

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

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JOHN D. GHERMAN, M.D.

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**ENTRY OF ORDER**

On April 2, 2024, John D. Gherman, M.D., executed a Surrender of his license to practice medicine and surgery in Ohio with consent to permanent revocation, which document is attached hereto and fully incorporated herein.

Wherefore, upon ratification by the Board of the surrender, it is hereby ORDERED that Certificate No. 35.134629 authorizing John D. Gherman, M.D., to practice medicine and surgery in the State of Ohio be permanently REVOKED.

This Order is hereby entered upon the Journal of the State Medical Board of Ohio for the 10<sup>th</sup> day of April, 2024, and the original thereof shall be kept with said Journal.





Kim G. Rothermel, M.D.  
Secretary

April 10, 2024  
Date

**STATE OF OHIO  
THE STATE MEDICAL BOARD  
PERMANENT SURRENDER OF CERTIFICATE  
TO PRACTICE MEDICINE AND SURGERY**

**Do not sign this Agreement without reading it. An individual who permanently surrenders a certificate issued by the Board is forever thereafter ineligible to hold a certificate to practice or to apply to the Board for reinstatement of the certificate or issuance of any new certificate. You are permitted to be accompanied, represented and advised by an attorney, at your own expense, before deciding to sign this voluntary Agreement.**

I, John D. Gherman, M.D., am aware of my rights to representation by counsel, the right of being formally charged and having a formal adjudicative hearing and do hereby freely execute this document and choose to take the actions described herein. I acknowledge and agree that I am entering into this Agreement of my own free will and volition and have not been coerced to do so, nor am I under duress at the time of executing this Agreement. I further acknowledge that I had an opportunity to ask questions concerning the terms of this Agreement and that all questions asked have been answered in a satisfactory manner. I aver that I fully understand all of the terms and provisions of this voluntary Agreement. I further agree that no representations have been made by the Board, its members, employees, agents, officers and representatives regarding any of the legal ramifications of this Agreement, including but not limited to the effect this Agreement may have on my current or future employment, my specialty board certifications, or any licenses, past, present or future, to practice in other states or jurisdictions.

I, John D. Gherman, M.D., acknowledge that I have not been legally authorized to practice medicine and surgery in Ohio since on or about September 13, 2023, the effective date upon which my certificate to practice was summarily suspended. I, John D. Gherman, M.D., do hereby voluntarily, knowingly, and intelligently surrender my certificate to practice medicine and surgery, License #35.134629, to the State Medical Board of Ohio [Board], thereby relinquishing all rights to practice medicine and surgery in Ohio.

I understand that as a result of the surrender herein I am no longer permitted to practice medicine and surgery in any form or manner in the State of Ohio.

I agree that I shall be ineligible for, and shall not apply for, reinstatement or restoration of a certificate to practice medicine and surgery License #35.134629 or issuance of any other certificate pursuant to the authority of the State Medical Board of Ohio, on or after the date of signing this Permanent Surrender of Certificate to Practice Medicine and Surgery. Any such attempted reapplication shall be considered null and void and shall not be processed by the Board.

I hereby authorize the State Medical Board of Ohio to enter upon its Journal an Order permanently revoking my certificate to practice medicine and surgery, License #35.134629, in conjunction with which I expressly waive the provision of Section 4731.22(B), Ohio Revised Code, requiring that six (6) Board Members vote to revoke said certificate, and further expressly and forever waive all rights as set forth in Chapter 119., Ohio Revised Code, including but not limited to my right to counsel, right to a hearing, right to present evidence, right to cross-examine witnesses, and right to appeal the Order of the Board revoking my certificate to practice medicine and surgery.

Permanent Surrender of Certificate  
John D. Gherman, M.D.  
Page 2 of 2

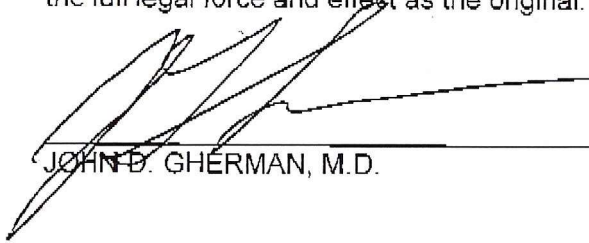
I, John D. Gherman, M.D., hereby release the Board, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

This document shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code. Further, this information may be reported to appropriate organizations, data banks and governmental bodies. I, John D. Gherman, M.D., acknowledge that my social security number will be used if this information is so reported and agree to provide my social security number to the Board for such purposes.

I stipulate and agree that I am taking the action described herein in lieu of formal disciplinary proceedings pursuant to Section 4731.22(B)(15), Ohio Revised Code, "[v]iolation of the conditions of limitation placed by the board upon a license or certificate to practice," related to my failure to comply with the Board's Order issued January 10, 2024.

**EFFECTIVE DATE**


It is expressly understood that this Permanent Surrender of Certificate is subject to ratification by the Board prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below. Further, I specifically acknowledge that the electronic transmission of a scanned or photostatic copy of any executed signature to this Permanent Surrender of Certificate, upon being received by the Board, shall be deemed to have the full legal force and effect as the original.

  
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JOHN D. GHERMAN, M.D.


  
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KIM G. ROTHERMEL, M.D.  
Secretary

4-2-24  
DATE

4-10-24  
DATE

  
\_\_\_\_\_  
HARISH KAKARALA, M.D.  
Supervising Member

4-10-24  
DATE

  
\_\_\_\_\_  
CHERYL D. POKORNY  
Enforcement Attorney

4-3-2024  
DATE



January 10, 2024

John D. Gherman, M.D.  
2585 Sterzik Road  
Petoskey, MI 49770-9203  
j.gherman@sbcglobal.net

RE: Case No. 23-CRF-0186

Dear Dr. Gherman:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Kimberly A. Lee 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 10, 2024, including motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

Any party desiring to appeal this order shall file a notice of appeal with the State Medical Board of Ohio, located at 30 E. Broad St., 3<sup>rd</sup> Floor, Columbus, Ohio 43215, setting forth the order appealed from and stating that the agency's order is not supported by reliable, probative, and substantial evidence and is not in accordance with law. The notice of appeal may, but need not, set forth the specific grounds of the party's appeal beyond the statement that the agency's order is not supported by reliable, probative, and substantial evidence and is not in accordance with law.

The notice of appeal shall also be filed by the appellant with the court of common pleas of Franklin County or the court of common pleas in the county in which the place of business of the licensee is located or the county in which the licensee is a resident. If the party appealing is not a resident of and has no place of business in this state, the party shall appeal to the court of common pleas of Franklin County. In filing a notice of appeal with both the Medical Board and the court, the notice that is filed may be either the original notice or a copy of the original notice.

The party filing the appeal shall comply with all requirements of Ohio Revised Code section 119.12 (R.C. 119.12). The notice of appeal shall be filed within fifteen days after the service of the notice of the Medical Board order as provided in section 119.05 of the Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO

Kim G. Rothermel, M.D.  
Secretary

KGR:jlm  
Enclosures

Sent via email to John D. Gherman, M.D. at j.gherman@sbcglobal.net

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Kimberly A. Lee, Esq., State Medical Board Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on January 10, 2024, including motions approving and confirming the Findings of Fact, Conclusions and Proposed Order of the Hearing Examiner as the Findings and Order of the State Medical Board of Ohio; constitute a true and complete copy of the Findings and Order of the State Medical Board in the John D. Gherman, M.D. Case No. 23-CRF-0186 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.



  
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Kim G. Rothermel, M.D.

January 10, 2024  
\_\_\_\_\_  
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

\*

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CASE NO. 23-CRF-0186

JOHN D. GHERMAN, M.D.

\*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on January 10, 2024.

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

It is hereby ORDERED that:

- A. **SUSPENSION OF LICENSE:** The license of John D. Gherman, M.D., to practice medicine and surgery in the State of Ohio shall be **SUSPENDED** for an indefinite period of time.
  
- B. **INTERIM MONITORING:** During the period that Dr. Gherman's license to practice medicine and surgery in Ohio is suspended, Dr. Gherman shall comply with the following terms, conditions, and limitations:
  - 1. **Monitoring Organization/Monitoring Agreement:** The term "monitoring organization" means the entity that is contracted by the Board for the operation of the confidential monitoring program and that assists the Board with the monitoring of impaired practitioners who are subject to formal disciplinary action. As of the effective date of this Order, the monitoring organization is the Ohio Professionals Health Program. The Board will notify Dr. Gherman within 30 days of any change in the monitoring organization.

