

SB 279 Testimony

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Senators, I've come to express serious concerns regarding SB 279 and the Oregon Medical Board (OMB). There's no "emergency" for OMB removal from the legislative budget process, but there's urgent concerns regarding the OMB that demand immediate attention.

First, SB 279. Under **SUBMISSION OF BUDGET, SECTION 3.**

Subsection 1(a) states, "... [the OMB's] budget is not subject to review and approval by the Legislative Assembly or to future modification by the Emergency Board or the Legislative Assembly". **This implies complete loss of control over the OMB by government and the public.** There's already no oversight regarding their function.

Subsection 1(b) states, "However, a board [the OMB] shall adopt or modify a budget only after a public hearing is held on the budget. ... [they] must give notice of the hearing to all holders of licenses issued by the board." **How much notice will be given, by what method and why just to licensees of the board? Where will the meeting be held? If the "public" disagrees how's this resolved? What protections will be in place to prevent OMB retaliation against physicians in opposition?**

Subsection 1(c) states, "A board [the OMB] shall follow generally accepted accounting principles and keep financial and statistical information as necessary to completely and accurately disclose the financial condition and [financial] operations of the board [the OMB] as [may be] required by the Secretary of State. **The public is entitled to a visual "accounting" of the OMB's future budget. I don't believe they can operate autonomously financially without State and Federal funding as they presently receive or without markedly raising physician**

licensing fees and fines. How many physicians have active licenses in Oregon? What are the OMB's expected collections and expenditures? They have decades of operation as an informational resource.

Subsection 1(e) states, "A board may...elect to donate all or part of the revenue derived by the board from civil penalties to the General Fund of the State Treasury." What's the dollar amount of physician civil penalties over the past 20 years? What percentage was donated?

Subsection 2(a) states, "... present the budget adopted by the board [OMB]...to the Governor, the President of the Senate, the Speaker of the House of Representatives and the Legislative Fiscal Officer." Do these individuals have any control over the OMB budget?

Subsection 2(b) states, "The Legislative Fiscal Officer shall submit the budget adopted by the Oregon Medical Board to the Joint Committee on Ways and Means. [They] may require the OMB to appear before the committee...for the purpose of requesting amendments to the budget...fee increase[s] or... charge increase[s] that exceeds the cost of administering the service for which the charge is made. Does this Committee have oversight of the OMB budget?

It's unclear what oversight, if any, exists with passage of SB279.

I need clarification on additional concerns. First, why are OMB physician members only provided by the Oregon Medical Association (OMA)? They should not be the sole source of candidates. The hierarchy of the OMA and OMB grooms and selects physicians with a particular psychological mind set and a rigid, analogous belief of how medicine is practiced. Physicians who aren't members, for whatever reason, are restricted from OMB participation.

Second, please clarify the process to choose public candidates for the OMB.

Third, what's it mean that the OMB may "... acquire, hold, own, encumber, issue, replace, deal in and with and dispose of real and personal property."?

Fourth, how does the OMB set fee amounts?

Senators Steiner-Hayward and Bates addressed the OMB in October 2012. **Both expressed extreme concerns regarding OMB dysfunction and physician mistreatment.** It took 15 months to obtain this audio to which links are provided on the last page. The OMB obviously desired to keep it hidden. The OMB was extremely defensive. It was agreed the Senators would discuss some concerning cases with the OMB; they would attend an Investigative Committee Meeting; and they would be involved, along with the OMA and OMB, in the resurrection of the OMA PEER (Physician Education and Evaluation Remediation) program. Ms. Gwen Dayton, OMA legal counsel, stated the PEER program was dismantled because the OMB ceased referring physicians. By resurrecting the program physicians could stay in State for “remediation”.

I spoke with Ms. Dayton a year later. She stated the program would be operating by Fall 2014. I mailed Senator Bates and Steiner-Hayward, and emailed every State Senator, a letter requesting follow up on their “promises” of October 2012. To date, I’ve received no response from either Senator (see **Enclosure A**). They also haven’t responded to other physicians and patients that have contacted them. **What’s worrisome is it may be linked to a fear of retaliation by Ms. Haley, Mr. Foote and others.** This fear is justified. The PEER program was not reestablished, but the OMA has a physician “proctoring” program. To what extent it’s utilized I don’t know. Therefore, Oregon physicians go to programs out of state.

Senator Bates spoke to the OMA a couple of years back and stated, “The OMB is out of control”. That’s one hell of a statement. Senators, if you desire to educate yourselves about this “out of control” Board, visit my website drdooversomb.weebly.com. It details my experiences with the OMB and you’ll be shocked. Speak with other physicians about the abuses they’ve suffered. The OMB and Warren Foote utilize perjury, bullying, obstruction of Discovery, incompetent physicians as “experts”, withholding information, lying, criminal and ignorant ex cops as investigators and security who are violent (see **Enclosure B**), private meetings with ALJ’s, etc, etc.. They’re the only medical board to allow hearsay in “hearings”. **These “hearings” are license revocation trials** accomplished in secret. This is a small sampling of their atrocities and abuses.

Fearful physician legal counsel have no desire or ability to rectify the problem which occurs in the frightening context of license revocation, suspension or restriction. Therefore, most physicians acquiesce to the OMB and sign a **“forced confession”** not understanding they’ll still be reported to the National Practitioner Data Bank (NPDB) and will **forever have a black stain that can never be expunged and prevents them from practicing forever.**

My experience is not isolated. Numerous physicians will verify this. **The OMB does not deserve “more autonomy”, but should be investigated, dissolved and then reassembled with honorable, moral individuals who take their work seriously knowing the dire consequences of their decisions. Ex cops should not be investigating complaints to the OMB. Significant oversight, with a functional complaint system and ombudsman, are needed.** No governmental agency or individual should be allowed a defense of “absolute immunity”. No private citizen is. In 2012, the State Auditor recommended an independent process to make complaints against the OMB. I’m not aware of one, but if there is I’d like it explained.

