled. (Pt. 2, Tr. 30-37). Khaled began to abuse Percocet and Vicodin, and supplied these drugs to Patient No. 2. (Pt. 2, Tr. 39, 43-44). She soon became "an addict" who would "get sick" if she discontinued using opioids. (Pt. 2, Tr. 40). Patient No. 2 now

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[15] Patient No. 1's claim of innocence , notwithstanding her plea and conviction, must be unavailing. O.A.C. § 4731-13-24.

views Khaled as "controlling and manipulative," as well as "abusive" in both a "controlling" and "physical" sense, and her relationship with Khaled, which lasted until 2007, as "obviously toxic" as well as sexually humiliating. (Pt. 2, Tr. 37, 39-41, 43-46, 129). Patient 2 was "isolated" and "humiliated," on a "spiral downward," and viewed Khaled as her only friend. (Pt. 2, Tr. 43, 46).

43. While still seeing Khaled, Patient No. 2 met Eric, a Hilliard dealer in opioids, in whom she began to confide. (Pt. 2, Tr. 43). Eric supplied Patient No. 2 with Vicodin, Percocet and OxyContin. (Pt. 2, Tr. 43-44). Eight or nine months later, Patient No. 2 left Khaled and began dating Eric. (Pt. 2, Tr. 43, 48-49). She dropped out of school and obtained employment as a customer service representative for a bank. (Pt. 2, Tr. 49-50). Patient No. 2 discontinued opioid use while pregnant with her first son by Eric. (Pt. 2, Tr. 26, 51). Patient No. 2 did not tell her doctors of her history of opioid abuse, so she was given opioids following an episiotomy, which re-ignited her addiction. (Pt. 2, Tr. 51).

44. Six months later, Patient No. 2 was "feeling terrible about the fact that here a drug dealer is watching my newborn at home while I'm ... the one working for the insurance." (Pt. 2, Tr. 52). So she moved back in with her parents, from whom she hid her addiction while obtaining Fentanyl patches from a coworker. (Pt. 2, Tr. 43-54). She became "sick and tired" of going into withdrawal when she could not obtain drugs. (Pt. 2, Tr. 57). Eventually, Patient No. 2 leveled with her parents and agreed to receive Suboxone treatment. In February, 2009, she located Dr. Singh on the internet, became his patient, and began receiving Suboxone prescriptions from him. (Pt. 2, Tr. 54-55, 59, 64, 119; Singh, Tr. 356). Through the course of treatment, the dosage ranged from 16mg/day to 20 mg/day, for the most part. (*e.g.* St. Ex. 3 at 63-66).

45. During the early course of treatment, Patient No. 2 told Dr. Singh she needed an accommodation for an exam she was facing at OSU, but she could not afford to see another psychiatrist. "On compassionate grounds," Dr. Singh agreed, or had agreed, to provide treatment for her ADHD, first by prescribing Ritalin, then Adderall. He also prepared a verification form for OSU, dated November 19, 2009, so that Patient No. 2 could receive accommodations for her ADHD; the form stated ADHD had been diagnosed by Dr. Singh September 18, 2009. (Singh, Tr. 508-09, 517-18, 551; St. Ex. 3 at 167-75). Patient No. 2 agrees with the ADHD diagnosis. (Pt. 2, Tr. 123).

46. After starting Suboxone treatment with Dr. Singh, Patient No. 2 established a relationship with Jason in June, 2009. Patient No. 2 now views Jason as "very manipulative and emotionally abusive," as well as "jealous" and a "cheater." (Pt. 2, Tr. 63-64, 71, 131, 134). Jason eventually pushed Patient No. 2 against a wall and bruised her arms. (Pt. 2, Tr. 82). Jason is the father of Patient No. 2's second son. (Pt. 2, Tr. 26). Patient No. 2 did not discover her pregnancy for 3-4 months, at which point Dr. Singh advised that it was too late to wean her from Suboxone, so he substituted Subutex and (temporarily) discontinued Adderall. (Pt. 2, Tr. 68-70, 77; Singh, Tr. 358).

47. Patient No. 2 felt that Dr. Singh and others failed to warn her of the dangers that her son might be born with an addiction, as hers was. Her child was given morphine and kept on the NICU after birth. (Pt. 2, Tr. 71-75). However, Patient No. 2 had signed a consent form acknowledging that Dr. Singh had "explained the risks associated with taking Subutex during pregnancy," and that the risks of withdrawal were higher than those of continued Subutex use. (Pt. 2, Tr. 169-69; St. Ex. 3, p. 147). Her son, born February 14, 2011, continued to suffer problems for 1½ years. (Pt. 2, Tr. 79-80, 169). Patient No. 2 remained on Subutex after the birth of her second son. (Pt. 2, Tr. 78-79).

48. Dr. Singh testified that throughout most of her course of treatment, Patient No. 2 followed her treatment plan and came to appointments regularly. (Singh, Tr. 356). In September, 2012, Dr. Singh described Patient No. 2 as a "model patient" who "never missed her appointment [and] never relapsed in her opiate dependency." (Singh, Tr. 473-74; St. Ex. 5 at 1). The patient self-report section of the progress notes in Patient No. 2's chart almost uniformly report no physical problems associated with Suboxone/Subutex use. (St. Ex. 3).

49. Dr. Singh regarded several of his long-term patients as "like family, like we're so close because they are seeing me every two weeks or every four weeks, and I've known them for like nearly seven years." (Singh, Tr. 414). On the other hand, Patient 2 was habitually late for appointments.[16] (Singh, Tr. 370-71). And "she never allowed me to reduce her medications." "In fact I discussed with her reducing the dose of Suboxone every time she came in. If you see the progress notes, she said no … to changing the dosing."[17] "In fact, she would be very combative, argumentative, and threatening when I mentioned about dose reduction. She would ask me like, 'Are you trying to close my case or what are you trying to do?'" (Singh, Tr. 356-57).

50. As treatment continued, Dr. Singh believed that Patient No. 2 "qualified for additional psychiatric help, because I thought she definitely had a mood disorder." (Singh, Tr. 551). In Dr. Singh's opinion (*albeit* not as a treating psychiatrist), in addition to addiction and ADHD, Patient No. 2 "would qualify for the criteria for bipolar disorder," and "Axis II was significant for the borderline histrionic personality features," although he was not sure about the bipolar disorder. (Singh, Tr. 359-60, 551). According to Dr. Singh, a borderline histrionic personality is "very difficult to manage in that they are very labile, very impulsive, very demanding. They have total disregard for your time in the day.... [I]f their needs are not gratified immediately, they will immediately start accusing you of

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[16] This was not documented in the progress notes. (Singh, Tr. 479-80; St. Ex. 3). Patient No. 2, the first witness, was also roughly 45 minutes late to testify at the hearing, an occurrence which may or may not have any connection to habitual tardiness.

[17] This could not be confirmed from the progress notes, which were for the most part illegible to this writer. (St. Ex. 3).

things." (Singh, Tr. 358-60).[18] In any event, Patient No. 2 "ignored" Dr. Singh's advice to seek additional treatment from another provider. (Singh, Tr. 551).

51. Patient No. 2 denies that her moods fluctuate, that her behavior is erratic, or that she has ever been diagnosed with a personality disorder. (Pt. 2, Tr. 124-25). According to her, Dublin Springs diagnosed her as suffering "anxiety" with underlying "depression." (Pt. 2, Tr. 123-24).

52. According to Patient No. 2, "Through the time I was a patient with Dr. Singh, we became very close. He was like a friend to me, he really was. And I knew stuff about him.... And he knew that I had a lot of financial problems. He knew the relationship ... with my parents, I was going to school ... they were paying for it." (Pt. 2, Tr. 61). "[W]e slowly started to know everything about each other." Patient No. 2 testified that about two months into treatment, Dr. Singh confided to her that he visited strip or "swinger" clubs. "I didn't see it as flirty at the time. To me I was looking at it as like he's a friend." (Pt. 2, Tr. 62, 65). "[H]e was my therapist. I would tell him everything, like a best friend almost like, and he would also share things about his life as well." (Pt. 2, Tr. 62). Dr. Singh was "like my only friend. I felt in my mind." (Pt. 2, Tr. 71). He was "very fatherly." "I felt like he had my back in an odd way," that he was someone Patient No. 2 could "count on." (Pt. 2, Tr. 85).

53. Patient No. 2 testified that whenever she saw Dr. Singh at his office, "I always went in after hours." (Pt. 2, Tr. 156). "There was a receptionist desk but there was never a receptionist. And sometimes the outside doors were locked and you'd have to like text to get an open door." (Pt. 2, Tr. 56). "I would personally like to have a daytime visit. I really tried to get around that. And he would always leave me to the very end ... most of the time after the receptionist was gone. (Pt. 2, Tr. 160).[19]

54. Patient No. 2's parents were paying Dr. Singh's fees to treat Patient No. 2. Nonetheless, Patient No. 2 testified that the fees she was charged varied, depending "on my finances, of course," as well as "according to what was going on in my life, my stresses, and then of course ... his behavior at the time." (Pt. 2, Tr. 60-61). She claimed Dr. Singh's standard fee was $300 per month but Dr. Singh "reduced my price pretty right off the bat" after two months, then charged her $150 per month for 3½ years. (Pt. 2, Tr. 60, 65-66). She later learned that Dr. Singh reduced his fees to $150 per session for "multiple people," although others were charged more. (Pt. 2, Tr. 127). Dr. Singh testified that his

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[18] *See* DSM-5 301.50. Dr. Singh has identified some, but not all, of the traits and features of a Histrionic Personality Disorder set forth at DSM-5, and may simply have noted the ones that made Patient 2 "difficult to manage." The undersigned is no diagnostician but provides this reference for those who are.

[19] *See*, however, Resp. Ex. M-7 at 31-32, text message of Jan. 31, 2015, 14:23 – 14:33 PST, in which Patient No. 2 complained about being made to come in Monday when Dr. Singh's receptionist would be present. This both tends to confirm Patient No. 2's testimony that she often visited Dr. Singh's office off hours, and contradicts her claim that she did so against her wishes.

ordinary fee is $200 per month, but Patient No. 2 requested a fee reduction, so he reduced the fee to $150 per month rather than lose Patient No. 2 as a patient. (Singh, Tr. 356).[20]

55. At another point, Patient No. 2 testified that Dr. Singh would say, "[E]ven if it's a small amount, I need to have that for the records." (Pt. 2, Tr. 92). Sometimes the fee was $150, sometimes nothing. Dr. Singh allegedly stated, "We'll make sure that we keep you here." (Pt. 2, Tr. 80). Dr. Singh would also offer to charge the fee to Patient No. 2's parents' credit card, then give her cash back. (Pt. 2, Tr. 93, 163). At "times that I did not want to do these – I was in a hurry or … I was doing better with Jason, I would make sure to have that $150." (Pt. 2, Tr. 92-93).

56. Patient No. 2 testified that by 2012, as she described her problems with Jason, and her difficulties persuading her family why she continued to need so much financial support, Dr. Singh's "response was … we can find a way to take care of that for you, and he slowly but surely, like within a couple months of suggesting this, began to suggest sexual ways that I could reduce that fee, and things that he liked as a man." (Pt. 2, Tr. 83, 86, 150-51, 153).

57. During this same period, around 2012, according to Patient No. 2, as Patient No. 2 left her appointments, Dr. Singh tried to kiss her. Although Patient No. 2 claimed she was "not a kisser," Dr. Singh would "literally sometimes pull my face over to his face." (Pt. 2, Tr. 83, 86-87, 154, 155).[21] "And then I believe one or two times he put his hand down by my … vagina … underneath my underwear." "I would always say, 'I will give you a little peck.'" (Pt. 2, Tr. 91).

58. After this, every appointment with Dr. Singh included kissing her cheek or hugging, from the spring or summer of 2012 until the end of their relationship in early 2015. (Pt. 2, Tr. 89). Under cross examination, Patient No. 2 insisted that Dr. Singh would "hug you and try to kiss you after every appointment," beginning in 2010. (Pt. 2, Tr. 154). "Every time." (Pt. 2, Tr. 158). When confronted with the possibility that surveillance cameras were in operation, Patient 2 elaborated that hugging and kissing sometimes occurred in his office, sometimes walking out of his office, sometimes "in the little cross between," sometimes in the conference room. "I mean, it was everywhere." (Pt. 2, Tr. 156-57). But if Patient 2 had a conflict, Dr. Singh would "very rarely" see her during regular hours when others were present. "So these are probably the times you have on camera that

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[20] Patient No. 2's chart does not contain fee information, because, without more, Dr. Singh did not regard it as a medical issue. (Singh, Tr. 514-15; St. Ex. 3). The chart for Patient No. 1 does contain "invoices" for 2012-13 showing that Patient No. 1 was charged $100 per bi-monthly visit, or roughly $200 per month. (St. Ex. 2A). No independent billing records were introduced into evidence.