Dr. Gherman shall contact the monitoring organization within two days and enter into a monitoring agreement with the monitoring organization within 30 days of the effective date of this Order. The agreement shall include such provisions as are necessary to ensure Dr.

Gherman's full compliance with this Order. Dr. Gherman shall provide the Board with a copy of the monitoring agreement between Dr. Gherman and the monitoring organization with two days of execution.

2. **Obey the Law**: Dr. Gherman 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.
3. **Declarations of Compliance**: Dr. Gherman 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. Dr. Gherman shall provide the declarations to the monitoring organization as directed by the monitoring organization.
4. **Personal Appearances**: Dr. Gherman shall appear for an interview before the Board or its designated representative or the monitoring organization, as requested.
5. **Absences from Ohio**: Dr. Gherman shall obtain permission from the Board for departures or absences from Ohio longer than 30 days. Such periods of absence shall not reduce the suspension/probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the monitoring organization can be assured that probationary monitoring is otherwise being performed. Further, the monitoring organization shall have the discretion to waive part or all of the monitoring terms set forth in this Order for occasional periods of absence of 30 days or less.

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

Further, in the event that Dr. Gherman does not reside or practice in Ohio while subject to the requirements of this Order, the monitoring organization may allow the monitoring of Dr. Gherman to be coordinated with an entity or board from another jurisdiction provided the monitoring organization determines that such coordination ensures substantial compliance with the requirements of this Order.

6. **Psychiatric Assessment/Treatment:** Within 30 days of the effective date of this Order, or as otherwise determined by the Board or the monitoring organization, Dr. Gherman shall submit to an assessment of Dr. Gherman's current psychiatric status. The psychiatrist shall be an evaluator or treatment provider approved under Ohio Administrative Code Rule 4731-16-08. Prior to the initial assessment, Dr. Gherman shall furnish the approved evaluator or treatment provider with copies of the Board's Order, including the Summary of the Evidence, Findings of Fact, and Conclusions of Law, and any other documentation from the hearing record which the Board or the monitoring organization may deem appropriate or helpful to that psychiatrist.

Upon completion of the initial assessment, Dr. Gherman shall cause a written report to be submitted to the monitoring organization from the evaluator or treatment provider. The written report shall include:

- a. A detailed report of the evaluation of Dr. Gherman's current psychiatric status and condition;
- b. A detailed plan of recommended psychiatric treatment, if any, based upon the psychiatrist's informed assessment of Dr. Gherman's current needs;
- c. A statement regarding any recommended limitations upon his practice; and
- d. Any reports upon which the treatment recommendation is based, including reports of physical examination and psychological or other testing.

Should the evaluator or treatment provider recommend psychiatric treatment, and upon approval by the monitoring organization of the treatment plan, Dr. Gherman shall undergo and continue psychiatric treatment at the rate of visits recommended by the monitoring organization, or as otherwise directed by the Board. Dr. Gherman shall comply with his psychiatric treatment plan, including taking medications as prescribed for his psychiatric disorder and submitting to periodic tests of his blood and/or urine. If directed to by the monitoring organization or the treatment provider, Dr. Gherman shall abstain completely from the use of alcohol.



Dr. Gherman shall continue in psychiatric treatment until such time as the monitoring organization determines that no further treatment is necessary. To make this determination, the monitoring organization shall require reports from the treatment provider. The psychiatric reports shall contain information describing Dr. Gherman's current treatment plan and any changes that have been made to the treatment plan since the prior report; his compliance with the treatment plan; his psychiatric status; his progress in treatment; and results of any laboratory or other studies that have been conducted since the prior report. Dr. Gherman shall ensure that the reports are forwarded to the monitoring organization on a quarterly basis and are received no later than the due date for Dr. Gherman's declarations of compliance.

Dr. Gherman shall ensure that his treatment provider immediately notifies the Board and the monitoring organization of Dr. Gherman's failure to comply with his psychiatric treatment plan and/or any determination that Dr. Gherman is unable to practice due to his psychiatric disorder.

7. **Releases:** Dr. Gherman shall provide continuing authorization, through appropriate written consent forms, for disclosure by the evaluator or treatment provider to the Board, the monitoring organization, treating and monitoring physicians, and to others involved in the monitoring process of information necessary for them to fulfill their respective duties and obligations, including, evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Dr. Gherman's impairment and/or related conditions, or for purposes of complying with this Order, whether such treatment or evaluation occurred before or after the effective date of this Order. To the extent permitted by law, the above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43, Ohio Revised Code, and are confidential pursuant to statute. Dr. Gherman shall also provide the Board and the monitoring organization written consent permitting any treatment provider from whom he obtains treatment to notify the Board and the monitoring organization in the event Dr. Gherman fails to agree to or comply with any treatment plan or aftercare treatment plan. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Order.

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

1. **Application for Termination of Suspension:** Dr. Gherman shall submit a written request for termination of the suspension of his license. In the event Dr. Gherman's license expired while his license was suspended, the termination of suspension shall not reinstate the license to active status and Dr. Gherman shall not be authorized to practice. In order to reinstate his license to active status, Dr. Gherman must file a renewal or restoration application. An application for termination of suspension will not be accepted unless either (i) Dr. Gherman's license did not expire either before or during the suspension; or (ii) the application for termination of suspension is accompanied by an application for renewal or restoration and any necessary fees. An application for renewal is required if Dr. Gherman's license has been expired for less than two years, and an application for restoration is required if Dr. Gherman's license has been expired in excess of two years.
  
2. **Demonstration of Ability to Resume Practice:** Dr. Gherman shall demonstrate to the satisfaction of the Board that he can practice in compliance with acceptable and prevailing standards of care under the provisions of his license. Such demonstration shall include but shall not be limited to the following:
  - a. Certification from a treatment provider approved under Ohio Administrative Code Rule 4731-16-08 that Dr. Gherman has successfully completed any required primary treatment.
  
  - b. Evidence of continuing full compliance with this Order.
  
  - c. Two written reports of evaluation by two psychiatrists approved by the monitoring organization pursuant to Ohio Administrative Code Rule 4731-16-08 indicating that Dr. Gherman's ability to practice has been assessed and that he has been found capable of practicing in accordance with acceptable and prevailing standards of care. A physician who is the medical director of a treatment provider approved by the monitoring organization under 4731.251 of the Ohio Revised Code may perform such an assessment without prior Board approval. Such evaluations shall have been performed within 60 days prior to Dr. Gherman's request for termination of suspension. Prior to the assessments, Dr. Gherman shall provide the evaluators with copies of patient records from any evaluation and/or treatment that he has received, and a copy of this Order. The reports of evaluation shall describe with particularity the bases for the

determination that Dr. Gherman has been found capable of practicing according to acceptable and prevailing standards of care and shall include any recommended limitations upon his practice.

3. **Additional Evidence of Fitness To Resume Practice:** In the event that Dr. Gherman 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.
- D. **PROBATION:** Upon reinstatement or restoration, Dr. Gherman's license shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least two years:
1. **Terms, Conditions, and Limitations Continued from Suspension Period:** Dr. Gherman shall continue to be subject to the terms, conditions, and limitations specified in Paragraph B of this Order.
  2. **Modification of Terms; Exception:** Dr. Gherman shall not request modification of the terms, conditions, or limitations of probation for at least one year after imposition of these probationary terms, conditions, and limitations, except that Dr. Gherman may make such request with the mutual approval and joint recommendation of the Secretary and Supervising Member.
  3. **Tolling of Probationary Period While Out of Compliance:** In the event Dr. Gherman is found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Order.
  4. **Required Reporting of Change of Address:** Dr. Gherman shall notify the Board in writing of any change of residence address, principal practice address, and email address within 30 days of the change.
- E. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Gherman's license will be fully restored.

F. **VIOLATION OF THE TERMS OF THIS ORDER:** If Dr. Gherman 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 license.

G. **REQUIRED REPORTING TO THIRD PARTIES; VERIFICATION:**

1. **Required Reporting to Employers and Others:** Within 30 days of the effective date of this Order, Dr. Gherman 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. Gherman shall promptly provide a copy of this Order to all employers or entities with which he seeks to 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. Gherman 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.

Further, within 30 days of the date of each such notification, Dr. Gherman shall provide documentation acceptable to the Secretary and Supervising Member of the Board demonstrating that the required notification has occurred.

This requirement shall continue until Dr. Gherman 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. Gherman shall provide a copy of this Order by certified mail 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. Gherman shall provide a copy of this Order by certified mail 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.