Sean Kolmer, Governor Kitzhaber’s healthcare advisor, spoke with Oregon physicians 18 months ago with two questions. **His first was if the OMB affected the retention of Oregon physicians. His second was if the OMB had a negative impact on physician recruitment.** These conversations may have changed nothing, but that’s not what’s relevant. What’s relevant is that these concerns exist.

I have, and will continue, physician education regarding the “frightening climate” the OMB’s created. Some say I’m vindictive, angry, and they’re correct to a point, but how could you not be when your profession, livelihood, and finances are stripped from you and your family in a vicious, deceitful and unconstitutional fashion. Your family’s destroyed. **It’s rape.** I’m **protecting physicians and families from the OMB and the horrors Oregon physicians suffer,** to protect their “peace, health and safety”. My goal’s to keep physicians out of Oregon until there’s a complete overhaul of the OMB - personnel and operations; there’s a functional complaint system; an ombudsman is available; my license is

reinstated; my good name's removed from the Data Bank and I'm reimbursed for financial losses by those responsible.

I've emailed you links to the October 2012 tapes, my website and a series of articles written by Oklahoma news website **Red Dirt News (reddirtreport.com)** exposing the Oklahoma Medical Board's criminal behaviors. **It's imperative you read these articles.** These articles resulted in a Senate bill to dissolve the Board. Oklahoma State Representative Morrissette has asked the Governor for the resignation of the Board's Executive Director. An excellent neurosurgeon has been attacked for years by competitors via the Oklahoma Medical Board and they've destroyed him. The Oklahoma DOJ, who was involved, turned a blind eye.

Oregon has the same ominous problems. Each physician's story is different, but the unconstitutional, illegal tactics used against them are the same. I'm looking for someone among you with moral character and strength, and who genuinely represents Oregonians, to kill SB279 and initiate an investigation of the OMB. Kathleen Haley deserves investigation. I've grave concerns regarding her character, leadership and that events in her life have prejudiced her ability to be impartial. Warren Foote deserves investigation. He acts unconstitutionally and amorally. The Board and staff, past and present, have been negligent in their duties and contributed to OMB dysfunction. They've taken an oath to the Constitution and broken it. They abuse their excessive powers without concern for physicians, dependents or patients, relying on no oversight and immunity to protect them. **This is totalitarian.** (see EXHIBIT C)

Audio links to October 2012 OMB Meeting with Oregon Senators

https://www.youtube.com/watch?v=N5p-YVF_WKw for Part 1

https://www.youtube.com/watch?v=4l_oUwSfnek for Part 2.

Eric Dover, M.D. Website

drdovertvsomb.weebly.com

Red Dirt News Website and Links

<http://www.reddirtreport.com/red-dirt-news/unholy-trinity-conspires-damage-tulsa-spine-surgeon-lawsuit-alleges>

<http://www.reddirtreport.com/red-dirt-news/state-medical-board-spent-more-700000-investigate-spine-surgeon>

<http://www.reddirtreport.com/red-dirt-news/morrisette-responds-medical-board-emails>

<http://www.reddirtreport.com/red-dirt-news/supreme-court-justices-admonish-state-medical-board-due-process-concerns>

<http://www.reddirtreport.com/red-dirt-news/patients-fared-better-anagnost-his-surgical-peers-independent-report-shows>

<http://www.reddirtreport.com/red-dirt-news/release-private-medical-records-creates-controversy-sparks-hipaa-concerns>

<http://www.reddirtreport.com/red-dirt-news/lawmaker-demands-resignation-medical-board-executive>

<http://www.reddirtreport.com/red-dirt-news/tulsa-attorney-believes-ok-medical-board-could-learn-thing-or-two-kentucky>

<http://www.reddirtreport.com/red-dirt-politics/lawmaker-proposes-dissolve-medical-boards-combine-agencies>

EX A

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Dear Senator Elizabeth Steiner-Hayward,

You and Senator Bates spoke to the Oregon Medical Board (OMB) in October 2012. It took me 15 months to acquire a copy of the tape from that day so I could listen to your concerns and comments. Unfortunately, the OMB minutes from this **public** meeting, which should have detailed your conversations, were ridiculously absent of any information regarding what transpired. In fact, they relay no information as to why you and Senator Bates were there or what you discussed. What is included in the minutes of the October 2012 **public** meeting are defensive statements, without context, made by ignorant, uninformed, compartmentalized Board members who were put in place, and are fed just the "needed information", to rubberstamp Ms. Kathleen Haley's agenda. I have listened to, transcribed, and posted on YouTube (**search OMB October 2012**), the recording I have. I emailed you the transcription of this tape about 3 months ago. I am happy to resend it immediately upon your request.

I have several follow up questions for both you and Senator Bates. It was discussed at the October 2012 meeting that both of you could come and discuss with the OMB any physician case you felt merited concern. **Have either of you presented a physician case to the OMB since that meeting? Have either of you attended an OMB Investigative Committee meeting as the OMB has invited you to do?**

If you're truly interested in how the OMB "functions", you should attend a **physician "hearing"** and follow it through to its end result which is always license revocation. This is the administrative venue where the physician is stripped of any constitutional rights. This is where perjury, hearsay and fictional OMB

“experts” are allowed by the Administrative Law Judge (ALJ), but are never documented in their reports. This is the venue where Due Process, Discovery, right to a jury, Equal Protection of the Law, etc. **do not exist**. Here your lawyer is of no help because they fear being targeted by the State Bar just because they had the audacity to stand up to the State and represent their client to the fullest extent. Be aware, the ALJ comes from a pool and they are not chosen randomly or in rotation. They are chosen by how well they “work” with the OMB. Also, be aware that it matters not one iota what the ALJ’s conclusion of the “hearing” is, because ultimately it is a core group within the OMB that makes the final decision. This core group then “spoon feeds” the majority of the physician and public members on the OMB the information they want them to have so that they may “rubber stamp” their final decision. This core group is presently made up of Executive Director Kathleen Haley, Medical Director Joseph Thaler, Assistant Attorney General Warren Foote and a few of the physician board members.