[21] Patient No. 2 testified that "a little bit" of the hugging conduct had occurred in 2010, before her pregnancy, but resumed in 2012. (Pt. 2, Tr. 86). She also testified that both hugging and kissing started in 2010. (Pt. 2, Tr. 151).

nothing may have happened." "But that would be the only times. No other time." (Pt. 2, Tr. 161-62).[22]

59. Patient No. 2 also testified that Dr. Singh presented her with gifts. (Pt. 2, Tr. 83-84). In early to mid-2012, Dr. Singh bought Patient No. 2 perfume, but then he started buying her various bras and underwear. As "part of the deal" to get her fees reduced, Patient No. 2 had to try on some of these gifts for Dr. Singh in his conference room. In the conference room, Dr. Singh was "trying to kiss my face." "He pulled my bra down … was kissing my breasts and … putting his mouth on them." Although she felt "disgusted," she "would rather do this" than go through the stress of asking her family for money for treatment. (Pt. 2, Tr. 87-88, 90).

60. Patient No. 2 and Dr. Singh frequently communicated by text message, as Patient No. 2, who frequently lost her pills or had other emergencies needing his "immediate attention," possessed Dr. Singh's cellular phone number. (Pt. 2, Tr. 98; Singh, Tr. 369). According to Patient No. 2, in September, 2012, Dr. Singh texted her at 2:00 am about an upcoming appointment and invited her to a dinner date. Jason had access to Patient No. 2's house, entered late that night, checked her phone as she slept, saw the message and "went bananas." (Pt. 2, Tr. 100-01). Jason texted Dr. Singh back, asking "why are you being so inappropriate." (Pt. 2, Tr. 101).[23]

61. At some point in 2012, according to Dr. Singh, he received a text message from Jason, asking why Dr. Singh was asking that Patient No. 2 dress up for appointments, and accusing Dr. Singh of having an affair with Patient No. 2. Patient No. 2 had come to one or more appointments disheveled and wearing pajamas, which Dr. Singh had viewed as inappropriate. In Dr. Singh's view, encouraging good grooming is "part of the treatment plan." (Singh, Tr. 360-61). Dr. Singh's emailed progress note of September 17, 2012, refers to "many threatening text messages from Jason, some of them were very explicit homicidal threats, and accused this writer of having inappropriate relations ship [*sic*] with his girl friend." (St. Ex. 5 at 1).

62. According to Dr. Singh, Patient No. 2 informed him on September 16-17, 2012, that "[m]y boyfriend is accusing me of having a relationship with you." (Singh, Tr. 369; St. Ex. 5 at 1). In any event, Dr. Singh invited Jason to accompany Patient No. 2 at her next appointment, after signing a release, to clear up "any misconception or any paranoia." (Pt. 2, Tr. 101; Singh, Tr. 370, 376).

63. On September 20, 2012, Jason, whom Dr. Singh did not recognize by sight, appeared shortly after the office opened and entered Dr. Singh's waiting room, alone. After Jason mentioned Patient No. 2, Dr. Singh returned to his car to retrieve his cell phone, to call

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[22] No such video footage was produced at hearing. The security footage that was produced for other purposes included no view of within Dr. Singh's office or conference room. (Resp. Ex. G).

[23] These text messages were not produced as evidence.

Patient No. 2 to obtain a release to speak with Jason. (Singh, Tr. 374). Jason followed Dr. Singh to his car and confronted him, saying something like, "You want to do it man to man now?" Dr. Singh interpreted these actions as physically threatening. (Singh, Tr. 374-76).

64. Dr. Singh called the police, who were at his office when Patient No. 2 arrived. (Pt. 2, Tr. 101-02; Singh, Tr. 377). According to the dispatch report, received at 5:58 pm (Griffith, Tr. 222; not, evidently, an after-hours appointment), "Clr is doctor advises patient spouse is in the lobby/ has made threats to the clr who is doctor. Clr advises subject believes that clr is having an affair with his girlfriend.... Clr advises susp had made threats to "break his face" via text last week." (St. Ex. 4A).

65. The police escorted Jason from the building and talked to him and Patient No. 2 in the parking lot. (Singh, Tr. 378). Dr. Singh testified that it was when he saw the three talking in the parking lot that he realized Jason was connected with Patient No. 2. (Singh, Tr. 378).[24] According to the responding officer, Jason told her he was "there to confront the doctor for having an affair with his girlfriend." (Griffith, Tr. 222). Patient No. 2 testified that Jason showed police the text messages on the phone, including the invitation for him to accompany Patient No. 2 to her appointment. "I still stayed with Dr. Singh ... after that, and I ended up trying to lie for him, saying [to Jason] that really it was just a friend's number, or put a different guy from high school that I put under Dr. Singh's number." (Pt. 2, Tr. 102, 137-39). No charges were filed. (Pt. 2, Tr. 102).

66. Officer Griffith told Dr. Singh that Patient No. 2 wanted to be seen that day, to which Dr. Singh agreed.[25] (Singh, Tr. 378-79). According to Patient No. 2, Dr. Singh was "very upset with me over that, and upset with how Jason reacted." He withdrew his offer that Jason attend sessions with Patient No. 2, and Jason made no further visits to the office. (Pt. 2, Tr. 103-04). Dr. Singh, on the other hand, testified that he tried to get Patient No. 2 to sign a release so that he could assuage Jason, but she deflected the issue. (Singh, Tr. 379).

67. Patient No. 2 "minimized" Jason's conduct, telling Dr. Singh that "he's just jealous, he's paranoid, don't worry ... that's fine, we'll get along all right." (Singh, Tr. 371, 379-80). According to Patient No. 2, Jason did *not* subsequently believe that anything inappropriate was transpiring between Patient No. 2 and Dr. Singh. "He did for a short period of time ... and then ... I lied for Dr. Singh and said that it was somebody else, to protect him, which was the dumbest thing I've ever done." (Pt. 2, Tr. 202-03).

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[24] This is inconsistent with Dr. Singh's testimony that he had earlier tried to retrieve his cell phone to call Patient No. 2 about the visitor in his waiting room.

[25] According to Dr. Singh, Patient No. 2 did *not* have a scheduled appointment on September 20. (Singh, Tr. 376, 378-79). But from the dates of Patient No. 2's visits as reflected by the progress notes in her chart, it appears that Dr. Singh is mistaken on this point. (St. Ex. 3 at 98-100).

68. According to Patient No. 2, she did not report any of Dr. Singh's misconduct for years because "he almost was acting like he was joking. And to me he was a friend." Also, Dr. Singh had told Patient No. 2 that his wife had "cervical cancer or something where she could not have sex with him." Patient No. 2 felt empathetic. "I just didn't think that it was wrong." (Pt. 2, Tr. 84).[26] At another point, Patient No. 2 said she could not leave Dr. Singh's practice because "I just felt very trapped." "I was very nervous about finding another doctor, and I knew that I couldn't afford another doctor" at what she believed was the going rate of $300 or $350 per month. So she became "numb." (Pt. 2, Tr. 92).

69. Around Christmas, 2014, Patient No. 2 decided she needed to quit taking Subutex and undergo inpatient rehabilitation in Florida. Among other reasons, she testified that she felt uneasy before her appointments with Dr. Singh. "And I felt like he was getting braver and braver ... pulling my face or whatever, keeping me longer, suggesting more things. It just kind of really scared me, to be honest with you,[27] and I was just at a breaking point." (Pt. 2, Tr. 93-94). She apparently did not tell Dr. Singh about this decision immediately, however. (Pt. 2, Tr. 182). In addition, there was an unexpected delay of several weeks in obtaining a bed, so Patient No. 2 contacted Dr. Singh to obtain more medication beginning about January 21, 2015. (Pt. 2, Tr. 95; Resp. Ex. L).

70. Also, about the same time, Patient No. 2 claimed she had lost some of her medication or that it had been stolen. Dr. Singh had to explain to the pharmacy why he was issuing an overlapping prescription, so he instructed Patient No. 2 to submit a police report so that Dr. Singh could refer to the police report number on the prescription. Finally, Dr. Singh wanted to perform a drug screen in his office, to confirm that Patient No. 2 was not selling her drugs. (Singh, Tr. 389, 390-91).[28]

71. Beginning on January 21, 2015, Dr. Singh, Patient No. 2 and Jason exchanged a number of text messages and voice mails about these and other matters. According to Dr. Singh, he had subsequently been unable to download a file containing these text messages directly from SendHub, but he had been able to open his SendHub account online and manually copy and paste messages onto a word processing document, which was introduced as Resp. Ex. L. (Singh, Tr. 383-85). Dr. Singh testified that while doing so, "I think I left some of [the messages out] that are not important." (Singh, Tr. 388). The exhibit was used and admitted over the State's objection to its authenticity. (Tr. 149-50, 580). The record was held open, however, so that the Respondent could submit spreadsheets, provided directly from SendHub, authenticating Dr. Singh's manually created document used at hearing. (Tr. 582-83). The Respondent did so on October 7, 2016. (Bd. Ex. 4).

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26 Dr. Singh had told Patient No. 2 of his wife's cancer and chemotherapy. (Singh, Tr. 414).

27 "To be honest with you" is a recurring phrase throughout Patient No. 2's testimony.

28 Patient No. 2's chart does contain evidence of a drug screen performed January 23, 2015. (St. Ex. 3 at 47-48).

The text message printouts from SendHub for the months of January and February, 2015 (Resp. Ex. M-6 and M-7) differ materially from Resp. Ex. L in two ways, however. First, except for late February, they do not include any outgoing messages from Dr. Singh's phone.[29] And second, several of the messages omitted by Dr. Singh from the exhibit used at hearing are indeed quite material.

Moreover, it is apparent from Resp. Ex. M-2 that Dr. Singh had possession of the files containing SendHub's text message printouts on August 23, 2016, prior to the hearing in this action.

To provide a coherent narrative, and because the SendHub reports appear in reverse order and are virtually impossible to read smoothly, I have manually woven together two voice mail messages (Resp. Ex. J & K) and the messages authenticated by SendHub (Resp. Ex. M-6 & M-7), in Roman type, with additional messages, provided by Dr. Singh in Resp. Ex. L, which are designated by italics. Messages on the SendHub reports that were *not* initially included by Dr. Singh in Resp. Ex. L are preceded by an asterisk. Unless clearly indicated otherwise, the author of the message is Patient No. 2. Nonetheless, the narrative may not be complete. Some messages authored by Dr. Singh may be missing because most of his outgoing messages apparently could not be retrieved by SendHub in the reports recently provided by the company. (Resp. Ex. M-3 & M-4).

Despite the length of these exchanges, they are presented as fully as possible to convey the nature of the relationship between Dr. Singh and Patient No. 2 in early 2015. What was said – and what was *not* – is critical to the resolution of Patient No. 2's allegations. Typographical errors in the messages have been preserved:

Jan. 21, 2015, 20:46 EST (Resp. Ex. M-7 at 44):

> Hey, anyway U could call me when U get a chance?

Jan. 22, 2015, 14:32 EST (Resp. Ex. L at 1):

> **Dr. Singh:** *You can call me any time from now till evening. I am free.*

Jan. 22, 2015, 17:51 EST (Resp. Ex. M-7 at 44):

> Ok I'm available if u could call soon that would be awesome!!

Jan. 23, 2015, 9:23 EST (Resp. Ex. M-7 at 44):

> If u are able to meet soon that be awesome!!

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[29] Apparently, counsel for Respondent attempted to secure the outgoing messages as well, but they could not be retrieved by SendHub. (Resp. Ex. M-2 through M-4).

Jan. 23, 2015, 9:23 EST (Resp. Ex. M-7 at 44):

> Or on lunch I mean

*Jan. 23, 2015, 10:41 EST (Resp. Ex. M-7 at 44):

> R u going to b there tomorrow til noon. Cause that's my day off and I'll be coming up.