Additionally, within 30 days of the effective date of this Order, Dr. Gherman shall provide a copy of this Order to any specialty or subspecialty board of the American Board of Medical Specialties or the American Osteopathic Association Bureau of Osteopathic Specialists under which he currently holds or has previously held certification.

Further, within 30 days of the date of each such notification, Dr. Gherman shall provide documentation acceptable to the Secretary and Supervising Member of the Board demonstrating that the required notification has occurred.

This requirement shall continue until Dr. Gherman receives from the Board written notification of the successful completion of his probation.

3. **Required Reporting to Treatment Providers/Monitors:** Dr. Gherman shall promptly provide a copy of this Order to all persons and entities that provide him treatment or monitoring for impairment. Further, within 30 days of the date of each such notification, Dr. Gherman shall provide documentation acceptable to the Secretary and Supervising Member of the Board demonstrating that the required notification has occurred. This requirement shall continue until Dr. Gherman receives from the Board written notification of the successful completion of his probation.

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



  
\_\_\_\_\_  
Kim G. Rothermel, M.D.  
Secretary

January 10, 2024

\_\_\_\_\_  
Date



EXCERPT FROM THE DRAFT MINUTES OF JANUARY 10, 2024 IN THE MATTER OF JOHN D. GHERMAN, M.D.

.....  
**REPORTS AND RECOMMENDATIONS**

Dr. Feibel asked the Board to consider the Report and Recommendation appearing on the agenda: John D. Gherman, M.D.; Arkadiusz K. Grochowski, M.D.; Jennifer Marie Lager-Fermon, D.O.; Scott W. Smith, M.D.; Larry J. Chancellor; Eskender Getachew, M.D.; and Daniel Sharfal, L.M.T.

Dr. Feibel asked all Board members the following questions:

- 1.) Has each member of the Board received, read and considered the Hearing Record; the Findings of Fact, Conclusions and Proposed Orders; and any objections filed in each of the Reports and Recommendations?
- 2.) Does each member of the Board understand that the Board's 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 or Permanent Denial?
- 3.) Does each member of the Board understand that in each matter eligible for a fine, the Board's fining guidelines allow for imposition of the range of civil penalties, from no fine to the statutory maximum amount of \$20,000?

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Kakarala	- aye
	Dr. Bechtel	- aye
	Dr. Soin	- aye
	Ms. Brumby	- aye
	Dr. Reddy	- aye
	Mr. Gonidakis	- aye
	Dr. Lewis	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Boyle	- aye
	Dr. Feibel	- aye

In accordance with the provision in Ohio Revised Code 4731.22(F)(2), 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 disciplinary matters before the Board today, Dr. Rothermel served as Secretary and Dr. Kakarala served as Supervising Member. In addition, Dr. Bechtel served as Secretary and/or Supervising Member in the matters of Dr. Grochowski and Dr. Getachew.

During these proceedings, no oral motions may be made by either party.  
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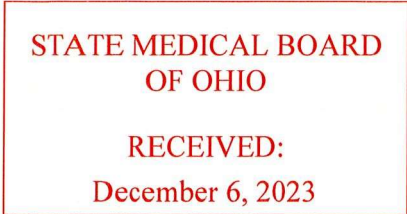
**John D. Gherman, M.D.**  
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**Dr. Johnson moved to approve and confirm the Proposed Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Dr. Gherman. Dr. Boyle seconded the motion.**  
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A vote was taken on Dr. Johnson’s motion to approve and confirm:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Kakarala	- abstain
	Dr. Bechtel	- aye
	Dr. Soin	- aye
	Ms. Brumby	- aye
	Dr. Reddy	- aye
	Mr. Gonidakis	- aye
	Dr. Lewis	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Boyle	- aye
	Dr. Feibel	- aye

The motion to approve carried.



**BEFORE THE STATE MEDICAL BOARD OF OHIO**

<b>In the Matter of</b>	*	
<b>John D. Gherman, M.D.,</b>	*	<b>Case No. 23-CRF-0186</b>
<b>Respondent.</b>	*	<b>Hearing Examiner Lee</b>

**REPORT AND RECOMMENDATION**

Basis for Hearing:

In a Notice of Opportunity for Hearing on Failure to Submit to an Examination and Notice of Summary Suspension Based Upon Presumption of an Admission of Inability to Practice dated September 13, 2023 (“Notice”), the State Medical Board of Ohio (“Board”) notified John D. Gherman, M.D., that, pursuant to Ohio Revised Code Section (“R.C.”) 4731.22(G), the Board had adopted an Entry of Order summarily suspending his license to practice medicine and surgery in Ohio. In addition, the Board proposed to take disciplinary action against his license based on allegations that Dr. Gherman had failed to appear for a Board-ordered examination and had failed to notify the Board that his failure to appear was due to circumstances beyond his control. The Board further stated in the Notice that, as a result of Dr. Gherman’s failures, pursuant to R.C. 4731.22(B)(19), a legal presumption had been established that Dr. Gherman had admitted to the factual and legal allegations as set forth by the Board in its July 12, 2023 letter ordering him to the examination, thus demonstrating an inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills.

The Board further alleged that Dr. Gherman’s acts, conduct, and/or omissions constitute “[i]nability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills,” as that clause is used in R.C. 4731.22(B)(19).

Accordingly, the Board advised Dr. Gherman of his right to request a hearing and received his written request on September 27, 2023. (State’s Exhibit (“St. Ex.”) 1)

Appearances:

Dave Yost, Attorney General of Ohio, and Brandon Puckett, Assistant Attorney General, for the State of Ohio. Dr. Gherman appeared on his own behalf.

Hearing Date: November 9, 2023



### PROCEDURAL MATTER

During the hearing, Dr. Gherman requested to include an additional page to Respondent's Exhibit A. Upon reviewing the page after the hearing, the State had no objection to its inclusion. The hearing examiner labeled and added the page to Respondent's Exhibit A which had been previously admitted to the record.

### SUMMARY OF THE EVIDENCE

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

1. Dr. Gherman is a psychiatrist licensed to practice medicine in Michigan and Pennsylvania and has a pending application for licensure in New York. (Tr. at 15, 25-26) He was licensed to practice medicine and surgery in Ohio in 2018. (Ohio eLicense Center, <<https://elicense.ohio.gov/>>, search terms "John," and "Gherman," accessed December 1, 2023) He was denied a license in Montana. (St. Ex. 3)
2. By letter dated July 12, 2023 ("July 2023 letter"), the Board informed Dr. Gherman it had determined it had reason to believe that he was in violation of R.C. 4731.22(B)(19) and ordered him to appear for an examination before Stephen Noffsinger, M.D., in Cleveland, Ohio, on August 8, 2023. (St. Ex. 2 at 1-4) The July 2023 letter was delivered to Dr. Gherman's address of record on July 15, 2023. (Tr at 35; St. Ex. 2 at 1-5; St. Ex. 5)
3. The July 2023 letter sets out several grounds for the Board's determination. The Board first stated that Dr. Gherman had entered into an interim monitoring contract with the Michigan Health Professionals Recovery Program ("MIHPRP") around July 9, 2019 followed by a three-year monitoring agreement around September 19, 2019. However, MIHPRP found Dr. Gherman to be argumentative and difficult to work with and terminated his contract around October 23, 2019. Nearly a year later, around August 18, 2020, Dr. Gherman again entered into a monitoring agreement with MIHPRP though he remained argumentative and difficult to work with. (St. Ex. 2 at 3)
4. At hearing, Dr. Gherman admitted that he entered into a monitoring agreement with MIHPRP in 2019 and that he was noncompliant. However, he testified he entered into a new agreement in April 2020. (Tr. at 12) He successfully completed his agreement and MIHPRP released him on September 23, 2023. (Respondent's Exhibit ("Resp. Ex.") B)
5. In addition to his issues in Michigan, the July 2023 letter also described an Order Granting Summary Judgment; Denying Motion to Compel as Moot; and Granting Request to Seal ("Montana Order") issued by the Montana Department of Labor and Industry, Office of Administrative Hearings, on March 28, 2022. The Montana Order was based, in part, on Dr.