Also discussed at the OMB October 2012 **public** meeting was the Oregon Medical Association (OMA) PEER program which had ceased to exist for about two years at that time. **Has there been any work done to resurrect the OMA PEER program? If so, who has been involved with the reconstruction process of the PEER program? Have either of you been involved with the process? When will this program be available for public review? Will a review be available prior to the “new” PEER program being instituted?**

I am also including a recent mailing sent to multiple government officials. This letter documents **the increasingly violent behaviors** of security and investigative employees at the OMB. These behaviors seem to be condoned, and are most likely instigated, by the OMB administration. They seem aimed at causing fear and provoking situations, and are ultimately meant to exclude public members who have concerns regarding the OMB from even a glimpse of what is occurring there. This letter is also being emailed to all Oregon State Senators. I am hearing of similar behaviors by other Oregon State Boards, such as the Board of Psychology. I will encourage the citizen involved in this situation to contact you regarding their experiences.

I was disappointed Senator to hear you describe some of the physicians who had contacted you as “whiners” without, to my knowledge, having any idea of the intimate details surrounding their cases. I have contacted both you and Senator Bates on multiple occasions and never received any reply. I and others have reached out to both of you requesting a meeting. Again, no reply. Firstly, physicians are not “whining”, they are reaching out to one of the few resources they have available to attempt to stop the tyrannical, oppressive behavior of the OMB. Otherwise, they are alone. You are supposedly our public representatives. Instead of labeling and name calling us “whiners”, how about you sit down with us and look at the plethora of available factual material. It is downright rude not to respond to citizens who contact you and even ruder to categorize them with an offensive name. This is nothing more than bigoted, insulting behavior; something I would never have expected to have come out of a supposed liberal, compassionate Family Physician’s mouth. We may not live in your district, but you are both physicians. You have physicians and their families and patients in your district. As Senators you should have significant concerns regarding wrongdoing by unelected bureaucrats who feel no necessity to uphold Oregon citizen’s constitutional rights.

Second, the inaction of the State’s political representatives and bureaucracy to remedy the significant dysfunction of the OMB is having a considerable negative economic impact on this State. The OMB, along with the other State boards, is destroying individuals, their families and in the case of physicians, their patients, in a manner that is exceedingly unconstitutional. This translates into less tax revenue for the State. Dr. Bates stated that the oppressive behavior of the OMB is chasing physicians away from, and out of, Oregon. Therefore, a physician shortage exists in this state and again, less tax revenue. People don’t want to move to where they can’t find a physician, so again, less tax revenue.

To date, except for your October 2012 OMB interaction, the OMB’s extreme dysfunction seems to be of little concern to either of you. Don’t wait until it involves you, a family member or friend, because it will be too late then. There

are now three cases in the Ninth Circuit Court of Appeals regarding the unconstitutional behavior of the OMB. There is now a case at the Oregon Circuit Court which will bypass the OMB's unconstitutional "hearings" and move straight to the Federal venue if not adjudicated appropriately. Unfortunately, there is an immense amount of cronyism and nepotism within and between the Oregon judicial bureaucracy and the Oregon Department of Justice.

I and others eagerly await your responses. We would also appreciate meeting with both of you, and hopefully other elected officials, as soon as possible to discuss what is occurring at the OMB. It is clear that other Oregon State Senators, from their correspondence to me, consider you two to be the leaders regarding OMB concerns.

Sincerely,

Eric A. Dover, M.D.

Oregon Medical Board,

There is an extremely worrisome trend occurring at the Oregon Medical Board (OMB) quarterly public meetings. Please note the word Public. Initially, it was wandings and pat downs by armed security of only specific public individuals, myself being one, that are not performed uniformly on all guests at the public meeting. I have found this to be nothing more than a form of intimidation to scare off individuals interested in making changes to a dysfunctional Medical Board. I have been to numerous public governmental meetings in the past and have never been searched for a weapon. I have worked on a number of committees with governmental public servants without problem. It's concerning that the OMB has supposedly become so fearful that it has found it necessary to institute such drastic measures.

Two armed security men watch specific public members, myself being one, at all times, even when using the restroom. One is named Dennis and the other is Lanny. I don't know their last names. Lanny is the individual who asked questions of me in the restroom while I was actively urinating during a break in my "hearing", specifically about my hearing, in September 2010. At that time I had never met nor spoken to Lanny previously and was quite astonished that he would be so inappropriate. He didn't even introduce himself.

At the January 2014 quarterly public meeting, Lanny and Dennis escalated their behaviors, along with OMB investigators Eric Brown and Vicky Wilson, to a new level by becoming physically violent. Mr. Miguel Valenciano spoke to the Board and public, during the morning public session, about tolerance and understanding of people and their cultures and about physicians not taking the time to know more about their patients than just their diseases and medications. I found his discussion quite interesting and wanted to ask him a question and get his business card after he finished his presentation. Lanny was aware that I was interested in speaking to Mr. Valenciano because I told him so as he followed me into the restroom to watch me urinate. When I returned to the room where Mr. Valenciano had spoken, he was just finishing speaking with Ms. Kathleen Haley and was leaving. As I approached Mr. Valenciano, I was "bum rushed" by Lanny, Dennis, and investigators Eric Brown and Vickie Wilson. Ms. Wilson immediately stated to me that I was not going to speak with Mr. Valenciano as I was physically pushed up against the hallway wall and then pushed towards the library. I was

completely surprised by these behaviors and stated that "I just wanted to ask the speaker for his business card". Ms. Wilson then stated that, "You're not going to speak to him at all". I offered no resistance. I was shoved up against the hallway wall as Mr. Valenciano went by. I was never allowed to speak with him though I was able to ask him from behind a human wall for a business card which he replied that he did not have business cards and that he tried to remain paperless.

I am deeply perplexed by these violent actions. They occurred at a public meeting with a public speaker. There had been no problems during the public meeting at which I sat silently listening. This is readily documented by the recordings of the public meetings that you do. At the time I was physically assaulted, I was doing nothing more than silently waiting to speak with Mr. Valenciano. **The only explanation I have for this incident was that it was meant to intimidate me and to try to provoke me into some type of response out of fear for my safety.** I am uncertain as to whether these four OMB employees acted alone or if this was instructed by someone else at the OMB.