Jan 23. 2015, 10:28 EST (Resp. Ex. L at 1):

> **Dr. Singh:** *Yes I will see you today may be in the evening. I can get out of this place till evening since they put me as on call doc till evening. I will be able to see you around 7 or 730 this evening.*

Jan. 23, 2015, 12:50 EST (Resp. Ex. M-7 at 43):

> If I give U like the police report id number for U to check yourself and all info can U call in the SUBUTEX and Wellbutrin. Over the past year Adderall has slowly got way behind and I still hv the script U wrote on the 3rd bc they are filled weeks apart so That resolves that since it can't be called in just will need approved early. I am really struggling with the withdrawals here I don't know how to make it until 7…I hv cold chills and aches really terribly bad and so much anxiety right now I couldn't sleep last night. It was really hard for me to set my mind to noon and make it.

January 23, 2015, 14:04 PM (Resp. Ex. L at 1):

> **Dr. Singh:** *We are open this afternoon. You can come any time between 3 to 5pm.*

Jan. 23, 2015, 15:27 EST (Resp. Ex. M-7 at 43):

> Ok are U there now

Jan. 23, 2015, 15:30 EST (Resp. Ex. M-7 at 43):

> I just took a nap and didn't see this…well not really a nap bc I can't sleep. Anyways, I'll head there as soon as I can but I sure don't look too good.

Jan. 23, 2015, 16:29 EST (Resp. Ex. M-7 at 43):

> I'm confused. So I can come. If so, but I'm going to leave now.

Jan. 23, 2015, 17:04 EST (Resp. Ex. M-7 at 43):

> I'm on the highway now.

Jan. 23, 2015, 18:49 EST (Resp. Ex. M-7 at 43):

> CVS just refused to fill it.

Jan. 23, 2015, 19:20 EST (Resp. Ex. M-7 at 43):

> I am trying a local Walmart right now that actually has subutex and figured that be the cheapest to go to out of pocket. I hv contacted them and they wil

Jan. 23, 2015, 19:21 EST (Resp. Ex. M-7 at 42):

> I need to speak to you about every script even ones that hv police report written

Jan. 23, 2015, 19:22 EST (Resp. Ex. M-7 at 42):

> What number should I provide them or should they ca what's on the script?

Jan. 23, 2015, 19:36 EST (Resp. Ex. M-7 at 42):

> Ok, Walmart is calling th number on script and they said for some reason U hv to be reached thT way. They close at nine. Sorry to text U so much they are just kinda rude.

Jan. 23, 2015, 20:03 EST (Resp. Ex. L at 1):

> **Dr. Singh:** *What is their phone number. I can call one time because I am in Dublin springs seeing patients. I can't use phone.*

Jan. 24, 2015, 15:40 EST (Resp. Ex. M-7 at 41):

> Dr. Singh. Are u available to help me now?

Jan. 24, 2015, 15:42 EST (Resp. Ex. M-7 at 41):

> It's now Saturday…I haven't had anything since Tuesday and Im Gettinf really upset.

Jan. 24, 2015, 19:15 EST (Resp. Ex. M-7 at 40-41):

> Hey thanks for all your help!! Unfortunately, I only need one more thing from you to square up all this crap. I had to go to Kroger across the street from the west broad cvs bc the cvs didn't have any subutex afterall. Kroger ppl were so friendly! Anyways, Heather, the pharmacist at Kroger has asked me to get ahold of you and let you know she just needs you to call in between now and Monday morning before 10am and confirm that Adderall was one of the scripts that I reported being lost bc it wasn't written like the other scripts. You only wrote subutex and Wellbutrin with the police tracking number bc I still had the Adderall script in my wallet from the previous visit since they are always weeks apart. They need you to confirm that for insurance purposes to match the police report. Number is 870-4354 and pharmacist name is heather. Whenever you have a moment in that time frame. Thanks again so much!!

72. Meanwhile, Patient No. 2 had been crushing her Adderall and snorting it. This was discovered by her family and Jason. On January 26, 2015, Jason called Dr. Singh to demand that he discontinue prescribing Adderall to Patient No. 2. (Pt. 2, Tr. 98-99, 140-45; Singh, Tr. 396-99; Resp. Ex. J). He left the following voice message, in a menacing tone of voice:

> All right. So Dr. Singh, this is Jason again. You hung up on me, although I don't think it was an accident. So I just wanted to give you some information and give you the insight on the situation that you are currently involved. Once again you have given Patient 1 your personal information, not being [work appropriate or] professional. You have gave a drug addicted woman Adderall that she now likes to sniff. Okay. So here we are in the position again where we are actually getting the police involved in this situation. So if you'd like to keep hanging up on me and not talking to me, that is perfectly fine. We know where your office is, know your actual business line, and we now have your cellphone. So if you would like to talk about this like adults, please feel free to give me a call … or we can do this the right way, which you tend not to do, or be very professional about, and we will get the police involved. Thank you."

(Singh, Tr. 396-97; Resp. Ex. J).[30] As a result, Patient No. 2 testified that Dr. Singh "shut down" his communications with Patient No. 2. (Pt. 2, Tr. 98).

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[30] According to Dr. Singh, Jason left another message in February to the effect of "do not stop treating Patient 2." "If I did, I would face the consequences." (Singh, Tr. 380-81, 485). Dr. Singh found the messages "threatening" and "completely outside of him to interfere into my patient care and my clinical decision." (Singh, Tr. 485-86). No such message was introduced, however.

73. The continued exchange of email messages follows, using the same markings, typeface and conventions as before:

Jan. 26, 2015, 17:17 EST (Resp. Ex. M-7 at 39):

> 8 870-4354 DOB 02/24/1985. I'm trying to help you understand without writing you a novel. Bottom line is even if you wrote me a new script, you would still need to call to correct the confirmation of only two scripts to three and include adderall. I understand your records only show that you printed the two, but I mentioned to you at the office that the scripts were different thinking that the pharmacy would hv an issue with that which they do not. But, at least reprinting the adderall script would hv helped your records of what I signed off on so that way when you called you could see three not two. The pharmacy is trying to help now to correct it. Unforthnately, heather is not there anymore but she did type up a note in the computer system under my name which states they are waiting for your call. 870-4354 Dob 02/24/85. Sorry, I wanted to make sure I gave U a few days to do that from Friday to this morning bc I know how busy U are but it needs to be corrected asap now bc it doesn't match what I reported to you. Call me if u hv any questions...I really am trying not to pester U but I tried giving U a few days!!

Jan. 26, 2015, 18:41 EST (Resp. Ex. L at 2):

> **Dr. Singh**: *[Patient No. 2] your boy friend Jason called and left a voice mail. He is not happy about you taking the Adderall. Please talk to him. Thank you.*

Jan. 26, 2015, 19:13 EST (Resp. Ex. M-7 at 38):

> Thanks for letting me know. I'll speak to him.

Jan 26, 2015, 19:13 EST (Resp. Ex. L at 2)

> **Dr. Singh:** *OK*

Jan. 30, 2015, 18:54 EST (Resp. Ex. M-7 at 36):

> My parents hv extra money right now and dont know if they will ever hv this much disposable cash to cover a rehab for me so they made me a great offer. I decided to take it, but earliest I can go is February 9th. I picked the Hollistic center in Miami Florida. I spoke to the head medical counselor/dr today on the phone who did an over the phone assessment asking my scripts/mg/last taken/when prescribed etc. You wrote me a 9 day script last

> Friday so I run out end of day tomorrow. So, it's like a 95% thing that I'm leaving on the 8th by flight then starting at the facility on the 9th. The dr said that they prefer I do not wothdrawl at all or reduce on my own since there is only a ten day time period left and he said it's basically pointless. Since, he said I should make sure I get good rest since there is no way to get me down enough in 10 days to make any difference in how difficult the wothdrawl will be. They do not like ppl withdrawling outside of the rehab and want the start of withdrawl to be documented with them and the process to be entirely with the facility. That makes sense I guess. My parents hv are trying to gather extra money since a very large payment as to be made 24 hours before I arrive and their taxes haven't arrived yet so I know they are saving every dollar incAse their taxes do not come before I hv to go. Do you need me to come to your office to get my last ten day supply? I hv so much to do in the next week in order to be gone for 90 days!! They want to do 90 days bc if I go 90 then come home and relapse then I can come back free of charge. This place[31]

Jan. 30, 2015, 19:59 EST (Resp. Ex. L at 3):

> **Dr. Singh:** *Your boy friend threatened me for prescribing Adderall to so I have discontinued it. You can come on Monday during our hours 3 to 4 pm to pick a ten day script of Suboxone. We will be closing your case after that script.*[32]

Jan. 30, 2015, 21:15 EST (Resp. Ex. M-7 at 35-36):

> Well, to be honest with you dr Singh, I'm shocked at how you treated him in the first place. You hung up on him when he asked U about me. So I honestly Honestly what dr does that? Think there is something seriously wrong with U telling me U are closing my case bc he didn't understand why you wouldn't just speak to him. So this was a big part of my decision in being done since I find it so intersti)g that you told me a different story. Saying you told him that you could not speak to him Bc of client confidentiality. It's kinda something I noticed with how you behaved last time when you told him to meet you at his office to talk then called the cops when he did so. So, I need that script before Monday Bc as I said before that's when I need them don't U dare take it out on me bc U behaved like a child.

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[31] When confronted with this message, Patient No. 2 stated, "I don't feel like the dating is right on this," and insists that she had told Dr. Singh earlier that she planned on undergoing rehab. (Pt. 2, Tr. 184-86).

[32] The 10-day prescription was intended to bridge the time until Patient No. 2 was expected to report to the Florida facility. (Singh, Tr. 401-02). Because his DATA 2000 Waiver limited him to a discrete number of Suboxone patients at any one time, Dr. Singh wanted to clear Patient No. 2's slot for another patient waiting for treatment. (Singh, Tr. 402).

Jan. 30, 2015, 21:19 EST (Resp. Ex. M-7 at 35):

> And it made him think a lot of messed up stuff. Originally he was only calling to see what guys I had been speaking to. When U hung up he thought that U had something to hide. I don't' know one dr that behaves that way.

Jan. 30, 2015, 21:19 EST (Resp. Ex. M-7 at 35):

> Not one.

Jan. 30, 2015, 21:19 EST (Resp. Ex. M-7 at 35):

> And btw im on SUBUTEX

Jan. 30, 2015, 21:19 EST (Resp. Ex. M-7 at 35):

> So I will get SUBUTEC

Jan. 30, 2015, 21:19 EST (Resp. Ex. M-7 at 35):

> as the rehab as stated

Jan. 30, 2015, 21:21 EST (Resp. Ex. M-7 at 34-35, emphasis added):

> Unbelievable U behave like this. U really are something else. **This makes me want to say something along with him** to bc U treated me like dirt after the cop thing years ago when that was ENTIRELY YOUR FAULT and U are treating me like dirt now bc you didn't act like a professional and lied to me about what U told Jacob. So of course when we spoke togwther he thought U were seriously messed up.

Jan. 30, 2015, 21:22 EST (Resp. Ex. M-7 at 34):

> I agree for pulling this bull on me.

Jan. 30, 2015, 21:22 EST (Resp. Ex. M-7 at 34):

> So I need them Sunday…subutex 10 day and then I may just talk myself bc this is bull shit U did this now twlve to me

Undated – sequence uncertain (Resp. Ex. L at 3; Singh, Tr. 403):

Dr. Singh: *I am sorry you mis understood me. We cannot keep your case active when you will be in rehab. We can reopen when you finish rehab if at all you need it. I hope for the best and I wish rehab should be successful. I could not talk to him because I don't have your consent to talk to him. I had to follow HIPPA rules.*

*Jan. 31, 2015, 17:22 EST (Resp. Ex. M-7 at 33):

Dr Singh U could talk to him and U lied to me. U told me U told him that U couldn't talk to him but what U did was he called not even knowing who U were bc he was calling every number in my phone and he asked if U knew me and U hung up the phone. When a man hangs up the phone it makes U look suspicious. If I would hv knew U did that when I was talking to you on the phone i would hv told U U actually created more of an issue and that's exactly why everyone thinks U need to be reported except me Trying to defend U but it's extremely difficult defending someone when they lied and now pulled this. I'm not missing out the on days to hv meds and picking them up monday. Bc I'm not supposed to hv any more days of wothdrawl until I get to the rehab. My family found out U hung up the phone and that U said I had to come in monday. No one is happy about this so they said that there is no reason I need to go to your office. My family is qorried U will do what U did to Jason to me and call the cops on me to protect yourself or some crazy stuff like that. So, they asked me to contact you and let you know and if U hv an issue calling in subutex for a week Tonite then it will be my dad that comes tomorrow

*Jan. 31, 2015, 17:23 – 17:33 EST (Resp. Ex. M-7 at 31-32):

They are really upset. Sorry. I wish U didn't lie. I didn't tell them Jason did and they think U handled a regular person calling in a unprofessional way and that hanging up saying nothing made u look like U were hiding something. They are paying a shit ton to do the rehab stuff for me as well and I guess they hv spoke to the rehab dr telling them the situation and that dr said U e It's fueling their fire. verything seems to be handled wrong. U did say that Bc my boyfriend called that's why U were discontinuing me. The rehab is telling my parents that this isn't normal dr behavior. So And this is why they don't want me coming in or having to wait for U on Monday to get medication and not have anything Monday until I get it from U. They know U hv always saw me on weekends and they know U are selecting Monday Bc of your secretary being there and they feel that u are bc U are scared. So since Monday was offered when I told U I need them before that, they heard what happened with Jason what they spoke about to the rehab dr…this is not in anyway anything I hv done. In anyway. This could hv been avoided and I really am trying to

make sense of you you would lie to me b trying to warn U ut whatever. U can call ten day Subutex into sawmill cvs if U would like 02/24/1985. Otherwise, my dad will be handling this with the rehab.