Gherman's disciplinary history in Michigan related to his substance use and monitoring agreements with MIHPRP. (St. Ex. 3) At hearing, Dr. Gherman disputed that the Montana Order was actually issued in March 2022 and contended it was actually May 2022. He also testified that he was not permitted to participate in a hearing in Montana due to calling in five minutes late. (Tr. at 33)

6. In early 2021, Dr. Gherman applied for licensure in Montana and shortly thereafter applied for a temporary registration which was permitted under emergency order due to the COVID-19 pandemic. The temporary registration was granted immediately and he went to work at the Montana State Hospital. (Tr. at 53; St. Ex. 3 at 6) However, in June 2021, he was asked to resign from the Montana State Hospital. Dr. Gherman testified that his termination was due to his disagreeing with hospital management about the care of patients. (Tr. at 54-55; St. Ex. 3 at 7; Resp. Exs. E, I-N)
7. While practicing in Montana, Dr. Gherman entered into a five-year continuing care agreement with the Montana Professional Assistance Program ("MPAP"). (Tr. at 54; St. ex. 3 at 6-7) In July 2021, MPAP notified the Montana Board of Medical Examiners ("Montana Board") of its concerns regarding Dr. Gherman's fitness to practice as "MPAP had 'observed worrisome symptoms which included poor insight, tangential thinking, emotional dysregulation' and recommend further evaluation, including neurocognitive or neuropsychological testing." (St. Ex. 3 at 7, 12) The Montana Order also found that staff muted Dr. Gherman during a July 2021 Zoom meeting of the Montana Board "due to what they perceived as extremely agitated and argumentative behavior." (St. Ex. 3 at 8) The Montana Board noted that Dr. Gherman's behavior and responses "demonstrated a clear lack of professionalism and adequate level of rehabilitation." (St. Ex. 3 at 12) Dr. Gherman's licensure application was ultimately denied. (Tr. at 32)
8. The Board's July 2023 letter stated that Dr. Gherman was to submit to an examination on August 8, 2023 at 1:00 p.m., with Stephen Noffsinger, M.D., in Cleveland, Ohio. At 1:34 p.m. that day, Dr. Noffsinger sent an email to Cheryl Pokorny, Lead Enforcement Attorney, informing her that Dr. Gherman failed to appear for the examination. (St. Ex. 2 at 1, 6) Ms. Pokorny attested in her affidavits that Dr. Gherman did not contact her prior to the examination to ask that it be rescheduled or to inform her that he was unable to attend. (St. Ex. 2 at 1; St. Ex. 4 at 1)
9. Dr. Gherman did not contact Dr. Noffsinger's office to determine whether the examination could be conducted by teleconference. Further, he did not contact Dr. Noffsinger or the Board to reschedule the examination prior to August 8, 2023. (Tr. at 38) Dr. Gherman acknowledged that he emailed Ms. Pokorny on August 24, 2023 regarding his failure to attend the examination on August 8, 2023 but admitted that he did not ask for it to be rescheduled. (Tr. at 40 St. Ex. 2 at 8) He wrote that he was not able to attend the examination due to his vehicle malfunctioning, the cost to fix the vehicle, the cost of the evaluation, his ill mother living with him, and the fact that he worked full time. Dr. Gherman further wrote, "As such, despite the fact that I should not underestimate the temerity of the board (and if I

may say, extending their avarice asking 2000\$), I couldn't possibly come to Columbus<sup>1</sup> from Petoskey on such short notice." (St. Ex. 2 at 8) In this email, he also wrote that he was evaluated by an independent psychiatrist in Montana, but there is no evidence that evaluation was provided to the Board prior to the hearing. (Tr. at 43-44; St. Ex. 2 at 8)

10. At hearing, Dr. Gherman testified he was unable to attend the examination because his needed to submit a urine test on August 8, 2023 pursuant to his MIHPRP monitoring agreement and that, as he only had one month left in the program, "I cannot miss one test." (Tr. at 11) He was concerned that missing one test would have caused MIHPRP to extend his monitoring agreement. In addition, he testified that he could not leave Michigan without approval from MIHPRP which would have taken two weeks to obtain, and he expressed concerns about traveling 600 miles with his vehicle's drivetrain malfunctioning. (Tr. at 35-36) Dr. Gherman testified his car currently can only drive 3 or 4 miles at a time and no faster than 55 mph. (Tr. at 41) .
11. Dr. Gherman was successfully released from his monitoring agreement with MIHPRP on September 23, 2023. (Resp. Ex. B)

#### **FINDINGS OF FACT**

1. By letter dated July 12, 2023, the Board notified Dr. Gherman of its determination that it had reason to believe that he may be in violation of R.C. 4731.22(B)(19) and ordered Dr. Gherman to undergo an examination. The Board's determination was based upon one or more of the reasons outlined in the July 12, 2023 letter and such reasons form a good faith basis to believe Dr. Gherman may have been in violation of R.C. 471.22(B)(19).
2. The July 12, 2023 letter notified Dr. Gherman that, pursuant to R.C. 4731.22(B)(19), he was ordered to submit to an examination which was scheduled to take place with Stephen Noffsinger, M.D., on August 8, 2023 at 1:00 p.m.

The July 12, 2023 letter further notified Dr. Gherman that failure to submit to an examination as directed would constitute an admission of the allegations against him unless the failure was due to circumstances beyond his control and that a default and final order may be entered without the taking of testimony or presentation of evidence.

3. The July 12, 2023 letter was sent to Dr. Gherman by certified mail and was delivered on July 15, 2023.

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<sup>1</sup> The Board's July 2023 letter ordered Dr. Gherman to appear at Dr. Noffsinger's office in Cleveland, Ohio, for the examination.

4. Dr. Noffsinger notified the Board by email on August 8, 2023 that Dr. Gherman failed to appear for the ordered examination.
5. Dr. Gherman has not demonstrated that his failure to submit to the examination was due to circumstances beyond his control.
6. There is no evidence that Dr. Gherman has submitted to care, counseling, or treatment by physicians approved or designated by the Board and/or that he has been determined to be capable of practicing in accordance with acceptable and prevailing standards of care.

### **CONCLUSIONS OF LAW**

Dr. Gherman's acts, conduct, and/or omissions as stated in Findings of Fact 1 through 6 above, individually and/or collectively, constitute "[i]nability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills," as that clause is used in R.C. 4731.22(B)(19).

While the Board is authorized to impose civil penalties for these violations, it is the Board's policy to not impose a civil penalty when the violation is for impairment.

### **RATIONALE FOR THE PROPOSED ORDER**

Much of the hearing focused on Dr. Gherman's monitoring agreements in other states, but the evidence indicates those agreements dealt with Dr. Gherman's substance abuse issues. While Dr. Gherman should be congratulated for successfully maintaining sobriety and completing his monitoring in Michigan, his substance abuse is not the issue before the Board. Rather, the Board is concerned with his mental health.

It is undisputed that Dr. Gherman did not attend the examination with Dr. Noffsinger and that he did not contact the Board or Dr. Noffsinger to request it be rescheduled. The explanations provided in his August 24, 2023 email and at hearing do not meet the threshold of circumstances beyond his control. While Dr. Gherman was still under a monitoring agreement in Michigan in August 2023, there is no evidence that he contacted the MIHPRP to request permission to travel to Ohio. The explanations regarding his vehicle and the cost of the examination boil down to financial issues which the Board has repeatedly determined do not qualify as a circumstance beyond a licensee's control. As for working a full-time job, the majority of the Board's licensees work. Dr. Gherman is not special in that regard. Finally, there is the matter of caring for his ill mother, but no evidence was presented about who provides her care while Dr. Gherman is working or that he made any attempt to arrange care in order to travel. Dr. Gherman's reasons for failing to attend the

examination could have been resolved by rescheduling the date of the examination - a request that Dr. Gherman failed to make.

Due to his failure to demonstrate that the failure to attend the examination was due to circumstances beyond his control, Dr. Gherman is impaired by operation of law. As such, the proposed order is for Dr. Gherman to obtain an assessment and treatment as directed by the Board's monitoring organization.

### **PROPOSED ORDER**

It is hereby ORDERED that:

- A. **SUSPENSION OF LICENSE:** The license of John D. Gherman, M.D., to practice medicine and surgery in the State of Ohio shall be SUSPENDED for an indefinite period of time.
- B. **INTERIM MONITORING:** During the period that Dr. Gherman's license to practice medicine and surgery in Ohio is suspended, Dr. Gherman shall comply with the following terms, conditions, and limitations:
  1. **Monitoring Organization/Monitoring Agreement:** The term "monitoring organization" means the entity that is contracted by the Board for the operation of the confidential monitoring program and that assists the Board with the monitoring of impaired practitioners who are subject to formal disciplinary action. As of the effective date of this Order, the monitoring organization is the Ohio Professionals Health Program. The Board will notify Dr. Gherman within 30 days of any change in the monitoring organization.