I returned April 4, 2014 for the OMB quarterly meeting. I had driven Devin Bost, another public guest, to the meeting. We waited quietly in the waiting room after signing in. He was then taken back into the library and I assume searched. I was then called into the library area to be searched. Lanny mentioned something about it being a fine day. He sat down in a chair as I stated that, "It will be if I don't get pushed around at this meeting like the last one." He stated that he wasn't involved in the incident. I told him that it had been a public meeting, with a public speaker and that he, Dennis, Eric Brown and Vickie Wilson had laid their hands on me and pushed me into a wall telling me I couldn't converse with the speaker. Lanny stated he had never put his hands on me. I then stated, "Yes you did dude." Then Lanny went "ballistic". He jumped out of the chair he was sitting in, came towards me, blocking me from the only exit from the room, and started yelling at me, "Don't call me dude!" He then yelled in my face that he was, "tired of my bullshit". He came closer to me with an extremely menacing look on his face and the body language to support it. He was literally frothing at the mouth shouting, "Let me tell you how things are going to work." At this point, I have two large men, both with guns, surrounding me and blocking my ability to exit the room, while purposefully being intimidating, menacing and threatening to me. I became frightened and asked to be able to leave the OMB office immediately and

that I no longer wished to enter into the public meeting. I had to state this desire to leave immediately three times before I was allowed to leave.

When I was finally allowed to leave the library area I immediately headed straight out of the OMB office. I was accompanied by Lanny and Dennis. As I walked out of the office I stated that I needed to speak with Devin Bost because I was his ride. I asked if they could pull him out of the public meeting. Lanny stated that I wasn't going to get to talk to him. I stood outside of the OMB office in the elevator area attempting to call Devin Bost to ask him to step out of the public meeting for a minute. I couldn't reach him. I then started to text him when Eric Brown walked into the elevator area with both Dennis and Lanny. I relayed to Eric Brown what had occurred and asked once again to speak with Devin Bost before I left. Mr. Brown said no. He went back into the OMB office. As I readied myself to leave after texting Mr. Bost, suddenly Mr. Brown brought him out. I spoke with Devin and left.

What is motivating your security and investigative staff to act in such a manner? I mentioned to Eric Brown that Dennis, and in particular Lanny, had acted as thugs. He was offended by this term, but it is the only polite descriptor that seems to fit their actions. It also fits Mr. Brown's violent physical actions against me, along with Ms. Wilson's, Lanny's and Dennis', at the public meeting in January of 2014. Lanny seems to purposefully dress as a thug. He wears inappropriate and unprofessional clothing at the public meetings. He dresses like a twenty something year old gangster. He wears sunglasses during meetings. He adorns himself with items such as 4" wide black leather wristbands with studs. This is an interesting persona that the OMB is allowing.

Lanny has personally told me that he "used to be an alcoholic". I have been told that Vickie Wilson was/is an alcoholic. Dennis and Eric Brown also physically look as if they did, or still do, have problems with alcohol. Each of these individuals behaves as a "dry drunk".

I am requesting numerous State agencies and State Representatives to investigate this situation. This is a public forum that I am attempting to access and I have every right to be there without being menaced, intimidated, threatened or put in fear of my life. I have never been disruptive at the public meetings and have only spoken on a couple of occasions, but only during the public comment period, as is

documented in your tapes of these meetings. These meetings are about the only opportunity the public has to get a glimpse into what the OMB is up to. I have found that you must be at these meetings personally, because the minutes from them are scanty on specifics, especially if they involve negative statements or concerns about the OMB. A glaring example of this is when Senators Bates and Steiner-Hayward addressed the OMB in October 2012. The minutes did not even address why the two physician-senators were there to speak to the OMB. Your governmental agency requested \$150 for a copy of the tapes of this meeting. It took over a year to get a bootleg CD of this meeting which I subsequently transcribed and have also made the audio available on youtube.

I request that Eric Brown, Vickie Wilson, Lanny and Dennis, at the very least, be removed from the public meetings because of their aggressive, intimidating and violent behaviors. Realistically, they should not be working in any capacity for the OMB and should be relieved of their positions immediately. It would be very disturbing if they were instructed by an individual(s) at the OMB to behave in this manner to prevent me and others from participating in this public forum. I also request to never be left alone with anyone who performs security for the OMB or at any time during the OMB public meeting without a chaperone of my own choosing and an audio recorder to prevent any further violence towards me. I will be interested to find out if violent behavior directed at non-disruptive public citizens during public meetings is condoned by the State of Oregon and the OMB.

In addition, I am including a letter that was mailed to me by the OMB that was meant for another practitioner who I have no knowledge of. It was mailed to my home address. I had brought it to the April 4th meeting to return to the Board, but this was interrupted by the violence directed towards me and subsequently having to leave in fear for my safety.

Respectfully,

Eric Dover, M.D.

cc: Governor John Kitzhaber
Attorney General Ellen Rosenblum
Secretary of State Kate Brown
Senator Alan Bates
Senator Elizabeth Steiner-Hayward

E x C

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Re: Case #1001461

Dear Judge John Mann,

I appreciate the time you spent with me on the phone recently. As a physician who practiced 25 years without incident, I remember how important it was to take the time to listen to patients. Their story alone typically accounted for 75% of my medical decision making.

I am filing a Complaint and **requesting a judicial review** regarding Administrative Law Judge (ALJ) Rick Barber for **unprofessional conduct, gross negligence, disregarding the Oregon Code of Ethics for ALJs and failing to honor his oath of office to uphold the Federal and State Constitutions**. He presided over my unconstitutional license revocation trial, which masqueraded as a "hearing", for the Oregon Medical Board (OMB) in September 2010. At the end of this letter are listed the specific Constitutional laws and Codes of Ethics that Judge Barber **mindfully chose to ignore and violate** during my "hearing". First let me address what occurred at the "hearing" under Judge Barber's "supervision".