*Jan. 31, 2015, 17:34 EST (Resp. Ex. M-7 at 31):

And I think they want to file some kind of report so I'm just trying to warn U

*Jan. 31, 2015, 17:38 EST (Resp. Ex. M-7 at 31):

Phone number is 614-889-8662

*Jan. 31, 2015, 17:41 EST (Resp. Ex. M-7 at 31):

They hv even gone so far as to look U up on that medical history and see 2 stars and all the comments. So they felt they found validation a

*Jan. 31, 2015, 17:44 EST (Resp. Ex. M-7 at 31):

Again, I hve defended U so this is just me letting u know the situation and right now they are not listening to me. I tried my best. I don't know what else to do.

*Feb. 1, 2015, 14:34 EST (Resp. Ex. M-7 at 31):

I hv contacted you to give U as much of a warning on the other number. At 3 o'clock this is going to start making me really upset and I will be honest with my family abot everything that happened. Jason told my family yesterday the reason why he was mad at you and came to YOUE office years ago when U called the cops. I lied to everyone and said I had another guys number filed under your name to protect U even tho It really was you that text me at 2 am asking me to go out. They can supena records from cells back to several years ago and my family was so angry finding this info out and that U were trying to make me wait until Monday for my script when I run out then. The rehab has asked them to make sure I take the correct medicine and do not reduce or attempt withdrawling until I'm there and they cannot get me there for a week. So, my family doesn't want me comig to thag office and I'm FURIOUS U are causing this for me so I hv decided U hv 30 minutes until I'm leaving to go to my parents and not much more time after that that we will PROB be discussing the truth all together as a family Bc they cqnt understand why U are ignoring me and actjnf all guilty and here im trying to defend that U are not. Your making yourself look guilty and it's making me look

bad...so, I hv asked for more time from my dad this morning to see if u would respond and done asking to get U help Bc at a certain point your making a fool out of me for defending your fuck up

*Feb. 1, 2015, 14:35 EST (Resp. Ex. M-7 at 30):

My response to U when u text me at 2 was that U got me into trouble. So, if it gets to the point where they want to research that then the proof is there.

*Feb. 1, 2015, 14:36 EST (Resp. Ex. M-7 at 30):

All that is required is a police report to research so this is why I'm going to be honest with them dr Singh. Bc U are putting me into a position that is so shitty by not calling in my script my parents are FLIPPING OUT.

*Feb. 1, 2015, 14:37 EST (Resp. Ex. M-7 at 30):

all they want is to help me...not give any shit about U. I hope U understand the reason they will be involving the police is Bc of U.

*Feb. 1, 2015, 14:38 EST (Resp. Ex. M-7 at 29-30):

And the fact U are not listening. U know I filled my script Saturday for 9 days. U know I run out tomorrow but U hv had more than 24 hours to respond and haven't.

*Feb. 1, 2015, 14:39 EST (Resp. Ex. M-7 at 29):

I'm done warning U

*Feb. 1, 2015, 14:40 EST (Resp. Ex. M-7 at 29):

U hv 20 mins left

*Feb. 1, 2015, 14:44 EST (Resp. Ex. M-7 at 29, emphasis added):

I'm done sending U anothwr message. I would hv protected U and hv for yrs. This is BULLSHIT! **Not responding is what is making me angry to rat U out.** Only thing that's stopping this is U doing the right thing.

*Feb. 1, 2015, 19:25 EST (Resp. Ex. M-7 at 29):

> I need to know if u have an empty spot for me? Im having trouble doing it without meds and would like to try again if u would let me. "justin every … [possible missing segment]

74. At some point during the day of February 1, 2015, while he was out of town, Dr. Singh received a voice mail message from Patient No. 2 (Singh, Tr. 406-07; Resp. Ex. K). It stated:

> Hey, Dr. Singh, I have literally been trying to get ahold of you. I don't think you understand the position that you're putting me in or yourself in, and I though, you know what, I need to go ahead and try to get a hold of him, and I told you 3:00. I have been sitting at my parents' house. I stepped out to get into my car to smoke a cigarette because I am literally – I am so close. **I did not want to get you in trouble, but you are leaving me no position.** My parents are getting ready to send me to at Verizon – or I'm sorry, whatever, rehab in Miami. I'm trying to talk so fast I can't even get the shit out."[33]

(Emphasis added).

75. The texts continue, using the same markings, typeface and conventions as before:

*Feb. 1, 2015, 19:54 EST (Resp. Ex. M-7 at 29, emphasis added):

> I can't believe you are putting me in this position to be honest about why U hv blocked me. No one threatened U. **I don't want to hv to be honest with them about this either Bc then I'm showing to them I hv been lying for yrs to Jason and for two days to my parents about the fact that it was U that text me that two years ago.** They don't believe me Bc of the fact that U aren't responding Bc as Jason said...U PROB blocked me Bc your guilty and sure enough...U hv. U hv done everything predictable that a dr guilty would do and I find it so selfish that U would allow a patient to go thru a hassle like this to get a ten day supply of subutex when U could hv just done that and prevented a hassle for me and for you. Now it's gonna get ugly if U don't call it in tonite. Jason and my family are inside I actually been in my car smoking trying to get ahold of U for almost two hours and I'm sure Jason has checked who I've been talking to that's why no one has came out of the house to get me. Im sure how many

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[33] Dr. Singh testified that he received a second voice message from Patient No. 2, stating that if she did not hear back from him, "she might say what Jason and her parents have been saying." (Singh, Tr. 410-11). In any event, this is the gist of many of the texts Dr. Singh omitted from his exhibit. According to Patient No. 2, she left a voice message at Dr. Singh's 800 number, stating, "Look, I have lied for you. I have done so much where I've got so much dirt on you, and you're going to treat me like this?" (Pt. 2, Tr. 104-05). That message has not materialized either, although, again, that same thread runs through her text messages.

times I hv tried to get ahold of U they now know covering your ass. I wish U would hv responded Bc im really hurt by this that I put my relationship in jeopardy years ago to protect U and now U do this and put me in a position where I clearly cannot do anything else. I don't want to tell them why U blocked Me...they hv seen the message to U I sent origibally telling U about rehab and I hv erased all othets....they can find all text messages with a police report if this gets to as bad as it will get if U don't respond

Feb. 2, 2015, 8:37 EST (Resp. Ex. L at 3):

Dr. Singh: *We are open today. I was out of town yesterday. You can come this afternnon, we are open from 3 to 5pm. I can call in your meds if you can't make it today. Leave your pharmacy and credit card info in to voice mail [number redacted]. NBRC.*

*Feb. 2, 2015, 10:22 EST (Resp. Ex. M-7 at 28):

I am not gonna pay for a week today? What time would be best?

*Feb. 2, 2015, 10:23 EST (Resp. Ex. M-7 at 28):

I mean 150 for a week.

*Feb. 2, 2015, 10:23 EST (Resp. Ex. M-7 at 28):

My parents are so angry they are about to file a police report.

*Feb. 2, 2015, 10:24 EST (Resp. Ex. M-7 at 28):

I need a ten day supply of subutex called in ASAP before they do.

*Feb. 2, 2015, 10:26 EST (Resp. Ex. M-7 at 27-28):

My mom eats lunch at the highschool at 11:55 and she was going to hv me meet up there with my dad to file a polic report since u were Mia. So the only way I can prevent this is if U do this super fast dr Singh bc U restricted my number, they didn't know why U were running since all they could see is what I showed them in my initial text stating I was going to rehab/and needed U to follow rehab rules where I stay current with medication and now I'm out can't take ANYTHINF until you call Sawmill cvs.

*Feb. 2, 2015, 10:27 EST (Resp. Ex. M-7 at 27):

> Not giving my credit card info over the phone U will hv to deal with my dad for obey Money

*Feb. 2, 2015, 10:36 EST (Resp. Ex. M-7 at 27-28):

> U need to do this fast!

Feb. 2, 2015, 11:05 EST (Resp. Ex. L at 4):

> **Dr. Singh:** *Your meds sub and Wellbutrin called in to CVS on 7470 sawmill.*

Feb. 2, 2015, 11:50 EST (Resp. Ex. L at 4):

> **Dr. Singh:** *The service is restored. You can use this to text me if you need to.*

76. At 2:52 PM on February 2, 2015, Dr. Singh self-emailed a progress note describing the messages and correspondence with Patient No. 2. In it he stated he had not responded to Patient No. 2's messages on January 31 because his SendHub account was out of service that day. He stated that notwithstanding Patient No. 2's threats to contact the police, "This writer always treated her with respect and accommodated for her additional needs of taking care of her children given her appointments at her convenience." (Singh, Tr. 403-04; Resp. Ex. 6). Apparently, this note and the earlier one were never printed and placed in the chart, where the receptionist might have had access to it, as it was produced to the Board separately from the chart. (Singh, Tr. 474-76; Resp. Ex. 5 & 6). Nor was this note contemporaneous, having been composed after events spanning a number of days.

77. The texts continue, using the same markings, typeface and conventions as before, as Patient No. 2 contacted Dr. Singh from Florida after a period of rehabilitation:

Feb. 27, 2015, 6:59 EST (Resp. Ex. M-7 at 3):

> 14th day off all that crapola!!!

Feb. 27, 2015, 6:59 EST (Resp. Ex. M-7 at 3):

> Just saying hi

Feb. 27, 2015, 7:03 EST (Resp. Ex. M-7 at 3):

> Did a 14 day taper first but now 14 without. They teach us here it's worse than getting off methadone...and that it's the number one hardest drug to kick!!! Wow was it a bitch for about a week then got on neuronrin for my back. That's a miracle drug for getting off the Suboxone shit!! U SHLD use that and Klonadine (spelling?) for PAWS!! Thanks again for the last 6 yrs!! Helped but now I am so much better off that shit....it really is the devils drug like they call it here at pa partners in Florida. Haha 80-90 degrees

Feb. 27, 2015, 7:04 EST (Resp. Ex. M-7 at 3):

> *palm partners

Feb. 27, 2015, 9:07 EST (Resp. M-6 at 4):

> **Dr. Singh:** I am glad to hear that you could be weaned off the sub. You should discuss with them about vivitrol injection that could help you prevent any relapse because 80 percent relapse with in a year. Any way congragulatioms. Don't hesitate to ask for help if you need any thing. It is crappy 10 degrees here.

Feb. 27, 2015, 9:08 EST (Resp. Ex. M-7 at 3):

> Haha I won't relapse.

Feb. 27, 2015, 9:08 EST (Resp. Ex. M-7 at 3):

> I'm ready to be off the shit and a tough cookie.

Feb. 27, 2015, 9:08 EST (Resp. Ex. M-7 at 3):

> I've heard about the injections are they narloxone or something. Some young kids coming off heroin here some form of narloxone for cravings but I don HV any cravings.

Feb. 27, 2015, 9:47 EST (Resp. M-6 at 3):

> **Dr. Singh:** OK, sounds good.

78. Under cross-examination, Patient No. 2 became defensive when confronted with the text messages that were reproduced in Resp. Ex. L. In general, she disputed the dating and chronology of messages because "there was so many other ways he communicated." (Pt. 2, Tr. 184, 190-91). She denied that she became angry with Dr. Singh as the result of a text message stating that he "will be closing your case after that script." (Pt. 2, Tr. 187-

88). She did not recall reporting withdrawal symptoms in January, 2015. "But I know that I was mad because he was ignoring my call, and he said that I could come in and get a prescription." (Pt. 2, Tr. 189). Patient No. 2 flatly denied ever stating, in effect, "I'm thinking of going with [Jason and my parents] and saying what they are saying." "I never said that." (Pt. 2, Tr. 193). When confronted with a text message of January 30, 2015, in which she said essentially just that, Patient 2 responded, "I was an addict, what can I say." (Pt. 2, Tr. 207).