Dr. Gherman shall contact the monitoring organization within two days and enter into a monitoring agreement with the monitoring organization within 30 days of the effective date of this Order. The agreement shall include such provisions as are necessary to ensure Dr. Gherman's full compliance with this Order. Dr. Gherman shall provide the Board with a copy of the monitoring agreement between Dr. Gherman and the monitoring organization with two days of execution.
  2. **Obey the Law:** Dr. Gherman 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.
  3. **Declarations of Compliance:** Dr. Gherman 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. Dr. Gherman shall provide the declarations to the monitoring organization as directed by the monitoring organization.

4. **Personal Appearances:** Dr. Gherman shall appear for an interview before the Board or its designated representative or the monitoring organization, as requested.
5. **Absences from Ohio:** Dr. Gherman shall obtain permission from the Board for departures or absences from Ohio longer than 30 days. Such periods of absence shall not reduce the suspension/probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the monitoring organization can be assured that probationary monitoring is otherwise being performed. Further, the monitoring organization shall have the discretion to waive part or all of the monitoring terms set forth in this Order for occasional periods of absence of 30 days or less.

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

Further, in the event that Dr. Gherman does not reside or practice in Ohio while subject to the requirements of this Order, the monitoring organization may allow the monitoring of Dr. Gherman to be coordinated with an entity or board from another jurisdiction provided the monitoring organization determines that such coordination ensures substantial compliance with the requirements of this Order.

6. **Psychiatric Assessment/Treatment:** Within 30 days of the effective date of this Order, or as otherwise determined by the Board or the monitoring organization, Dr. Gherman shall submit to an assessment of Dr. Gherman's current psychiatric status. The psychiatrist shall be an evaluator or treatment provider approved under Ohio Administrative Code Rule 4731-16-08. Prior to the initial assessment, Dr. Gherman shall furnish the approved evaluator or treatment provider with copies of the Board's Order, including the Summary of the Evidence, Findings of Fact, and Conclusions of Law, and any other documentation from the hearing record which the Board or the monitoring organization may deem appropriate or helpful to that psychiatrist.

Upon completion of the initial assessment, Dr. Gherman shall cause a written report to be submitted to the monitoring organization from the evaluator or treatment provider. The written report shall include:

- a. A detailed report of the evaluation of Dr. Gherman's current psychiatric status and condition;
- b. A detailed plan of recommended psychiatric treatment, if any, based upon the psychiatrist's informed assessment of Dr. Gherman's current needs;

- c. A statement regarding any recommended limitations upon his practice; and
- d. Any reports upon which the treatment recommendation is based, including reports of physical examination and psychological or other testing.

Should the evaluator or treatment provider recommend psychiatric treatment, and upon approval by the monitoring organization of the treatment plan, Dr. Gherman shall undergo and continue psychiatric treatment at the rate of visits recommended by the monitoring organization, or as otherwise directed by the Board. Dr. Gherman shall comply with his psychiatric treatment plan, including taking medications as prescribed for his psychiatric disorder and submitting to periodic tests of his blood and/or urine. If directed to by the monitoring organization or the treatment provider, Dr. Gherman shall abstain completely from the use of alcohol.

Dr. Gherman shall continue in psychiatric treatment until such time as the monitoring organization determines that no further treatment is necessary. To make this determination, the monitoring organization shall require reports from the treatment provider. The psychiatric reports shall contain information describing Dr. Gherman's current treatment plan and any changes that have been made to the treatment plan since the prior report; his compliance with the treatment plan; his psychiatric status; his progress in treatment; and results of any laboratory or other studies that have been conducted since the prior report. Dr. Gherman shall ensure that the reports are forwarded to the monitoring organization on a quarterly basis and are received no later than the due date for Dr. Gherman's declarations of compliance.

Dr. Gherman shall ensure that his treatment provider immediately notifies the Board and the monitoring organization of Dr. Gherman's failure to comply with his psychiatric treatment plan and/or any determination that Dr. Gherman is unable to practice due to his psychiatric disorder.

- 7. **Releases:** Dr. Gherman shall provide continuing authorization, through appropriate written consent forms, for disclosure by the evaluator or treatment provider to the Board, the monitoring organization, treating and monitoring physicians, and to others involved in the monitoring process of information necessary for them to fulfill their respective duties and obligations, including, evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Dr. Gherman's impairment and/or related conditions, or for purposes of complying with this Order, whether such treatment or evaluation occurred before or after the effective date of this Order. To the extent permitted by law, the above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43, Ohio Revised Code, and are confidential pursuant to statute. Dr. Gherman shall also provide the Board and the monitoring organization written consent permitting any treatment provider from whom he obtains treatment to notify the Board

and the monitoring organization in the event Dr. Gherman fails to agree to or comply with any treatment plan or aftercare treatment plan. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Order.

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

1. **Application for Termination of Suspension:** Dr. Gherman shall submit a written request for termination of the suspension of his license. In the event Dr. Gherman's license expired while his license was suspended, the termination of suspension shall not reinstate the license to active status and Dr. Gherman shall not be authorized to practice. In order to reinstate his license to active status, Dr. Gherman must file a renewal or restoration application. An application for termination of suspension will not be accepted unless either (i) Dr. Gherman's license did not expire either before or during the suspension; or (ii) the application for termination of suspension is accompanied by an application for renewal or restoration and any necessary fees. An application for renewal is required if Dr. Gherman's license has been expired for less than two years, and an application for restoration is required if Dr. Gherman's license has been expired in excess of two years.
2. **Demonstration of Ability to Resume Practice:** Dr. Gherman shall demonstrate to the satisfaction of the Board that he can practice in compliance with acceptable and prevailing standards of care under the provisions of his license. Such demonstration shall include but shall not be limited to the following:
  - a. Certification from a treatment provider approved under Ohio Administrative Code Rule 4731-16-08 that Dr. Gherman has successfully completed any required primary treatment.
  - b. Evidence of continuing full compliance with this Order.
  - c. Two written reports of evaluation by two psychiatrists approved by the monitoring organization pursuant to Ohio Administrative Code Rule 4731-16-08 indicating that Dr. Gherman's ability to practice has been assessed and that he has been found capable of practicing in accordance with acceptable and prevailing standards of care. A physician who is the medical director of a treatment provider approved by the monitoring organization under 4731.251 of the Ohio Revised Code may perform such an assessment without prior Board approval. Such evaluations shall have been performed within 60 days prior to Dr. Gherman's request for termination of suspension. Prior to the assessments, Dr. Gherman shall provide the evaluators with copies of patient records from any evaluation and/or treatment that he has received, and a copy of this Order. The reports of evaluation shall describe with particularity the bases for the



determination that Dr. Gherman has been found capable of practicing according to acceptable and prevailing standards of care and shall include any recommended limitations upon his practice.

3. **Additional Evidence of Fitness To Resume Practice:** In the event that Dr. Gherman 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.
- D. **PROBATION:** Upon reinstatement or restoration, Dr. Gherman's license shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least two years:
1. **Terms, Conditions, and Limitations Continued from Suspension Period:** Dr. Gherman shall continue to be subject to the terms, conditions, and limitations specified in Paragraph B of this Order.
  2. **Modification of Terms; Exception:** Dr. Gherman shall not request modification of the terms, conditions, or limitations of probation for at least one year after imposition of these probationary terms, conditions, and limitations, except that Dr. Gherman may make such request with the mutual approval and joint recommendation of the Secretary and Supervising Member.
  3. **Tolling of Probationary Period While Out of Compliance:** In the event Dr. Gherman is found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Order.
  4. **Required Reporting of Change of Address:** Dr. Gherman shall notify the Board in writing of any change of residence address, principal practice address, and email address within 30 days of the change.
- E. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Gherman's license will be fully restored.
- F. **VIOLATION OF THE TERMS OF THIS ORDER:** If Dr. Gherman 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 license.
- G. **REQUIRED REPORTING TO THIRD PARTIES; VERIFICATION:**

1. **Required Reporting to Employers and Others:** Within 30 days of the effective date of this Order, Dr. Gherman 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. Gherman shall promptly provide a copy of this Order to all employers or entities with which he seeks to 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. Gherman 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.

Further, within 30 days of the date of each such notification, Dr. Gherman shall provide documentation acceptable to the Secretary and Supervising Member of the Board demonstrating that the required notification has occurred.

This requirement shall continue until Dr. Gherman 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. Gherman shall provide a copy of this Order by certified mail 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. Gherman shall provide a copy of this Order by certified mail 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.

Additionally, within 30 days of the effective date of this Order, Dr. Gherman shall provide a copy of this Order to any specialty or subspecialty board of the American Board of Medical Specialties or the American Osteopathic Association Bureau of Osteopathic Specialists under which he currently holds or has previously held certification.