ALJ Rick Barber **allowed, and seemingly encouraged, perjury multiple times** during my "hearing". He allowed the Complainant in my case to state under oath that he presented 1 ½ inches of medical records on his only visit with me in January 2008. It took two years to get 11 pages of the Complainant's medical records, none of which I had seen prior. The afternoon before my "hearing", my lawyer was faxed two pages of lab results I had never before seen. By then, medical records had been requested for almost three years, yet only 13 pages of medical records were ever produced by the patient/Complainant and the OMB. Still, the Complainant and the OMB persisted in falsely stating that I refused to review 1 ½ inches of nonexistent records. **There were no concerns expressed, questions asked or argument made by Judge Barber regarding the**

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Complainants' inconsistent testimony. Judge Barber never required the Complainant or the OMB to produce these "supposed records" or explain their nonexistence. Nor did he mention this extreme discrepancy in his Proposed Order. Judge Barber simply accepted the Complainant's and the OMB's perjurious statement that I had refused to review the patient's medical records. The OMB knew for three years that the Complainant had nowhere near 1 ½ inches of records, but still used this lie to attack me and Judge Barber allowed it.

Additionally, **Judge Barber made no mention in his Proposed Order** that the Complainant, while under oath at my license revocation trial, tried to falsely pass off two more sets of the 13 pages of medical records that we already had in our possession as the rest of the 1 ½ inches of "missing" medical records. The Complainant, over a three year period, produced a total of 13 pages of medical records, which is less than 1/16 inch of paper. Where were the rest of the supposed 1 ½ inches of medical records he alleged he gave me and that he alleged I refused to review? I have never refused to review a patient's records no matter how voluminous. I reviewed patient's records for free frequently throughout my now destroyed career, even when multiple files, each inches thick, were presented. **Judge Barber allowed the Complainant and the OMB to commit blatant perjury in a closed door trial without a jury. This should be of grave concern to Oregonians.**

As I wrote multiple times to the OMB, and stated under oath twice, the only records the Complainant brought to me were two Urgent Care visits. These two documents were not copies, but were the original paperwork from the supposed Urgent Care visits. The diagnosis for both visits was acute gout. Only an anti-inflammatory medication, Indomethicin, was prescribed. There was no follow up recommended, no medical evaluation performed or recommended, no other medication prescribed, and no referral to a specialist given at either of these two visits. These two Urgent Care records have not been seen since my January 2008 encounter with the Complainant. My concern of forgery of medical documents was presented to the OMB prior to my license revocation trial. **Judge Barber was also presented with this serious concern during my "hearing", yet he made no mention of it in his Proposed Order.**

The Complainant committed **perjury** in Judge Barber's Court when he stated under oath that I had ordered an x-ray of his wrong foot. The Complainant stated

his left foot should have been x-rayed. I ordered an x-ray of his right foot and two other joints as he had requested. After the x-rays were performed, the Complainant never mentioned to me, the radiologist, the x-ray tech or any staff that the wrong foot had been x-rayed. If he had it would have been remedied immediately. When the Complainant's eleven pages of medical records were eventually received after being requested for two years, they divulged that his last three office visits in 2001, 2006 and 2007 were for **right foot pain only**. The 2001 visit was for right big toe pain and swelling. The 2006 and 2007 office visits were for vague right mid-foot pain with no abnormalities noted on either exam. Out of six office visits over a 20 year period there were none that mentioned anything about left foot pain or any other joint/extremity pain or problems. The OMB was well aware I hadn't x-rayed the wrong foot, but persisted in persecuting me with this obvious lie and ultimately used it as another reason to revoke my license. **Judge Barber made no mention of this significant inconsistency in his Proposed Order, but instead accepted the Complainant's and OMB's perjurious statements that I ordered an x-ray of the wrong foot.**

The Complainant committed **perjury** at my "hearing" when he stated I told him to take a medication he claimed he was allergic to. The medicine was Allopurinol which had been prescribed to him by his physician just a few weeks prior to seeing me. This was discovered when his eleven pages of medical records were received after two years of requesting them. Of note, there was nothing in his records that noted any adverse reaction to Allopurinol. At the nonprofit, I did not prescribe or make any medical recommendations to patients I evaluated for the Oregon Medical Marijuana Program (OMMP). After the Complainant told me he had taken the Allopurinol and had an "allergic reaction", he was asked to show me his prescription bottle. He was unable to produce it because he supposedly had thrown it away after his undefined "allergic reaction". When I offered to call the pharmacy he had supposedly received the Allopurinol from just a few weeks prior, he couldn't remember which one it was. My lawyer, for months prior to my license revocation trial, had requested any information regarding medications the patient had received, in particular Allopurinol. In a curt letter from Assistant Attorney General Warren Foote, who was and still is legal counsel for the OMB, he stated he would not allow Discovery of that information or any other information my counsel had requested. **Warren Foote denied Discovery and Judge Barber was complicit in that decision.** Surprisingly, the day of my "hearing"/license revocation trial, the Complainant was able to produce a bottle

of Allopurinol he supposedly had tossed three years earlier. It looked brand new. It was from a pharmacy that had stated in writing to me, that they had never filled a prescription for this patient/Complainant. Judge Barber was given a copy of this pharmacy document during the "hearing". **Again, no concern was expressed by Judge Barber regarding this remarkable discrepancy during the "hearing" and no mention of it was made in his Proposed Order.**

Judge Barber allowed Dr. James F. Calvert, the OMB's supposed "expert" witness in rheumatology, chronic pain treatment and chart review, **to commit perjury** throughout his testimony. Dr. Calvert, under oath, presented himself as an "expert" in these three medical disciplines even though he and the OMB knew he wasn't. Dr. Calvert was a rural Family Physician with no special training in these specialties other than what any Family Physician receives. **Dr. Calvert's lack of expertise was made quite clear to Judge Barber.** Judge Barber was presented with textbook chapters from "the Bibles of Internal Medicine", such as Harrison's and Cecil's, and writings from websites such as Boston University's. All these medical documents were written by world renowned experts in these medical specialties. These expert's writings were in complete contradiction to Dr. Calvert's testimony. **There was no mention of this in Judge Barber's Proposed Order**