79. After about 35 days of inpatient treatment in Florida, Patient No. 2 returned to Hilliard and moved in with Jason. She contacted Dr. Singh to inform him she was off Suboxone & Subutex, and that "I'm not going to be your patient anymore." (Pt. 2, Tr. 105-06).

80. Patient No. 2 then attended a mental health outpatient program at Dublin Springs Hospital, unaware that Dr. Singh worked there.[34] About the same time, she discussed the improprieties that had occurred in Dr. Singh's office with her family, and in groups at Dublin Springs without naming Dr. Singh. In March or April, 2015, at Dublin Springs, she saw Dr. Singh walk by. "It just freaked me out," and "it all came out." So Patient No. 2 returned to her group and alleged Dr. Singh's improprieties to a therapist and psychiatric nurse, and ultimately, to the Medical Board. (Patient No. 2, Tr. 106-13, 176).

81. On cross-examination, Patient No. 2 testified that she openly complained about Dr. Singh because she was worried her family would think she had chosen Dublin Springs because Dr. Singh was there. After conceding that it was her mother who had recommended Dublin Springs, Patient No. 2 said she "was afraid my dad was going to come after him and kick his butt, to be honest with you." "I never think he would do anything, but I was just very concerned. I just didn't want drama." (Pt. 2, Tr. 174-76). At another point in her testimony, Patient No. 2 denied that "Jason and your family had been pressuring you about that," although a trail of text messages created a different impression. (Pt. 2, Tr. 205).

82. In May, 2015, Dr. Singh returned from a trip to India. His wife decided to remain there to attend to family property. He had recently requested part-time status at Twin Valley and been assigned to the Admissions Unit, was at home alone, and decided to take a step back, so he testified that after having been notified by Dublin Springs of Patient No. 2's allegations, he requested a six-month leave of absence from Dublin Springs, or Dublin Springs suggested one because Dr. Singh seemed "stressed out." This "coincided" with Patient No. 2's allegations against him. (Singh, Tr. 342-43; Singh, Dep. 94-95).[35] At the expiration of the six months, Dr. Singh did not request reinstatement, so the leave of absence matured into a voluntary resignation. (Singh, Tr. 344; Singh Dep. 95-96).

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[34] Dr. Singh's text message to her on January 23, 2015, had stated that "I am in Dublin springs seeing patients." (Resp. Ex. L at 1).

[35] According to Dr. Singh, he had not been told which patient made the allegations, but he suspected who it was. (Singh, Dep. 95).

83. Dr. Singh denies any sexual misconduct, impropriety, interaction or contact with Patient No. 2. (Singh, Tr. 346, 457-63, 536). Among other acts, he specifically denies ever having "solicited a date or romantic relationship with a patient." (Singh, Tr. 459).

Character Evidence.

84. Alan Freeland, M.D., is a practicing psychiatrist with "significant administrative experience." Dr. Freeland served on staff at Harding Hospital for 11 years, finishing as Medical Director. He served on the faculty at the OSU Department of Psychiatry for five years before joining Twin Valley. In 2008, Dr. Freeland became Assistant Chief Clinical Officer, and in 2012, Chief Clinical Officer and Medical Director. (Freeland, Tr. 489). Dr. Freeland left Twin Valley in July, 2016. (Freeland, Tr. 491).

85. Dr. Freeland knew Dr. Singh as a colleague and, after 2012, as a subordinate. (Freeland, Tr. 491). Dr. Singh worked on a mixed gender unit. (Freeland, Tr. 492). Dr. Freeland observed no failure on Dr. Singh's part to maintain appropriate boundaries with patients, and was aware of no complaints of sexual impropriety. He was "quite surprised" when he learned of the allegations against Dr. Singh. (Freeland, Tr. 493-94).

86. According to Patient No. 4, Dr. Singh has been "great, helpful." He has "really saved my life. I can talk to him about anything" and "he talks me through it." (Pt. 4, Tr. 298).

RELEVANT STATUTES

O.R.C. § 4731.22(B) provides, in relevant part:

> The board, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend an individual's certificate to practice, refuse to issue a certificate to an individual, refuse to renew a certificate, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate for one or more of the following reasons:
>
> * * *
>
> (6) A departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established;
>
> * * *
>
> (20) Except when civil penalties are imposed under section 4731.225 or 4731.282 of the Revised Code, and subject to section 4731.226 of the Revised Code, violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board....

As effective September 29, 2015, O.R.C. § 4731.225(B)(1) provides:

> If the holder of a certificate issued under this chapter violates any section of this chapter other than section 4731.281 or 4731.282 of the Revised Code or the sections specified in division (A) of this section, or violates any rule adopted under this chapter, the board may, pursuant to an adjudication under Chapter 119. of the Revised Code and an affirmative vote of not fewer than six of its members, impose a civil penalty. The amount of the civil penalty shall be determined by the board in accordance with the guidelines adopted under division (B)(2) of this section. The civil penalty may be in addition to any other action the board may take under section 4731.22 of the Revised Code.

O.A.C. § 4731-26-02 provides, in relevant part:

> Sexual misconduct, as that term is defined in paragraph (H) of rule 4731-26-01 of the Administrative Code, between a licensee and a patient is never diagnostic or therapeutic.
>
> (A) A licensee shall not engage in sexual misconduct with a patient or key third party, as that term is defined in paragraph (C) of rule 4731-26-01 of the Administrative Code.

O.A.C. § 4731-26-01(H) provides:

> "Sexual misconduct" means conduct that exploits the licensee-patient relationship in a sexual way, whether verbal or physical, and may include the expression of thoughts, feelings, or gestures that are sexual or that reasonably may be construed by a patient as sexual. Sexual conduct includes sexual impropriety, sexual contact, or sexual interaction as follows:
>
> (1) "Sexual impropriety" means conduct by the licensee that is seductive, sexually suggestive, disrespectful of patient privacy, or sexually demeaning to a patient, including but not limited to, the following:
>
> (a) Neglecting to employ disrobing or draping practices respecting the patient's privacy;
>
> (b) Subjecting a patient to an intimate examination in the presence of a third party, other than a chaperone, without the patient's consent or in the event such consent has been withdrawn;
>
> (c) Making comments that are not clinically relevant about or to the patient, including but not limited to, making sexual comments about a patient's body or underclothing, making sexualized or sexually demeaning comments to a patient, criticizing the patient's sexual orientation, or making comments about potential sexual performance;

(d) Soliciting a date or romantic relationship with a patient;

(e) Participation by the licensee in conversation regarding the sexual problems, sexual preferences, or sexual fantasies of the licensee;

(f) Requesting details of the patient's sexual history, sexual problems, sexual preferences, or sexual fantasies, when not clinically indicated for the type of health care services, and

(g) Failing to offer the patient the opportunity to have a third person or chaperone in the examining room during an intimate examination and/or failing to provide a third person or chaperone in the examining room during an intimate examination upon the request of the patient.

(2) "Sexual contact" includes, but is not limited to, the following:

(a) Touching a breast or any body part that has sexual connotation for the licensee or patient, for any purpose other than appropriate health care services, or where the patient has refused or has withdrawn consent; and

(b) Examining or touching of the patient's genitals without the use of gloves.

(3) "Sexual interaction" means conduct between a licensee and patient, whether or not initiated by, consented to, or participated in by a patient, that is sexual or may be reasonably interpreted as sexual, including but not limited to, the following:

(a) Sexual intercourse, genital to genital contact;

(b) Oral to genital contact:

(c) Oral to anal contact, genital to anal contact;

(d) Kissing in a romantic or sexual manner;

(e) Encouraging the patient to masturbate in the presence of the licensee or masturbation by the licensee while the patient is present;

(f) Offering to provide health care services, such as drugs, in exchange for sexual favors; and

(g) Performing an intimate examination without clinical justification.

(h) Conduct that is sexually demeaning to a patient or which demonstrates a lack of respect for the patient's privacy.

O.A.C. § 4731-26-03(A) provides:

> Except as provided in paragraph (C) of this rule, a violation of rule 4731-26-02 of the Administrative Code, as determined by the board, shall constitute the following:
>
> (1) For a physician ... "a departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established," as that clause is used in division (B)(6) of section 4731.22 of the Revised Code.

O.A.C. § 4731-13-24 provides:

> A certified copy of a plea of guilty to, or a judicial finding of guilt of any crime in a court of competent jurisdiction is conclusive proof of the commission of all of the elements of that crime.

DISCUSSION OF FINDINGS OF FACT

This case turns on questions of witness credibility. This Hearing Examiner agrees with the State that one must take witnesses as one finds them, that a sexual misconduct case normally begins with one witness's word against another's, and that for an addiction specialist like Dr. Singh, any allegations of sexual misconduct are quite likely to come from persons who are or were addicts, often with the kinds of legal troubles that accompany addiction.

This Hearing Examiner also understands that an addicted person is likely to become quite attached to and dependent upon a physician who sees her regularly, listens to her reports of the stresses of her daily life, and provides drugs that prevent the onset of withdrawal symptoms. This renders the patient vulnerable to exploitation by the physician, and hesitant to report any such exploitation to others. Therefore, that Dr. Singh's accusers in this case are or were addicts, who waited years before alleging his misconduct to others, and who may have had ambivalent feelings about ending the physician-patient relationship, do not, without more, handicap their credibility in a case such as this one.

The credibility determinations to be made in this case do turn on one witness's word against another's and the assessments to be made by the witnesses' demeanor on the stand and the internal consistency of each witness's testimony. But in this case, we also have a rich supply of reliable external evidence – consisting in part of contemporaneous out-of-"court" statements of the witnesses and others – against which the truthfulness of the witnesses' testimony may be measured. In the end, with the exception of Dr. Freeland and Officer Griffith, *no* witness's testimony was entirely credible – and some was less so than others'.

Patient No. 4 and the conspiracy theory. First, this Hearing Examiner places little reliance on the theory, presented through Patient No. 4, that the allegations of Patient No. 1, or perhaps both

patients, resulted from a conspiracy to extort money from Dr. Singh. Patient No. 4 was not a particularly credible witness.

Moreover, her testimony failed to persuasively connect hearsay and double hearsay statements regarding an extortion plot involving Patient Nos. 5 and 6, with any actions taken by Patients No. 1 or 2. Patient No. 4 did testify that Dr. Singh's receptionist told her that the preceding night the receptionist had received a call from someone's brother-in-law demanding money and stating that if they got none, they were going to "f**k his license." But without explanation, the receptionist herself did not testify. According to Dr. Singh, a telephone message, for which the recording no longer exists, from the same brother-in-law, alleged that Dr. Singh had asked Patient No. 1 to share medication with Patient No. 3, and proposed either that Dr. Singh pay him, or the caller would contact the authorities. Dr. Singh then referred to a self-emailed progress note, not to be found in the chart or elsewhere, which documented the call. Dr. Singh could not credibly explain why he had preserved three other phone messages left near the same time, but not the extortionate one.

Patient No. 1. Patient No. 1 did not appear eager to testify and answered laconically. She did appear to display emotion when recounting some occurrences, which imparted some apparent credibility to her testimony.

Substantial effort was expended at hearing, through security footage and voicemail messages, to demonstrate Patient No. 1's efforts to repair her relationship with Dr. Singh after her report to the police of his alleged sexual misconduct. Again, however, it is probably not uncommon that a patient would feel a bond with, and dependent upon, a physician treating her addiction, and would therefore experience ambivalence about ending that relationship. Nonetheless, Patient No. 1 testified that after she had filed a police report accusing him of very serious sexual misconduct, and after he had sent her a letter terminating the physician-patient relationship, Dr. Singh, in a subsequent communication, left the door open to her returning in six months. This seems far-fetched.

Regardless, the testimony of Patient No. 1, describing Dr. Singh's alleged sexual misconduct itself, was simply not credible:

- Her testimony fluctuated between Dr. Singh's having attempted to kiss her 5-6 times, or on every one of her biweekly visits over many months;

- Her police report described Dr. Singh's squeezing her buttocks, reaching down her pants and asking for dates – actions omitted from Patient No. 1's oral testimony;

- Her police report stated that she performed fellatio upon Dr. Singh but he was flaccid and after a few minutes, Dr. Singh "zipped his pants up" and said "thank you." Then, while Dr. Singh was completely naked, Patient No. 1 brought Dr. Singh to climax with her hand, after which he took a shower. Patient No. 1 testified at hearing that the foregoing

described a single occurrence. Yet her oral testimony did not mention bringing Dr. Singh to climax;

- Most critically, Patient No. 1 claimed to be able to describe Dr. Singh's conference room, in which the most serious sexual misconduct allegedly occurred, in detail. Yet, although she testified that Dr. Singh was completely nude, she was unable to recall Dr. Singh's prominent zipper and inner leg scarring from his quadruple bypass surgery.