Further, within 30 days of the date of each such notification, Dr. Gherman shall provide documentation acceptable to the Secretary and Supervising Member of the Board demonstrating that the required notification has occurred.

This requirement shall continue until Dr. Gherman receives from the Board written notification of the successful completion of his probation.

3. **Required Reporting to Treatment Providers/Monitors:** Dr. Gherman shall promptly provide a copy of this Order to all persons and entities that provide him treatment or monitoring for impairment. Further, within 30 days of the date of each such notification, Dr. Gherman shall provide documentation acceptable to the Secretary and Supervising Member of the Board demonstrating that the required notification has occurred. This requirement shall continue until Dr. Gherman receives from the Board written notification of the successful completion of his probation.

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



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Kimberly A. Lee  
Hearing Examiner



State Medical Board of  
**Ohio**

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

September 13, 2023

Case number: 23-CRF-0186

John D. Gherman, M.D.  
2585 Sterzik Rd.  
Petoskey, MI 49770-9203

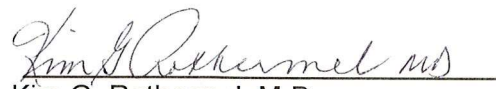
Dear Dr. Gherman:

Enclosed please find certified copies of the Entry of Order, Opportunity for Hearing on Failure to Submit to an Examination and Notice of Summary Suspension Based Upon Presumption of an Admission of Inability to Practice, and an excerpt of the Minutes of the State Medical Board, meeting in regular session on September 13, 2023, including a Motion adopting the Opportunity for Hearing on Failure to Submit to an Examination and Notice of Summary Suspension Based Upon Presumption of an Admission of Inability to Practice.

You are advised that continued practice after receipt of this Order shall be considered practicing without a certificate or license, in violation of Section 4731.41, Ohio Revised Code.

Pursuant to Chapter 119, Ohio Revised Code, you are hereby advised that you are entitled to a hearing concerning whether adequate grounds existed to support a reason to believe that you may have or have had an inability to practice at the time you were ordered to attend the examination and whether your failure to submit to the examination as directed was due to circumstances beyond your control as set forth in the Opportunity for Hearing on Failure to Submit to an Examination and Notice of Summary Suspension Based Upon Presumption of an Admission of Inability to Practice. If you wish to request such hearing, that request must be made in writing and be received in the offices of the State Medical Board within thirty days of the time of mailing of this notice. Further information concerning such hearing is contained within the Opportunity for Hearing on Failure to Submit to an Examination and Notice of Summary Suspension Based Upon Presumption of an Admission of Inability to Practice.

THE STATE MEDICAL BOARD OF OHIO

  
Kim G. Rothermel, M.D.  
Secretary

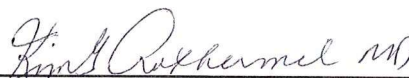
KGR/CDP/lv  
Enclosures

Mailed 9/14/23

**CERTIFICATION**

I hereby certify that the attached copies of the Entry of Order of the State Medical Board of Ohio and the Motion by the State Medical Board, meeting in regular session on September 13, 2023, to Adopt the Opportunity for Hearing on Failure to Submit to an Examination and Notice of Summary Suspension Based Upon Presumption of an Admission of Inability to Practice, constitute true and complete copies of the Motion and Order in the Matter of John D. Gherman, M.D., Case number: 23-CRF- 6186 as they appear in the Journal of the State Medical Board of Ohio.

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

  
\_\_\_\_\_  
Kim G. Rothermel, M.D., Secretary

(SEAL)

September 13, 2023  
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

JOHN D. GHERMAN, M.D.

CASE NUMBER: 23-CRF-0186

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:  
:  
:

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio the 13<sup>th</sup> day of September, 2023.

Pursuant to Section 4731.22(G), Ohio Revised Code, and upon recommendation of Kim Rothermel, M.D., Secretary, and Harish Kakarala, M.D., Supervising Member; and

Pursuant to their determination, based upon their review of the information supporting the allegations as set forth in the Opportunity for Hearing on Failure to Submit to an Examination and Notice of Summary Suspension Based Upon Presumption of an Admission of Inability to Practice, that there is clear and convincing evidence that John D. Gherman, M.D. [Dr. Gherman], has violated Section 4731.22(B)(19), Ohio Revised Code, as alleged in the Opportunity for Hearing on Failure to Submit to an Examination and Notice of Summary Suspension Based Upon Presumption of an Admission of Inability to Practice that is enclosed herewith and fully incorporated herein; and


Pursuant to their further determination, based upon their review of the information supporting the allegations as set forth in the Opportunity for Hearing on Failure to Submit to an Examination and Notice of Summary Suspension Based Upon Presumption of an Admission of Inability to Practice, that Dr. Gherman's continued practice presents a danger of immediate and serious harm to the public;

The following Order is hereby entered on the Journal of the State Medical Board of Ohio for the 13<sup>th</sup> day of September, 2023:

It is hereby ORDERED that the certificate of John D. Gherman, M.D., to practice medicine and surgery in the State of Ohio be summarily suspended.

It is hereby ORDERED that John D. Gherman, M.D., shall immediately cease the practice of medicine and surgery in Ohio and immediately refer all active patients to other appropriate physicians.

This Order shall become effective immediately.

  
\_\_\_\_\_  
Kim G. Rothermel, M.D.  
Secretary

(SEAL)

September 13, 2023  
\_\_\_\_\_  
Date



EXCERPT FROM THE DRAFT MINUTES OF SEPTEMBER 13, 2023

NOTICES OF OPPORTUNITY FOR HEARING, ORDERS OF SUMMARY SUSPENSION,  
ORDERS OF IMMEDIATE SUSPENSION, AND ORDERS OF AUTOMATIC  
SUSPENSION

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JOHN D. GHERMAN, M.D. – OPPORTUNITY FOR HEARING ON FAILURE TO SUBMIT  
TO AN EXAMINATION AND NOTICE OF SUMMARY SUSPENSION BASED UPON  
PRESUMPTION OF AN ADMISSION OF INABILITY TO PRACTICE

-----  
Dr. Feibel moved to approve and issue proposed Citation #14, an Opportunity for Hearing on Failure to Submit to an Examination and Notice of Summary Suspension Based upon Presumption of an Admission of Inability to Practice. Dr. Reddy seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Kakarala	- abstain
	Dr. Reddy	- aye
	Dr. Boyle	- aye
	Dr. Soin	- aye
	Dr. Feibel	- aye
	Mr. Gonidakis	- aye
	Dr. Lewis	- aye
	Ms. Montgomery	- aye
	Ms. Brumby	- aye
	Dr. Bechtel	- aye
	Dr. Johnson	- aye

The motion carried.

**OPPORTUNITY FOR HEARING ON FAILURE TO SUBMIT TO AN EXAMINATION  
AND  
NOTICE OF SUMMARY SUSPENSION  
BASED UPON PRESUMPTION OF AN ADMISSION OF INABILITY TO PRACTICE**

September 13, 2023

Case number: 23-CRF- 0186

John D. Gherman, M.D.  
2585 Sterzik Rd.  
Petoskey, MI 49770-9203

Dear Doctor Gherman:

On or about July 12, 2023, the Secretary of the State Medical Board of Ohio [Board] notified you of the reasons supporting a belief that you may have or have had an inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, and ordered you to submit to an examination on August 8, 2023. Due to your failure to submit to the examination as ordered and your failure to notify the Board of any circumstances beyond your control preventing you from submitting to said examination, pursuant to Section 4731.22(B)(19), Ohio Revised Code, a legal presumption has been established that you have admitted the factual and legal allegations demonstrating an inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills, as alleged against you in the Board's letter dated July 12, 2023, and sent to you by certified mail on July 12, 2023 [July 12, 2023 certified letter], so ordering you to submit to such examination. Accordingly, the Secretary and the Supervising Member of the Board have determined that there is clear and convincing evidence that you have violated Section 4731.22(B)(19), Ohio Revised Code, and have further determined that your continued practice presents a danger of immediate and serious harm to the public, as set forth in paragraphs (1) through (5), below.

Therefore, pursuant to Section 4731.22(G), Ohio Revised Code, and upon recommendation of Kim Rothermel, M.D., Secretary, and Harish Kakarala, M.D., Supervising Member, you are hereby notified that, as set forth in the attached Entry of Order, your certificate or license to practice medicine and surgery in the State of Ohio is summarily suspended. Accordingly, at this time, you are no longer authorized to practice medicine and surgery in Ohio.