My legal counselor's questioning of Dr. Calvert also clearly exposed his lack of expertise in these specialties. An example of this was when Dr. Calvert was being questioned about medication treatment for gout. The drug Uloric was brought up. At the time, Uloric was the first new drug in 40 years for the treatment of gout and had been on the market for 18 months. **Dr. Calvert was completely ignorant of this medication and totally unaware of its existence.** I was stunned. For 18 months prior to my "hearing" there had been heavy TV, medical journal and drug representative advertising of Uloric. Dr. Calvert stated under oath he was an "expert" in gout diagnosis and treatment, yet he knew nothing of this drug. I had participated in two seminars over that 18 month period regarding inflammatory joint disease, and Uloric was discussed in depth at both. An expert would have been aware of this medication before it went to market instead of being completely oblivious to it after 18 months on the market. **Why is this not noted in Judge Barber's Proposed Order?**

Dr. Calvert supposedly reviewed all records involved in the investigation of my case, including five additional patient charts requested by the OMB from the nonprofit clinic. The patients that came to the clinic, for the most part, were extremely ill. Of these five patients, one had AIDS and cachexia, one had chronic low back pain and lower extremity symptoms after 3 failed back surgeries, two had Multiple Sclerosis (MS), and one had terminal metastatic colon cancer. [The OMB later requested charts from my private office, but seemingly found no fault in them because nothing more was ever said about them by the OMB, Warren Foote or Dr. Calvert.] These very ill patients, many who were forced to suffer through a drive of up to 5 hours one way, were forced to see me because their own physicians wouldn't sign their OMMP Physician Statement form. Some physicians didn't sign because they were opposed to the program and therefore withheld a "legal" treatment from their patients. Others didn't sign the patient's form because they feared OMB retaliation and loss of their license. Some patients just weren't in a position to ask their physician because they feared possibly losing them with their request. Dr. Calvert reported to the OMB that I had reviewed one of the five charts incorrectly and that one patient didn't have MS as I had written as the patient's diagnosis. During my OMB Investigative Committee interrogation, and later at my "hearing"/license revocation trial, I was accused of having reviewed the patient's chart incorrectly. This patient had about 3" of medical records. Her Primary Care physician and specialists all stated she had MS. All her radiological studies were interpreted as being consistent with MS. At the end of the "hearing", Warren Foote stated to Judge Barber that Dr. Dover was correct in his review of the patient's chart and that she did have MS. **Judge Barber made no mention in his Proposed Order of this and other serious discrepancies regarding Dr. Calvert's testimony. Judge Barber rejected all evidence which openly exposed the lack of credibility regarding the OMB members, who had also supposedly reviewed these records, and their supposed "expert" witness, Dr. James F. Calvert.**

Three weeks after my "hearing", Dr. James F. Calvert's "expertise" was dramatically called into question. There was a complaint made to the OMB regarding his medical care. Subsequently, there was at least one additional complaint made to the OMB. Ultimately, Dr. Calvert was found to have grossly misdiagnosed rheumatological disorders in multiple patients. In addition, he was found to have grossly mismanaged patient's medications, including their acute and chronic pain management. This resulted in **at least one death and at least**

one near death. One patient Dr. Calvert diagnosed with seronegative rheumatoid arthritis. He prescribed her opiates, medical cannabis, methotrexate, prednisone and other medications for about 18 months before she was finally sent to a rheumatologist. The specialist stated the patient didn't have seropositive or seronegative rheumatoid arthritis. Dr. Calvert didn't agree with the specialist so he continued to treat her for rheumatoid arthritis with the same drugs, most of which were extremely dangerous. These were the same medical disciplines, rheumatology and pain management, that Dr. Calvert was supposedly an "expert" in according to himself, the OMB and Warren Foote. The OMB most likely withheld this knowledge from Judge Barber, but even so, it was evident during my "hearing" that Dr. Calvert's medical knowledge was severely deficient. **Judge Barber should easily have picked this up during the hearing considering what was presented to him, but again, no mention of these irregularities in his Proposed Order.**

The shame of it all is that my medical license was revoked for telling a patient that he needed further evaluation and treatment of a non-acute, non-life threatening "possible" medical concern. Dr. Calvert's medical care on the other hand killed at least one patient and at least almost one other, yet his medical license was fully reinstated before he had satisfied any remediation requirement set forth by the OMB. Dr. Calvert's "remediation" consisted of a fine of \$5000 and to take some "brush up" courses in rheumatology and chronic pain.

ALJ Rick Barber condoned hearsay multiple times from the OMB, OMB investigator Jay Drum, OMB legal representative Mr. Warren Foote and the Complainant. Supposedly, Oregon law "allows" hearsay to be submitted at these proceedings. That law is unconstitutional. It is my understanding that we are the only State in the U.S. that allows unconstitutional absurdity of this nature. **Judge Barber has taken and signed an oath to uphold the Constitution and is therefore compelled not to allow unconstitutional laws, such as the use of hearsay, in his court.** Citizens have a constitutional right to cross examine witnesses during a trial which is what my "hearing" actually was. Hearsay was submitted and allowed during my license revocation trial from the Complainant's wife and the patient whose chart was supposedly involved in a mix up with the Complainant's chart. Without the ability to cross examine these individuals, there is no ability to verify the validity of the hearsay. This is not due process. **Judge Barber used this**

hearsay “evidence” against me in his Proposed Order. This is not the American form of justice I was led to understand since I was young.