Even allowing for Patient No. 1's use of Xanax at the time, her testimony was too inconsistent with her prior signed police report, and the photographic evidence of Dr. Singh's appearance, to be credible.

Patient No. 2. Patient No. 2 was an engaging, if garrulous witness, who frequently had difficulty maintaining focus on responsive, relevant answers. She often volunteered far more detail than necessary. She was dismissive or defensive when her testimony was challenged.

Several items cast doubt on the accuracy or veracity of her testimony. Among them:

- Patient No. 2 insisted that beginning in 2012, or perhaps earlier, and persisting until the end of treatment, Dr. Singh tried to hug and kiss her each and every time she visited his office. On cross-examination, she retreated and claimed he tried to kiss her only when she visited during regular office hours. "So these are probably the times you have on camera that nothing may have happened." "But that would be the only times. No other time." She also testified that she uniformly rejected such advances, claiming "I'm not a kisser" and giving him a "peck" instead. If true, this strikes this writer as remarkably bold and persistently reckless behavior by Dr. Singh, especially in light of the fact that Patient No. 2 apparently objected to kissing, her boyfriend had threatened him and menaced him at his office, and Patient No. 1 had filed a police report alleging sexual misconduct after another confrontation at Dr. Singh's office – even after which the nonconsensual kissing continued. Dr. Singh did not impress the undersigned as a remarkably reckless and aggressive individual.

- Patient No. 2 testified that she preferred early appointments, but Dr. Singh insisted on seeing her last, when other patients and the receptionist were gone. Yet a text message from her to Dr. Singh objected to her being required to pick up prescriptions during the day, when the receptionist was present.

- Patient No. 2 testified that she did not report Dr. Singh's alleged sexual misconduct for several reasons, among them, that he "almost was acting like he was joking." Very little of Dr. Singh's alleged sexual misconduct, as described by Patient No. 2, could reasonably be construed as a "joke."

- Patient No. 2 testified that one of the reasons she decided to break with Dr. Singh and submit to in-patient rehabilitation was that he was becoming "braver and braver,"

"pulling my face," and suggesting "more and more things" in 2014. How Dr. Singh became "braver" than attempting to kiss and/or hug Patient No. 2 after every visit was not explained.

- When cross-examined about her text messages, Patient No. 2 made several contentions and denials at odds with her contemporaneous messages to Dr. Singh. *See* ¶ 78, *supra.*

- Several statements in Patient No. 2's communications in late January and early February, highlighted in bold, *supra*, at least when viewed in isolation, suggest that Patient No. 2 was threatening to make allegations against Dr. Singh as a means of controlling him and insuring that she would continue to receive drugs from him. Viewed more broadly, they suggest she did so under pressure from Jason and her parents.

But most damaging to the credibility of Patient No. 2 are her text messages to Dr. Singh when *viewed as a whole.* Many of these messages appear have been written impulsively or in anger, rather than to "paper the record" for later use. Yet, as she threatened repeatedly to expose Dr. Singh, the *only sexual misconduct she mentioned* over pages upon pages of texts, reproduced here *ad nauseum*, is his having asked her out for a date in a 2:00 am September, 2012 text – a message that was fortuitously, or unfortunately, discovered by her boyfriend. *Not once* did Patient No. 2 so much as mention any other item among the litany of other sexual misconduct of which she accused Dr. Singh at hearing.

Accordingly, I do not find the sexual misconduct allegations of Patient No. 2, as a whole, to be credible.

This Hearing Examiner so finds without being able to articulate a clear and discrete theory what may have motivated Patients No. 1 and No. 2 to make the allegations they did. Suffice it to say that both patients appeared to have strong and influential family relationships that may have played out in unpredictable ways. Patient No. 1 may have made impulsive statements to her brother-in-law that she did not want to walk back, or may not have wanted to confront and dispute his aggressively-held suspicions. Patient No. 2, in her texts, repeatedly referred to familial pressure to make allegations against Dr. Singh and quite clearly expressed intense resentment that Dr. Singh's conduct had put her at odds with her family. If Dr. Singh is right and Patient No. 2 suffers from a "histrionic personality disorder," along with resentment towards Dr. Singh's having imperiled her family and romantic relationships, she may have chosen to weave Dr. Singh's request for a date into increasingly elaborate, and attention-creating, allegations.

But it is not necessary to speculate as to the motives of Patients No. 1 and No. 2 in order to determine that their testimony was not sufficiently credible, in the context of the entire record, to prove their allegations by a preponderance of the evidence.

There is, however, one exception.

Dr. Singh. Dr. Singh's testimony contained several inconsistencies involving times and dates, *e.g.*, ¶¶ 7, 12, 18, *supra.* His testimony that his leave of absence from Dublin Springs merely "coincided" with Patient No. 2's allegations of sexual misconduct appears self-serving and contrived.

More suspicious is Dr. Singh's testimony to support his theory that Patient No. 1's allegations were motivated by an extortion scheme. The most "direct" evidence of such a scheme came from Dr. Singh's testimony about a voice mail recording that was not produced (although other contemporaneous ones were) and a conversation reported by his receptionist, who did not testify, documented in a self-emailed progress note that was not introduced.

Dr. Singh's self-emailed progress notes about Patient No. 2 (St. Ex. 5 & 6) likewise read as self-serving documents intended to "paper the record." Yet he did not file them in Patient No. 2's chart where anyone but he might discover them – until he needed them as "evidence" to protect himself.

But most damaging to Dr. Singh's credibility is his creation and use at hearing of a heavily edited chain of text messages to and from Patient No. 2 that purported to have left only "some of them [out] that are not important." (Resp. Ex. L). What was omitted was an entire chain of messages from late January 31 through February 2, 2015, in which Patient No. 2, on several occasions, reminded Dr. Singh of his having solicited a date from her in September, 2012, and recounted the stress to her familial and romantic relationships caused by her continuing to deny to them that Dr. Singh had solicited a date. Even if Dr. Singh missed these messages whenever he created Resp. Ex. L, SendHub had sent Dr. Singh a more-or-less complete printout of messages from Patient No. 2 on August 23, 2016, prior to hearing. (Resp. Ex. M-2).

In the words of Patient No. 2 (in a different context), these are the actions of a person with "something to hide." And that which Dr. Singh attempted to whitewash from the record was Patient No. 2's contemporaneous and repeated allegations, not denied by Dr. Singh at the time, that Dr. Singh had engaged in sexual impropriety by asking her for a date.

The tone of the email exchange, and plenty of other evidence, suggests that Dr. Singh had lost control of the physician-patient relationship, and appropriate boundaries, by early 2015, if not long before. (*See, e.g.* Resp. Ex. M-7 at 62-65, a long series of emails to Dr. Singh, late at night, in order for Patient No. 2 to avoid inconvenience in filling a prescription). Dr. Singh was providing high doses of Suboxone to Patient No. 2, said he attempted to reduce her dose but left little evidence thereof in her chart, performed drug screens infrequently,[36] and made an exception from his usual practices to treat a psychiatric condition, ADHD. While no expert testimony was presented from which I can judge the propriety of Dr. Singh's medical treatment of Patient No. 2, his actions in general were not inconsistent with someone who has lost control of the

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[36] Specimens were collected January 23, 2015, November 12, 2014, May 18, 2014, January 6, 2014, March 9, 2013, January 10, 2013, and July 11, 2011, according to her chart. (St. Ex. 3).

physician-patient relationship. Because he had "something to hide," the patient was apparently able to take unusual liberties with the physician-patient relationship.

Finally, Patient No. 2's repeated allegations, in her text messages of late January and early February, 2015, written impulsively and in anger, do have the reliability of spontaneous utterances.

Accordingly, I find that the State has proven, by well beyond a preponderance of the evidence, that Dr. Singh committed "sexual misconduct" and a "sexual impropriety" within the meaning of O.A.C. § 4731-26-01(H)(1)(d), when in September, 2012, he solicited a date from Patient No. 2.

FINDINGS OF FACT

1. Giridhar Singh, M.D., is licensed to practice medicine and surgery in the States of Ohio and Pennsylvania, and also holds an inactive license to practice medicine in New Jersey. He began practicing psychiatry in Ohio in 1997. Dr. Singh is board certified in Psychiatry, Psychosomatic Medicine, and Addiction Medicine. Dr. Singh holds a DEA license with a "DATA 2000 waiver" to prescribe Suboxone.

2. Dr. Singh has never been subject to Board discipline, in the United States, in the British Isles, or in India, where he previously practiced.

3. Beginning about 2007-08, while practicing psychiatry at the Twin Valley Behavioral Healthcare Hospital in Columbus, Ohio, Dr. Singh opened a part-time addiction medicine practice in Dublin, Ohio, called the Neuro Biological Recovery Center. This practice consisted primarily of treating patients suffering from substance abuse disorders with Suboxone.

4. Dr. Singh treated Patient No. 1 from April, 2009 to around November 2013. Patient No. 1 was diagnosed as opioid dependent and was treated by Dr. Singh with Suboxone.

5. Patient No. 1 testified that in late 2011 (approximately), Dr. Singh made an advance and "kissed me." "It continued. He would kiss me every time that I would leave." At another point, Patient No. 1 testified that Dr. Singh made sexual advances to her, including kissing, a total of 5-6 times.

6. Patient No. 1 alleged that in July-September 2013, during a visit to his office, Dr. Singh had Patient No. 1 remove her shirt, they kissed and he touched her breasts, and then he "wanted me to give him a blow job. I did for a minute, and he said that was enough, he was unable to get an erection."

7. Dr. Singh had caused the police to be summoned when Patient No. 1, her sister and brother-in-law, had visited his office together, and the brother-in-law had allegedly menaced him. That evening, on November 22, 2013, Patient No. 1 provided a

handwritten, signed statement to the Dublin police, which alleged sexual misconduct by Dr. Singh, but which differed in several material respects from her sworn testimony at the hearing of this matter.

8. Although she testified that Dr. Singh was completely nude during the July-September 2013 incident, Patient No. 1 was unable to recall that Dr. Singh has a prominent "zipper scar" and long inner leg scar from a quadruple bypass operation he had undergone prior to the incident, as demonstrated by photographic evidence and medical records submitted by the Respondent.

9. For these and other reasons given in this Report, including the demeanor of the witnesses, I find that the State has failed to demonstrate, by a preponderance of evidence, that Dr. Singh engaged in sexual misconduct with Patient No. 1, within the meaning of O.A.C. § 4731-26-02(H).

10. Dr. Singh treated Patient No. 2, who suffered from opioid dependency, from roughly February, 2009 to February 2015. Dr. Singh prescribed Suboxone, then Subutex, for Patient No. 2. In addition, in September, 2009, Dr. Singh diagnosed Patient No. 2 as suffering from ADHD, which he eventually treated with Adderall.

11. Patient No. 2 testified that by 2012, Dr. Singh "began to suggest sexual ways that I could reduce [her] fee, and things that he liked as a man."

12. About the same time, according to Patient No. 2, as Patient No. 2 left her appointments, Dr. Singh tried to kiss her. Although Patient No. 2 claimed she was "not a kisser," Dr. Singh would "literally sometimes pull my face over to his face." "And then I believe one or two times he put his hand down by my … vagina … underneath my underwear." "I would always say, 'I will give you a little peck.'" After this, she alleged every appointment with Dr. Singh included kissing her cheek or hugging, from the spring or summer of 2012 until the end of their relationship in early 2015.

13. Patient No. 2 also testified that Dr. Singh presented her with gifts. In early to mid-2012, Dr. Singh bought Patient No. 2 perfume, but then he started buying her various bras and underwear. As "part of the deal" to get her fees reduced, Patient No. 2 had to try on some of these gifts for Dr. Singh in his conference room. In the conference room, Dr. Singh was "trying to kiss my face." "He pulled my bra down … was kissing my breasts and … putting his mouth on them."

14. According to Patient No. 2, in September, 2012, Dr. Singh texted her at 2:00 am about an upcoming appointment and invited her to a dinner date. Her boyfriend Jason had access to Patient No. 2, house, entered late that night, checked her phone as she slept, and discovered the message. Dr. Singh asked Patient No. 2 to bring Jason with him to her office to discuss the matter. Jason arrived early, without Patient No. 2, and Dr. Singh, believing he was being menaced, called the police.