Furthermore, in accordance with Chapter 119., Ohio Revised Code, and Chapter 4731., Ohio Revised Code, you are hereby notified that the Board intends, for one or more of the following reasons, to determine whether adequate grounds existed to support a reason to believe that you may have had an inability to practice at the time you were ordered to attend the examination and whether your failure to submit to the aforementioned examination was due to circumstances beyond your control, which would rebut the legal presumption of an inability to practice and merit termination of the instant summary suspension of your certificate or license in conjunction with rescheduling the examination as directed by the Board, or conversely, whether your failure to submit to the aforementioned examination was due to circumstances within your control, which would render the legal presumption of an inability to practice



conclusive and result in the Board further determining whether or not to limit, revoke, permanently revoke or suspend your license or certificate, or refuse to grant or register or issue the license or certificate for which you have a pending application in accordance with Section 9.79 of the Ohio Revised Code, or refuse to renew or reinstate your license or certificate to practice medicine and surgery, or to reprimand you or place you on probation based upon your legally admitted inability to practice. Further, the Board will determine whether adequate grounds existed to support a reason to believe that you may have or have had an inability to practice at the time you were ordered to attend the examination:

- (1) By letter dated July 12, 2023, the Board notified you of its determination that it had reason to believe that you may be in violation of Section 4731.22(B)(19), Ohio Revised Code, and ordered you to undergo an examination to determine if you are in violation of Section 4731.22(B)(19), Ohio Revised Code. The Board's determination was based upon one or more of the reasons outlined in such letter, which included allegations summarized as follows:
  - (a) In or around 2019, you entered into monitoring agreements with the Michigan Health Professionals Recovery Program (MI HPRP). According to the records of the MI HPRP, while being monitored, you frequently were argumentative and difficult to work with, which became one of the reasons for terminating the monitoring contract. You entered into a subsequent monitoring contract with the MI HPRP, and you remain subject to that contract until on or about December 23, 2023. The records of the MI HPRP show that you continued to be argumentative and difficult to work with.
  - (b) On or about February 6, 2021, you applied for a medical license in Montana. On or about March 28, 2022, the state of Montana issued an Order [Montana Order], in which it recommended denying your application for a Montana medical license. Included among the reasons were the following:
    - (i) You had disclosed to the Montana Board of Medical Examiners [Montana Board] that you were requested to resign from your position as a staff psychiatrist at the Montana State Hospital, where you were practicing under a temporary license.
    - (ii) You had entered into an agreement to be monitored by the Montana Professional Assistance Program [MPAP], which subsequently submitted concerns to the Montana Board regarding your fitness to practice, stating that MPAP had "observed worrisome symptoms which included poor insight, tangential thinking, emotional dysregulation" and was recommending further evaluation of you, including neurocognitive or neuropsychological testing.
    - (iii) While attending a Zoom meeting with the Montana Board, during a discussion of your license application, you were muted for a period of time to allow the Board's discussion of your application to continue, due to what was perceived as extremely agitated and argumentative behavior on your part. The Board determined that your behavior and responses were inappropriate and demonstrated a clear lack of professionalism and adequate level of rehabilitation.
- (2) The July 12, 2023 certified letter from the Board further notified you that, pursuant to Section 4731.22(B)(19), Ohio Revised Code, you were ordered to submit to an examination. The examination was scheduled to take place with Stephen G. Noffsinger, M.D., on August 8, 2023, at 1:00 p.m.

The July 12, 2023 certified letter from the Board further notified you that failure of an individual to submit to an examination as directed constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control. Finally, the letter notified you that if you failed to submit to the examination, and such failure was not due to circumstances beyond your control, the Board would be authorized to enter a default and final order without the taking of testimony or presentation of evidence.

- (3) You were duly notified of the examination order and its scheduled date. According to the USPS tracking, the July 12, 2023 certified letter was delivered on July 15, 2023.
- (4) In an email dated August 8, 2023, the Board was notified that you failed to appear for the examination that the Board scheduled for you. At no time did you inform the Board that your failure to appear was due to circumstances beyond your control. Accordingly, pursuant to Section 4731.22(B)(19), Ohio Revised Code, and in consideration of the affidavits of Cheryl D. Pokorny, Enforcement Attorney, and Joseph Turek, Deputy Director of Licensure, copies of which are attached hereto and fully incorporated herein, the Board hereby FINDS that you have admitted the truth of the allegations demonstrating an inability to practice as set forth in the July 12, 2023 certified letter from the Board. The Board FINDS that, pursuant to Section 4731.22(B)(19), Ohio Revised Code, your failure to appear for the examination ordered by the Board as directed constitutes an "[i]nability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills," as that clause is used in Section 4731.22(B)(19), Ohio Revised Code.
- (5) Further, the Board has not received information indicating that you have submitted to care, counseling or treatment by physicians approved or designated by the Board and/or that you have been determined to be capable of practicing in accordance with acceptable and prevailing standards of care.

Section 4731.22(B)(19), Ohio Revised Code, provides that any individual who applies for or receives a certificate to practice accepts the privilege of practicing in this state, and by doing so, an individual shall be deemed to have given consent to submit to a mental or physical examination when ordered to do so by the Board in writing; and that the expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination ordered by the Board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence.

Section 4731.22(B)(19), Ohio Revised Code, also provides that, if the Board finds an individual unable to practice because of the reasons set forth in this division, the Board shall require the individual to submit to care, counseling, or treatment by physicians approved or designated by the Board, as a condition for initial, continued, reinstated, or renewed authority to practice. An individual affected under this division shall be afforded an opportunity to demonstrate to the Board the ability to resume practice in compliance with acceptable and prevailing standards under the provisions of the individual's license or certificate. For the purposes of this division, any individual who applies for or receives a license or certificate to practice under this chapter accepts the privilege of practicing in this state and, by so doing, shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the Board, and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

Your acts, conduct, and/or omissions as alleged in paragraphs (1) through (5) above, individually and/or collectively, constitute "[i]nability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration

AFFIDAVIT


The State of Ohio  
Franklin County, SS

I, Joseph Turek, being duly cautioned and sworn, do hereby depose and state that the following is true based upon my first-hand knowledge:

- 1) I am employed by the State Medical Board of Ohio [Board].
- 2) I serve the Board in the position of Deputy Director of Licensure.
- 3) In such position, I am the responsible custodian of all public licensee records maintained by the Board pertaining to individuals who have received or applied for certificates issued pursuant to the authority of the Board.
- 4) I have this day carefully examined the records of the Board pertaining to John D. Gherman, M.D.
- 5) Based on such examination, I have found the last known address of record of John D. Gherman, M.D. to be:

2585 Sterzik Road  
Petoskey, MI 49770-9203

- 6) Further, Affiant Sayeth Naught.

  
\_\_\_\_\_  
Joseph Turek, Deputy Director of Licensure

Sworn to and signed before me, CHERYL D. POKORNY, Notary Public/Attorney at law, this 22 day of AUGUST, 2023

  
\_\_\_\_\_  
Notary Public/Attorney at law

Cheryl D. Pokorny  
State of Ohio  
Attorney At Law  
Lifetime Commission



July 12, 2023

**Personal and Confidential**

John D. Gherman, M.D.  
2585 Sterzik Road  
Petoskey, MI 49770-9203

Dear Doctor Gherman:

The State Medical Board of Ohio [Board] has determined that it has reason to believe that you are in violation of Section 4731.22(B)(19), Ohio Revised Code, to wit: “[i]nability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills.”

This determination is based upon one or more of the following reasons:

- (1) On or about July 9, 2019, you entered into an interim monitoring contract with the Michigan Health Professionals Recovery Program (MI HPRP). On or about September 19, 2019, you entered into a three-year monitoring agreement with the MI HPRP. According to the records of the MI HPRP, while being monitored, you frequently were argumentative and difficult to work with, which became one of the reasons for terminating the monitoring contract on or about October 23, 2019. Subsequently, on or about August 18, 2020, you again entered into a monitoring contract with the MI HPRP, and you remain subject to that contract until on or about December 23, 2023. The records of the MI HPRP show that you continued to be argumentative and difficult to work with.
- (2) On or about February 6, 2021, you applied for a medical license in Montana. On or about March 28, 2022, the Montana Department of Labor and Industry, Office of Administrative Hearings issued an Order Granting Summary Judgment; Denying Motion to Compel as Moot; and Granting Request to Seal [Montana Order], in which it recommended denying your application for a Montana medical license. The Montana Order set forth the following:
  - (a) You had disclosed to the Montana Board of Medical Examiners [Montana Board] that you were requested to resign from your position as a staff psychiatrist at the Montana State Hospital, where you were practicing under a temporary license.
  - (b) After relocating to Montana, you entered into an agreement to be monitored by the Montana Professional Assistance Program [MPAP]. Subsequently, MPAP submitted concerns to the Montana Board regarding your fitness to practice in which it was stated that MPAP had “observed worrisome symptoms which

that adversely affects cognitive, motor, or perceptive skills," as that clause is used in Section 4731.22(B)(19), Ohio Revised Code.