Instead, Judge Barber focused on and blamed me in his Proposed Order for a supposed mix up of the Complainant’s records with another patient’s records at the nonprofit clinic. The nonprofit clinic’s staff certainly could have made this mistake while the Complainant was causing a ruckus as a result of his OMMP form not being signed. Judge Barber agreed with the OMB that I was responsible for this “supposed” error, because the physician is responsible for everything that occurs in any situation, even if you are an independent contractor as in my case. I worked as an Independent Contractor once a month for this nonprofit clinic in Medford and had no other involvement at any level with them regarding the function of their clinic or nonprofit. It’s not even known for certain if this mix up even actually occurred because this “evidence” was presented as “hearsay”. In fact, the evidence that was available regarding this allegation suggested that the Complainant probably took the other patient’s paper work purposefully and then tried to pass it off as his own. If there was a supposed mix up of charts then why didn’t the other patient have the Complainant’s paperwork? If this patient didn’t have it, then the Complainant should have had it, yet this paperwork disappeared forever. This was clearly presented to Judge Barber. **Judge Barber allowed unsubstantiated hearsay in his court which was ultimately used against me by him in his Proposed Order and by the OMB to revoke my license. Judge Barber abolished the right to cross-examine witnesses with his allowance of hearsay. This is a clear constitutional violation which did great harm at so many different levels to my family and me. And again, none of these serious concerns were noted in Judge Barber’s Proposed Order.**

For three years I was accused by the OMB and Dr. James F. Calvert of failing to recognize that the Complainant had “severe long term gout recalcitrant to treatment”. **It was made extremely clear to Judge Barber during my license revocation trial that the Complainant didn’t have “severe long term gout recalcitrant to treatment”**, if he actually ever had gout. The Complainant’s eleven pages of medical records revealed one office visit (out of a total of six office visits) in 20 years that may possibly have been an acute gout episode. That office visit was in 2001. As noted above, the Complainant had an office visit in 2001, 2006 and December of 2007 for right foot pain. There was essentially no evaluation for whatever medical problem, if any, he may have had at any of these

visits. The Complainant had a single medicine, Allopurinol, prescribed (more like thrown at him) at his December 2007 office visit. It was prescribed without medical justification just weeks prior to the Complainant seeing me per his medical records that were finally obtained after requesting them for two years. It is unknown whether the Complainant actually took a tablet of Allopurinol and had a reaction to it, because there is no medical documentation to substantiate it. He stated the day I saw him that he couldn't produce the medication bottle filled just a few weeks earlier because he had "thrown it out" secondary to the "allergic reaction" he had to it. He also couldn't remember which pharmacy he had filled his prescription at when I offered to call them to verify it. I ordered x-rays of three different joints that the Complainant stated were severely affected by gout for 20 plus years the day I saw him. The radiologist read the films as normal except for some very minimal age expected osteoarthritis. **This information/evidence was clearly presented to Judge Barber. Once again, no mention of these discrepancies in Judge Barber's Proposed Order.**

Judge Barber was also made well aware at my "hearing" that the Complainant had a problem with excessive beer consumption (alcoholism). Excessive beer consumption was twice noted in his medical records (2 of 6 office visits). Judge Barber was explicitly informed that beer is one of the biggest triggers for patients who have gout. The OMB and Dr. Calvert were quite upset by my signing an OMMP Physician Statement form for a Multiple Sclerosis patient and stated such during my "hearing". [The OMMP form states nothing more than that cannabis may be helpful for a patient's medical condition and twice notes it is not a prescription for cannabis.] They stated that their concern was she had used cocaine and alcohol on occasion in the past. At the time I saw her she had not used cocaine for 20 years and had had no alcohol for three years. The OMB, Warren Foote and Dr. Calvert argued against me for signing the MS patient's OMMP form before and during my "hearing", yet they, along with **Judge Barber, expressed no concern regarding the Complainant's excessive beer consumption and the subsequent addition of marijuana for a nebulous, undefined medical concern.** This is not only hypocritical, it's bad medicine. **Again, none of this is noted in Judge Barber's Proposed Order.**

I was also accused for three years by the Complainant, and as well the OMB, of not conducting an exam the day I saw him. The Complainant committed **perjury** once again at my "hearing" stating this lie under oath. I did do an exam of his

joints and noted no abnormalities, but all documentation of this was lost when the Complainant removed all his paperwork without anyone's knowledge from the nonprofit clinic that same day. That paperwork was never seen again. When the Complainant's previously unseen medical records were finally received it was discovered that his physician had noted no abnormalities on a physical exam in December 2007. This was just weeks prior to the Complainant seeing me in January 2008. Dr. Daryl George signed the Complainant's OMMP form about two weeks after I had seen him. Dr. George used an exam form for documentation that was no different than what the nonprofit I helped was using. **There was no documentation of any joint exam by Dr. George on his exam form; in fact where it states "Musculoskeletal (MS)" on the exam form he only notes that the Complainant is right handed and that his gait was within normal limits (WNL). Under "MS" on the exam form is the sub exam word "Joint" which was crossed out, so I can only assume that no exam of the patient's joints were done.** The Complainant was diagnosed by Dr. George as having "chronic severe gout" for 20 plus years, so there should have been very noticeable physical abnormalities seen on exam. Examples of chronic severe gout were shown to Judge Barber by way of photos and x-rays during my "hearing". In addition, **Dr. George made no note of the Complainant's beer consumption** and he gave no instructions to the Complainant to completely avoid all alcohol. The OMB was concerned about my charting and the forms used, but no concern regarding Dr. George's documentation. This evidence was presented during my "hearing", **but no concern or mention of this was made in Judge Barber's Proposed Order.**

Judge Barber was made aware that Dr. Darryl George prompted, and then helped the patient make a complaint against me to the OMB after he wrongly signed the patient's Physician Statement form for the OMMP. Dr. George was already in serious trouble with the OMB for years because of having had sexual relations with patients. He had written a complaint to the OMB making outlandish statements about the nonprofit clinic and me as I later found out when I read the letter he had sent the OMB. None of what he wrote was true. The OMB responded in a letter to Dr. George that he needed to find a patient to make a complaint against me. Some months later he did just that. It was brought to Judge Barber's attention that a complaint had been made in early 2010 to the OMB regarding Dr. George by his former chaperone for female patients (this was required after his sexual misconduct with female patients). She stated in her complaint to the OMB that Dr. George was using cocaine in and outside of his