15. Beginning on January 21, 2015, Dr. Singh and Patient No. 2 exchanged a long series of text messages and at least one voice mail that began over the renewal of Patient No. 2's prescriptions. Patient No. 2 became increasingly frustrated with her difficulties getting the prescriptions filled, and angry with Dr. Singh's perceived lack of responsiveness. In a series of messages from late January 31, 2015, through February 2, 2015, Patient No. 2 threatened Dr. Singh with exposure and described the wrongdoing she intended to expose. The only sexual misconduct she described was his having solicited a date from her in September, 2012. None of her other allegations she made at hearing were mentioned in her more contemporaneous and spontaneous text messages to Dr. Singh.

16. At hearing, Dr. Singh presented a document that he testified he had manually created by copying and pasting text messages available from his SendHub service over the internet. Dr. Singh represented that the email messages were complete except for those that were unimportant. Dr. Singh's document did not, however, include the messages in which Patient No. 2 clearly alleged that Dr. Singh had solicited a date from her in 2012.

17. After the hearing, but while the record was still open, and with the agreement of the parties, Dr. Singh's counsel did submit what appears to be the complete text messages from Patient No. 2 (and others) to Dr. Singh during January and February, 2015 (with the exception of some longer messages that were partially obscured). Most of Dr. Singh's outgoing text messages were not provided.

18. For these and other reasons given in this Report, including the demeanor of the witnesses, I find that the State has demonstrated by a preponderance of the evidence that Dr. Singh solicited a date from Patient No. 2 in or about September, 2012.

19. For these and other reasons given in this Report, including the demeanor of the witnesses, I find that, with the exception of the conduct described at Finding of Fact ¶ 18, the State has failed to demonstrate that Dr. Singh engaged in sexual misconduct with Patient No. 2, within the meaning of O.A.C. § 4731-26-02(H).

CONCLUSIONS OF LAW

1. As a holder of a license to practice medicine and surgery in Ohio, Dr. Singh is subject to the jurisdiction of the Board, and to the provisions of O.R.C. § 4731.22.

2. Dr. Singh's solicitation of a date from Patient No. 2 in or about September 2012, as described in Findings of Fact 14, 15, and 18, constituted "sexual misconduct" as that term is defined at O.A.C. § 4731-26-01(H)(1)(d), *i.e.,* "[s]oliciting a date or a romantic relationship with a patient."

3. O.A.C. § 4731-26-02(A) states, "A licensee shall not engage in sexual misconduct with a patient...."

4. O.R.C. § 4731.22(B)(20) states that the Board may impose discipline for "violating or attempting to violate, directly or indirectly … any provisions of … any rule promulgated by the board."

5. O.A.C. § 4731-26-03(A)(1) states that "a violation of rule 4731-26-02 of the Administrative Code, as determined by the board, shall constitute … [f]or a physician …, 'a departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established,' as that clause is used in division (B)(6) of section 4731.22 of the Revised Code."

6. Pursuant to O.R.C. § 4731.22(B), the above described acts, individually and collectively, authorize the Board to " limit, revoke, or suspend an individual's certificate to practice, refuse to issue a certificate to an individual, refuse to renew a certificate, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate."

7. The remaining allegations of sexual misconduct towards Patient No. 1 and Patient No. 2, not having been demonstrated to be true by a preponderance of evidence, should be dismissed.

DISCUSSION OF PROPOSED ORDER

Dr. Singh has a long history of practice in Ohio and elsewhere without prior Board involvement. At age 62, he may be approaching the end of his career as a practitioner.

The sole act of sexual misconduct that has been found to have occurred in this case, soliciting a date from a patient four years ago in 2012 – is among the less serious of the types of "sexual misconduct" listed in the rule.

Be that as it may, this case demonstrates the dangers in even such a seemingly minor transgression, above and beyond its potential violation of the patient's dignity, self-possession and self-respect. It is clear that proper physician-patient boundaries were eroded, perhaps before, and surely during and after, Dr. Singh's request for a date. Knowledge of Dr. Singh's impropriety, and the threat of exposure, armed an addicted and apparently manipulative patient with power over a physician who could prescribe her narcotics. This power threw the objectivity of Dr. Singh's subsequent medical decisions into question. And it subjected Dr. Singh to anxiety and fear of exposure for four years.

The primary aggravating factor in determining the appropriate sanction is Dr. Singh's dishonesty before the Board in these proceedings. He denied, under oath, that he ever solicited a date from Patient No. 2. He created and submitted into evidence a text message narrative that whitewashed all mention of his having solicited a date, and Patient No. 2's threats to use that transgression

against him. To his credit, however, Dr. Singh's counsel ultimately supplied the board with a fuller rendition of Patient No. 2's text messages, which clarified the record.

In view of the above, Dr. Singh's conduct merits a substantial disciplinary sanction, including a significant suspension of his medical certificate. The Disciplinary Guidelines, Category II(B), provide for a minimum indefinite suspension of one year for sexual misconduct within one's practice. Several prior Board decisions have departed from the Disciplinary Guidelines, however, in cases involving relatively limited sexual misconduct with one patient, most involving consensual sexual relationships.[37] Of these cases, Dr. Singh's appears to be most similar to the *Muffley* matter, in which the Board imposed a 60-day suspension for a series of suggestive text messages exchanged with a patient.

Given Dr. Singh's long career, the relative lack of severity of his sexual misconduct violation, and the fact that it occurred four years ago, a one-year suspension appears to be unduly harsh in this case as well. On the other hand, Dr. Singh's patient population was a particularly vulnerable one, and Dr. Singh attempted to conceal his violation from the Board. Accordingly, I am recommending a suspension of Dr. Singh's certificate for not less than 180 days.

Because all of Dr. Singh's conduct that has been found to have violated O.R.C. § 4731.22(B) occurred well prior to September 29, 2015, the imposition of a fine pursuant to O.R.C. § 4731.225(B)(1) would be inappropriate in this case.

Accordingly, I make the following recommendation:

PROPOSED ORDER

It is hereby ORDERED that:

A. **SUSPENSION OF CERTIFICATE**: The certificate of Giridhar Singh, M.D., to practice medicine and surgery in the State of Ohio shall be SUSPENDED for an indefinite period of time, but not less than 180 days.

B. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Singh's certificate to practice medicine and surgery until all of the following conditions have been met:

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[37] *See, Patrick Eugene Muffley, D.O.*, 13-CRF-013 (60-day suspension; exchange of innuendo-laden Facebook messages with patient); *Amy R. Weidman, M.D.*, No. 11-CRF-087 (180-day suspension; long consensual sexual relationship with patient); *Dawn M. Zacharias, M.D.*, No. 11-CRF-080 (120-day suspension; consensual affair with patient for whom physician provided prescription); *Robert Edward Barkett, Jr., M.D.*, No. 09-CRF-126 (60-day suspension; long consensual sexual relationship with patient). *See also, Donald Ray Savage, Jr., M.D.*, No. 13-CRF-056 (180-day suspension; consensual sexual relationships with multiple patients, key parties).

1. **Application for Reinstatement or Restoration:** Dr. Singh shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.

2. **Course(s) Concerning Physician/Patient Boundaries:** At the time he submits his application for reinstatement or restoration, or as otherwise approved by the Board, Dr. Singh shall provide acceptable documentation of successful completion of a course or courses on maintaining physician/patient boundaries. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any course(s) taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.

   In addition, at the time Dr. Singh submits the documentation of successful completion of the course(s) on maintaining physician/patient boundaries, he shall also submit to the Board a written report describing the course(s), setting forth what he learned from the course(s), and identifying with specificity how he will apply what he has learned to his practice of medicine in the future.

3. **Additional Evidence of Fitness to Resume Practice.** In the event that Dr. Singh has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of his fitness to resume practice.

C. **PROBATION.** Upon reinstatement or restoration, Dr. Singh's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of two years:

1. **Obey the Law**: Dr. Singh shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in the state in which he is practicing.

2. **Declarations of Compliance**: Dr. Singh shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which this Order becomes effective. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

3. **Personal Appearances**: Dr. Singh shall appear in person for an interview before the full Board or its designated representative during the third month following

the month in which this Order becomes effective, or as otherwise directed by the Board. Subsequent personal appearances shall occur every six months thereafter, and/or as otherwise directed by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

D. TERMINATION OF PROBATION: Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Singh's certificate will be fully restored.

E. REQUIRED REPORTING WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS ORDER:

1. **Required Reporting to Employers and Others**: Within 30 days of the effective date of this Order, Dr. Singh shall provide a copy of this Order to all employers or entities with which he is under contract to provide healthcare services (including but not limited to third-party payors), or is receiving training, and the Chief of Staff at each hospital or healthcare center where he has privileges or appointments. Further, Dr. Singh shall promptly provide a copy of this Order to all employers or entities with which he contracts in the future to provide healthcare services (including but not limited to third-party payors), or applies for or receives training, and the Chief of Staff at each hospital or healthcare center where he applies for or obtains privileges or appointments.

   In the event that Dr. Singh provides any healthcare services or healthcare direction or medical oversight to any emergency medical services organization or emergency medical services provider in Ohio, within 30 days of the effective date of this Order, he shall provide a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services.

   These requirements shall continue until Dr. Singh receives from the Board written notification of the successful completion of his probation.

2. **Required Reporting to Other Licensing Authorities**: Within 30 days of the effective date of this Order, Dr. Singh shall provide a copy of this Order to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Administration, through which he currently holds any professional license or certificate. Also, Dr. Singh shall provide a copy of this Order at the time of application to the proper licensing authority of any state or jurisdiction in which he applies for any professional license or reinstatement/restoration of any professional license. This requirement shall continue until Dr. Singh receives from the Board written notification of the successful completion of his probation.

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

F. VIOLATION OF THE TERMS OF THIS ORDER: If Dr. Singh violates the terms of this Order in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.

G. PARTIAL DISMISSAL OF ALLEGATIONS: The allegations against Dr. Singh, as set forth in Paragraph (1) of the December 9, 2015, notice of opportunity for hearing in Case No. 15-CRF-124, except as they pertain to the solicitation of a date from Patient No. 2, in or about September, 2012, shall be DISMISSED.

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

Jack W. Decker, Esq.
Hearing Examiner

State Medical Board of
Ohio

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EXCERPT FROM THE DRAFT MINUTES OF JANUARY 11, 2017

REPORTS AND RECOMMENDATIONS

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

Dr. Soin 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: Robert Michael Cook, M.D.; Philicia S. Duncan, M.D.; Jayaprakash Ayillath Gosalakkal, M.D.; Jake Paul Heiney, M.D.; James Patrick Mima, P.A.; Steven Barnet Schwartz, M.D.; and Giridhar Singh, M.D. A roll call was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye
	Dr. Steinbergh	- aye
	Mr. Giacalone	- aye
	Dr. Soin	- aye
	Mr. Kenney	- aye
	Dr. Schachat	- aye
	Dr. Factora	- aye
	Dr. Bechtel	- aye

Dr. Soin 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. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye
	Dr. Steinbergh	- aye
	Mr. Giacalone	- aye
	Dr. Soin	- aye
	Mr. Kenney	- aye
	Dr. Schachat	- aye
	Dr. Factora	- aye
	Dr. Bechtel	- aye

Dr. Soin 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. In addition, Dr. Bechtel served as Secretary and/or Supervising Member on matters concerning some respondents; therefore, he will recuse as appropriate.

Dr. Soin 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.

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GIRIDHAR SINGH, M.D.

.....

Dr. Steinbergh moved to approve and confirm Mr. Decker's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Giridhar Singh, M.D. Dr. Schachat seconded the motion.

Dr. Soin stated that he will now entertain discussion in the above matter.

Dr. Schachat stated that Dr. Singh holds medical licenses in Ohio and Pennsylvania. Dr. Singh is triple-boarded in psychiatry, psychosomatic medicine, and addiction medicine, and he has been practicing psychiatry in Ohio since 1997. Dr. Singh has not been disciplined by any board that the Ohio Board is aware of.