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, and Chapter 4731., Ohio Revised Code, you are hereby advised that you are entitled to a hearing concerning whether adequate grounds existed to support a reason to believe that you may have been unable to practice at the time you were ordered to attend the examination and whether your failure to submit to the examination as directed was due to circumstances beyond your control. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty days of the time of mailing of this notice.

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

In the event that there is no request for such hearing received within thirty days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, permanently revoke or suspend your license or certificate, or refuse to grant or register or issue the license or certificate for which you have a pending application in accordance with Section 9.79 of the Ohio Revised Code, or refuse to renew or reinstate your license or 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 or issue a license or certificate to practice to an applicant, revokes an individual's license or certificate to practice, refuses to renew an individual's license or certificate to practice, or refuses to reinstate an individual's license or 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 license or certificate to practice and the board shall not accept an application for reinstatement of the license or certificate or for issuance of a new license or certificate."

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Kim G. Rothermel, M.D.  
Secretary

KGR/CDP/lv  
Enclosures

CERTIFIED MAIL # 9414814903152968030186  
RETURN RECEIPT REQUESTED

included poor insight, tangential thinking, emotional dysregulation." Based on observations of its Medical Director and Clinical Director, MPAP was recommending further evaluation of you, including neurocognitive or neuropsychological testing.

- (c) On or about July 16, 2021, you attended a meeting with the Montana Board via Zoom. During a discussion of your license application, to allow the Board's discussion of your application to continue, you were muted for a period of time, due to what was perceived as extremely agitated and argumentative behavior on your part. The Board determined that your behavior and responses were inappropriate and demonstrated a clear lack of professionalism and adequate level of rehabilitation. Your behavior and responses were a factor in the Montana Board's decision to deny your license application.

By the authority vested in the State Medical Board of Ohio by Section 4731.22(B)(19), Ohio Revised Code, you are ordered to submit to an examination. This examination will take place at University Hospital, Department of Psychiatry, Room 7135A, Walker Building, 7<sup>th</sup> Floor, 10524 Euclid Avenue, Cleveland, Ohio 44106, 216-286-6669. You are to report to Stephen G. Noffsinger, M.D., on August 8, 2023, at 1:00 p.m. for a psychiatric evaluation.

Pursuant to Section 4731.22(B)(19), Ohio Revised Code, you are responsible for the expense of this evaluation. The total estimated cost of this evaluation is \$2,000.00. You must present a certified check or money order in this amount made payable to Stephen G. Noffsinger, M.D. to the examiner prior to the beginning of the examination. Failure to present a certified check or money order in the amount specified to the examiner will result in the examination being canceled and will be deemed by the Board to be a failure to submit to the examination as directed due to circumstances within your control.

Please be advised that failure to submit to this examination as directed constitutes an admission of the allegations against you unless the failure is due to circumstances beyond your control, and that a default and final order may thereupon be entered without the taking of testimony or presentation of evidence.

Copies of the applicable statute sections are enclosed for your information.

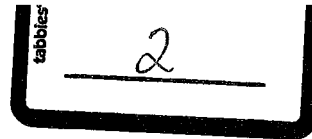
Very truly yours,



Kim G. Rothermel, M.D.  
Secretary

KGR/CDP/lv  
Enclosures

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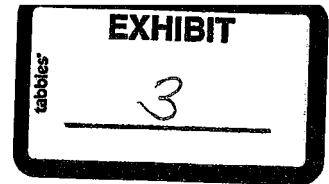


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**From:** [Noffsinger, Stephen](#)  
**To:** [Pokorny, Cheryl](#)  
**Subject:** Re: John Gherman exam - 8/8  
**Date:** Tuesday, August 8, 2023 1:34:58 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)

Dr. Gherman failed to appear for his IME.

Stephen Noffsinger, M.D.  
 Professor of Psychiatry  
 Director, Forensic Psychiatry Fellowship  
 Medical Director, Emergency Psychiatry Services  
 UH Cleveland Medical Center  
 Mailstop WLK 5080  
 W.O. Walker Center - Suite 7135A - 7th Floor  
 10524 Euclid Avenue  
 Cleveland, OH 44106  
 216-286-6669  
 216-844-1703 (fax)

**From:** Cheryl.Pokorny@med.ohio.gov <Cheryl.Pokorny@med.ohio.gov>  
**Sent:** Thursday, August 3, 2023 8:31:22 AM  
**To:** Noffsinger, Stephen  
**Subject:** John Gherman exam - 8/8

Good morning, Dr. Noffsinger. Time kind of got away from me and I'm a little slow sending you the materials on this matter. We are working on this now and plan to have them out to you today via overnight mail, so you should receive them tomorrow. My apologies for the delay. Thank you for your patience.

Cheryl D. Pokorny  
 Lead Enforcement Attorney  
 State Medical Board of Ohio  
 30 East Broad Street, 3rd Floor  
 Columbus, Ohio 43215  
 O:614-466-9251  
[cheryl.pokorny@med.ohio.gov](mailto:cheryl.pokorny@med.ohio.gov)  
[med.ohio.gov](http://med.ohio.gov)



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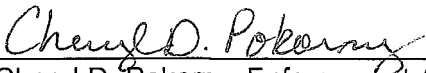
## AFFIDAVIT

The State of Ohio  
Franklin County, SS

I, Cheryl D. Pokorny, being duly cautioned and sworn, do hereby depose and state that the following is true based upon my first-hand knowledge:

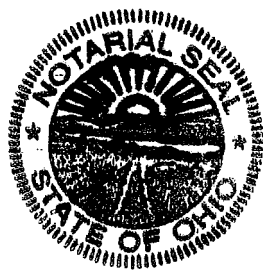
- 1) I am employed by the State Medical Board of Ohio [Board].
- 2) I serve the Board in the position of Enforcement Attorney.
- 3) In the course of my regular duties, I am responsible for coordinating the investigation of complaints against applicants and licensees under the jurisdiction of the Board and assembling the evidence necessary to prove potential violations of the Medical Practices Act of Ohio, Chapters 4730., 4731., 4759., 4760., 4761., 4762., 4774., and 4778., Ohio Revised Code.
- 4) I coordinated the investigation of the complaints filed against John D. Gherman, M.D. [Dr. Gherman], which resulted in the Secretary and Supervising Member of the Board directing the issuance of a letter ordering Dr. Gherman to submit to an examination.
- 5) In a letter dated July 12, 2023, and sent by certified mail [July 12, 2023 certified letter] to Dr. Gherman's credentials mailing address, the Board ordered Dr. Gherman to appear for an examination with Stephen G. Noffsinger, M.D. on August 8, 2023, at 1:00 p.m. The July 12, 2023 certified letter set forth the Board's reasons for requiring Dr. Gherman to appear for the examination. A true and accurate copy of the July 12, 2023 certified letter is attached hereto as Exhibit 1.
- 6) After sending the July 12, 2023 certified letter and before the August 8, 2023, examination date, I checked the US Postal Service website and saw that the July 12, 2023 certified letter had been delivered to Dr. Gherman's credentials mailing address on July 15, 2023. I printed the notice from the US Postal Service website. A true and accurate copy of the notice on the US Postal Service website is attached hereto as Exhibit 2.
- 7) On August 8, 2023, I received an email from Stephen G. Noffsinger, M.D., notifying me that Dr. Gherman failed to appear for the examination scheduled for August 8, 2023, at 1:00 p.m. A true and accurate copy of the email from Dr. Noffsinger is attached hereto as Exhibit 3.
- 8) At no time prior to the examination or thereafter did Dr. Gherman contact me to request that the examination be rescheduled or that he was unable to attend the examination scheduled for August 8, 2023, at 1:00 p.m.

Further, Affiant Sayeth Naught.

  
Cheryl D. Pokorny, Enforcement Attorney

Sworn to and signed before me, Marcie Pastrick, Notary Public/Attorney at law, this 22<sup>nd</sup> day of August, 2023

Marcie Pastrick  
Notary Public/Attorney at law



Marcie Pastrick  
Attorney at Law  
Notary Public, State of Ohio  
My Commission Has No Expiration  
Section 147.03 R.C.