Dr. Schachat continued that in 2007 Dr. Singh opened a part-time addiction medicine practice in Dublin, Ohio. Dr. Singh treated Patient 1 from April 2009 to November 2013 for opioid dependence. Patient 1 alleged that in late 2011 Dr. Singh made a romantic advance towards her. Patient 1 further alleged a sexual interaction in the summer of 2013. Dr. Schachat noted that on one occasion when Dr. Singh felt threatened during a visit with Patient 1 and Patient 1's sister and brother-in-law, Dr. Singh instructed his receptionist to call the police. Patient 1 gave a statement to the police at that time which was different in material ways from her testimony at Dr. Singh's hearing. The Hearing Examiner concluded that the State has not demonstrated that Dr. Singh engaged in sexual misconduct with Patient 1.

Dr. Schachat stated that Patient 2 was also treated for opioid dependence by Dr. Singh from 2009 to 2015. Dr. Schachat stated that Patient 2 testified to some inappropriate activity by Dr. Singh, but the key issue that the Hearing Examiner found credible was the allegation that Dr. Singh texted her at 2:00 a.m. in 2012 inviting her to a dinner date. Dr. Schachat stated that a physician asking a patient who he is treating for opioid dependence for a date obviously raises many ethical and physician/patient boundary issues.

Dr. Schachat stated that the Hearing Examiner's Proposed Order would suspend Dr. Singh's license for a minimum of 180 days with conditions for reinstatement, including a course on physician/patient boundaries. Dr. Schachat stated that he would be interested to hear the opinions of his fellow Board members on this matter.

Dr. Schottenstein stated that, in trying to determine what the preponderance of the evidence shows, he sees Dr. Singh's 2:00 a.m. text to Patient 2 asking for a date to be key. Dr. Schottenstein stated that Patient 2's

allegations that Dr. Singh asked her for a date are contemporaneous with the text in question. Dr. Schottenstein also noted that when Dr. Singh initially supplied evidence of the texting, he indicated that he

may have left out some texts that were not important. However, Dr. Singh had omitted a chain of messages between him and Patient 2 from January 31 to February 2, 2015 that relate to Patient 2's allegation. Dr. Schottenstein acknowledged that it is possible that the text messages were not chained together correctly in the Exhibit, but it appeared that Dr. Singh had the opportunity in that exchange to deny the allegation and he did not do so. Dr. Schottenstein opined that, typically, a physician would respond in a fairly frantic way denying a false accusation of this nature. Dr. Schottenstein felt that Dr. Singh's lack of response to the allegation at that time lends credibility to Patient 2's allegation.

Dr. Schottenstein stated that another concern is the fact that Dr. Singh had a printout of the messages on August 23, 2016, prior to his hearing, but he did not present them until October 2016, after his hearing. Dr. Schottenstein stated that this made it appear that Dr. Singh was attempting to hide something.

Dr. Schottenstein observed that in his hearing, Dr. Singh was specifically asked if he had ever solicited a date or romantic relationship with Patient 2, and he answered "no." Dr. Schottenstein opined that Dr. Singh did ask for a date, based on Dr. Singh's non-denial of the allegation when Patient 2 initially made it and the fact that Dr. Singh produced an incomplete record of messages. Dr. Schottenstein stated that, while asking a patient for a date is very different from the other allegations brought forth in this case, it calls Dr. Singh's credibility into question.

Dr. Steinbergh stated that Dr. Singh had very vulnerable patients and that she believed there were some sexual boundary issues that occurred. Dr. Steinbergh noted that the Hearing Examiner felt that Dr. Singh's case was most similar to that of Patrick Muffley, D.O., in which the Board imposed a minimum 60-day suspension. Dr. Steinbergh disagreed with the Hearing Examiner and opined that Dr. Singh's case was different from Dr. Muffley's. Dr. Steinbergh stated that Dr. Muffley had been sexting a patient, but he had not been prescribing controlled substances to the patient like Dr. Singh had been. Dr. Steinbergh noted that she had recused herself from the matter of Dr. Muffley.

Dr. Steinbergh stated that two patients have made allegations of misconduct on the part of Dr. Singh. Dr. Steinbergh stated that Patient 1 testified that when she was pregnant, Dr. Singh would always tell her that he thought pregnant women were "hot" and he would make inappropriate comments. Dr. Steinbergh stated that she did not know how one could concoct such a thing unless one was exposed to it. Dr. Steinbergh stated that in 2013 Dr. Singh invited Patient 1 to his office on a Sunday to pick up Xanax pills, which Dr. Singh was not prescribing but were being prescribed to Patient 1 by her family physician. Dr. Steinbergh questioned why Dr. Singh would be giving Xanax to Patient 1. Patient 1 described a sexual discussion that then took place. After the encounter, Dr. Singh asked if Patient 1 wanted money. Dr. Steinbergh stated that these details bothered her tremendously. Dr. Steinbergh added that the Board has permanently revoked physicians' licenses for such behavior.

Dr. Steinbergh stated that she believes the allegations of Patient 1 and Patient 2 and that there is no question in her mind that sexual boundaries were compromised. Dr. Steinbergh further stated that she believes Dr. Singh did this because he controlled these vulnerable women and their medications. Dr. Steinbergh opined that Dr. Singh should be required to take a course in professional/personal ethics in

addition to the course on physician/patient boundaries. Dr. Steinbergh also opined that a suspension longer than 180 days would be appropriate.

Dr. Steinbergh stated that the fact that a patient returns to such a physician for additional visits does not prove that the allegations did not occur. Dr. Steinbergh commented that physicians often have a

connectivity to their patients which is usually a positive thing, but it can be a negative thing is situations such as this.

Mr. Giacalone stated that he struggled with this case because there are credibility issues with both the witnesses and Dr. Singh. Mr. Giacalone stated that it is difficult to determine how much testimony was true and how much was not true. Mr. Giacalone stated that reading the hearing transcript did not help him because it was just written words. Mr. Giacalone stated that the Hearing Examiner was in a position to actually observe the testimony and the demeanor of the witnesses, and therefore he felt that he should defer to the Hearing Examiner on these questions.

Dr. Schachat noted that the police were called on two different occasions and did not pursue any charges, even though they would probably have heard allegations of sexual misconduct. Dr. Schachat further noted that in both instances, the police were called to defend Dr. Singh. Dr. Schottenstein stated that the prosecutor elected not to pursue formal charges. Dr. Schottenstein also commented that criminal cases must meet the "beyond a reasonable doubt" standard, whereas the Board only has to meet the "preponderance of the evidence" standard. Dr. Schottenstein stated that if the Board had a "beyond a reasonable doubt" standard, he would be thinking of this case differently.

Dr. Schottenstein stated that another point of concern for him was Dr. Singh's testimony that when a physician sees someone every two or four weeks for a period of years, the physician thinks of them as family. Dr. Schottenstein stated that this is a boundary issue and that physicians should not think of their patients as family. Dr. Schottenstein added that he was surprised that Dr. Singh had prescribed Adderall to such a patient. Dr. Schottenstein noted that Adderall is a controlled substance and the patient was being treated for addiction. Dr. Schottenstein stated that someone prone to one addiction is potentially prone to another addiction.

Dr. Steinbergh stated that she is convinced that the patients' testimony was truthful, but she senses that her fellow Board members are not completely convinced. Therefore, Dr. Steinbergh stated that she would offer an amendment to increase the length of Dr. Singh's suspension and to add a requirement for a professional/personal ethics course.

Dr. Steinbergh moved to amend the Proposed Order so that Dr. Singh's medical license will be suspended for a minimum of one year. Dr. Steinbergh further moved to add a requirement that Dr. Singh complete a course in professional/personal ethics as a condition for reinstatement or restoration. Dr. Schottenstein seconded the motion.

Dr. Steinbergh commented that Dr. Singh was not charged by the Board with impairment. However, Dr. Steinbergh hoped that Dr. Singh would take a good look at himself through the professional/personal ethics course and, if there is a need for help, that he would avail himself to that.

Mr. Kenney stated that he understands adding the requirement for a professional/personal ethics course, but he did not understand what would be accomplished by increasing the length of Dr. Singh's suspension from a minimum of 180 days to a minimum of one year. Dr. Steinbergh replied that she found the witness testimony credible and that, if it were solely up to her, the sanction would be harsher. Dr. Steinbergh opined that Dr. Singh needs a considerable amount of time out from practice for his actions. Dr. Steinbergh noted that the Board's disciplinary guidelines specify a one-year suspension as the minimum sanction for sexual misconduct within practice. Mr. Kenney expressed concern that the Board may take action based on opinion and not on fact.

Mr. Giacalone asked what the Board has done with previous cases of a similar nature. Ms. Anderson replied that she does not have that information readily available. Ms. Anderson reiterated that the Hearing Examiner concluded that Dr. Singh violated the Board's sexual misconduct rules and that the Board's disciplinary guidelines specify a minimum sanction of a one-year probation for sexual misconduct, though the Board may choose from the full range of sanctions.

Mr. Giacalone commented that it is important for the Board to be consistent and that he would agree with a one-year suspension if that is historically what the Board has done in such cases. Dr. Steinbergh stated that there would not be absolute consistency over the years because each case is different with mitigating and aggravating circumstances. Dr. Steinbergh also stated that the Board changes as its membership changes over the years. Dr. Steinbergh stated that, while this is not the most egregious case the Board has ever seen, she is convinced from her reading of the hearing record that something inappropriate happened.

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

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye
	Dr. Steinbergh	- aye
	Mr. Giacalone	- nay
	Dr. Soin	- nay
	Mr. Kenney	- nay
	Dr. Schachat	- nay
	Dr. Factora	- aye
	Dr. Bechtel	- abstain

The motion to amend did not carry.

Dr. Steinbergh stated that she would like to offer another amendment just to add a requirement for a professional/personal ethics course, without changing the minimum 180-day suspension in the Proposed Order.

Dr. Steinbergh moved to amend the Proposed Order to add a requirement that Dr. Singh complete a course in professional/personal ethics as a condition for reinstatement or restoration. Dr. Schottenstein seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye
	Dr. Steinbergh	- aye
	Mr. Giacalone	- aye
	Dr. Soin	- aye
	Mr. Kenney	- aye
	Dr. Schachat	- aye
	Dr. Factora	- aye
	Dr. Bechtel	- abstain

The motion to amend carried.

Dr. Steinbergh moved to approve and confirm Mr. Decker's Findings of Fact, Conclusions of Law, and Proposed Order, as amended, in the matter of Giridhar Singh, M.D. Dr. Schottenstein seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye
	Dr. Steinbergh	- aye
	Mr. Giacalone	- aye
	Dr. Soin	- aye
	Mr. Kenney	- aye
	Dr. Schachat	- aye
	Dr. Factora	- aye
	Dr. Bechtel	- abstain

The motion to approve carried.

Ohio | State Medical Board of Ohio

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December 9, 2015

Case number: 15-CRF- 124

Giridhar Singh, M.D.
6174 Enke Court
Dublin, OH 43017

Dear Doctor Singh:

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

(1) In the routine course of your practice, you undertook the medical care of Patients 1 and 2, as identified on the attached Patient Key. (The Patient Key is confidential and shall be withheld from public disclosure.) Despite your concurrent physician-patient relationship, in or around 2012 through 2015, you engaged in sexual misconduct with Patients 1 and 2 on multiple occasions.

Your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board," as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-26-02, Ohio Administrative Code. Further, pursuant to Rule 4731-26-03(A), Ohio Administrative Code, a violation of Rule 4731-26-02, Ohio Administrative Code, also violates Section 4731.22(B)(6), Ohio Revised Code, which is "[a] departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established."

Furthermore, for any violations that occurred on or after September 29, 2015, the board may impose a civil penalty in an amount that shall not exceed twenty thousand dollars, pursuant to Section 4731.225, Ohio Revised Code. The civil penalty may be in addition to any other action the board may take under section 4731.22, Ohio Revised Code.

Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must

Mailed 12-10-15

be made in writing and must be received in the offices of the State Medical Board within thirty days of the time of mailing of this notice.

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

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

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

Copies of the applicable sections are enclosed for your information.

Very truly yours,

Kim G. Rothermel MD

Kim G. Rothermel, M.D.
Secretary

KGR/JBR/flb
Enclosures

CERTIFIED MAIL #91 7108 2133 3936 3071 4335
RETURN RECEIPT REQUESTED

cc: Bob Stinson
7440 Rolling Ridge Way
Westerville, OH 43082

CERTIFIED MAIL #91 7108 2133 3936 3071 4328
RETURN RECEIPT REQUESTED

IN THE MATTER OF GIRIDHAR SINGH, M.D.

15-CRF-124

DECEMBER 9, 2015, NOTICE OF OPPORTUNITY FOR HEARING - PATIENT KEY

SEALED TO PROTECT PATIENT CONFIDENTIALITY AND MAINTAINED IN CASE RECORD FILE.