clinic, that he had offered her cocaine at and outside of the medical office and that patients frequently noticed and commented on the white powder around his nose. He was also still being sexually inappropriate. As she stated in her complaint, Dr. Daryl George was at a staff party function drugged up on cocaine and marijuana masturbating in front of everyone in the hot tub. There was a second complaint sent to the OMB by a female patient of Dr. George's who also witnessed him using cocaine at his office with other individuals that worked and hung out there. OMB investigator Jay Drum, who was the investigator in my case, spoke with both these women and was given the names of others who witnessed these same behaviors of Dr. George's. The OMB quickly dismissed the concerns of these two women who made complaints and sent them a letter stating nothing further could or would be done regarding Dr. George. Why wouldn't the OMB be extremely concerned about a physician using cocaine, offering it to others and inappropriately acting out sexually in front of others when he is already known as a sexual deviant who had previously preyed upon female patients in his practice that were psychologically unstable? It just doesn't add up. Why did the OMB protect Dr. George? For some reason, they badly wanted to destroy my career and I had done nothing. Dr. George never had his license revoked and he was obviously seriously mentally unstable and a drug abuser/addict. **Judge Barber had this same evidence presented to him during my license revocation trial, yet he uttered nothing regarding these grave concerns and again mentioned none of it in his Proposed Order.**

Bullying and name calling were allowed and even joined in by ALJ Rick Barber during my license revocation trial. An example is ALJ Barber allowing Mr. Warren Foote to call me a scofflaw. I hadn't flouted any laws nor was the "hearing" about me breaking any laws. This was extremely psychologically abusive, yet Judge Barber allowed this and other abuses during my "hearing". I certainly wasn't allowed to call anyone names nor would I. During my "hearing", Judge Barber made open verbal statements of his opinions. He made unsubstantiated allegations about a witness' credibility regarding her testimony of what occurred at the clinic the day I saw the Complainant. His remarks were made during her testimony by phone without Judge Barber even re-listening to or critically evaluating her testimony. **In his Proposed Order he did not attend to the facts of the case but instead chose to castigate and assassinate the character of my witness, my lawyer and me.**

My confidentiality was broken by the OMB on three separate occasions. They sent confidential letters in each instance to a nonprofit's office where multiple volunteers opened and read each letter. The first time this occurred I phoned the OMB. The second time I sent a letter. Still, my confidentiality was broken a third time, even though twice previously they told me it wouldn't happen again. At that point I contacted the Governor's office. They responded by letter that the OMB blamed me for the loss of my confidentiality on three different occasions because I had supposedly not kept an updated office address with them. This was absolute nonsense and an outright lie by the OMB. I had been at my same office address for over six years. I had received my license at that address every two years on at least three different occasions, the last one being just four weeks prior to the first time my confidentiality was broken. Each license had my office address on it. **Judge Barber was well aware of this sinister behavior, but made no mention of it in his Proposed Order.**

Judge Barber, like the OMB, purposefully ignored the Oregon State Medical Marijuana laws. These laws specifically state that a patient can see any physician regarding the signing of their Physician Statement form for the OMMP. Patient's typically had to see someone other than their own physician(s) because their physician(s) wouldn't typically sign their form for reasons noted above. The law states that a physician is required only to review the patient's records and do an appropriate physical for the medical problem prior to signing the form. As previously noted, the Physician Statement states only that cannabis may be helpful for the patient's medical condition, what the patient's medical condition is and twice notes in bold letters at the top and bottom of the form that the form is not a prescription for cannabis. Warren Foote throughout the license revocation trial repeatedly stated that I had prescribed patients medical cannabis. **Judge Barber did nothing to stop Mr. Foote's obvious slanderous attack against me.** He allowed Mr. Foote to continue his inappropriate language even after being informed of its purposeful misuse multiple times by my counsel. The OMB and Mr. Foote made up their own interpretation and requirements of the Medical Marijuana laws as they went along, deviating greatly from the simple, straight forward language of the laws as was intended and as was presented to Judge Barber. The State is who "prescribes"/ allows the patient to have medical cannabis. The department which oversees the OMMP never had any concerns regarding my paperwork for their program. **This was presented clearly to Judge Barber, but once again, no mention of any of this in his Proposed Order.**

Judge Barber signed a Motion for Protective Order in August 2010 based upon wild, unsubstantiated allegations made by Mr. Warren Foote. Firstly, these allegations were untrue. Secondly, he signed this Motion without my counsel having any chance to address it. **Judge Barber admitted during my license revocation trial that he had made this mistake and apologized to my counsel, yet he still used unsubstantiated hearsay alluded to in his Motion against me in his Proposed Order. He certainly made no mention of his mistake in his Proposed Order, though it's on the tapes of the "hearing".**

Directly after my license revocation trial/"hearing" finished, **ALJ Rick Barber and Assistant Attorney General Warren Foote walked together by themselves into a private room and had a face to face meeting alone.** My counsel and I were both witnesses to this occurrence. Whether the two were later joined by OMB administrators such as Kathleen Haley or by Board members is unknown, but being that the license revocation trial was held at the OMB office, it would not surprise me. This wasn't a privilege either my counsel or I was afforded. It's unfortunate the leaders of Oregon have, and still do, allow unethical and unconstitutional behavior in Oregon government as they all hide behind their "cloak of absolute immunity".

Judge Rick Barber condoned the complete absence of discovery, unequal protection of the law and due process during my license revocation trial. Judge Barber was supposedly there to impartially hear and to justly administer my case, not oversee an unconstitutional "hearing". All above mentioned improprieties, and there are more, were taped at the hearing, but none were mentioned in Judge Barber's Proposed Order. His Proposed Order is nothing but character assassination with no semblance of what truly occurred at my September 2010 "hearing". Judge Barber does nothing more in his Proposed Order than repeat what the OMB had already written about me prior to my "hearing", except he added a large helping of subjective character assassination. He lifted statements out of context from questions I was forced to answer by the OMB without the aid of any medical documents. He used information from the OMB that was based upon little, if any, real investigation and a review of medical documents by the medically incompetent Dr. Calvert. My family and I have lost everything as a result of Judge Barber's, Warren Foote's and the OMB's unconstitutional, criminal behavior and their lack of competent work.

OMB “hearings” are shams. They are nothing but unconstitutional trials done in private with the intention to revoke a physician’s license. Actually, an ALJ is not even needed at these license revocation trials. You’re just an added expense to the physician’s fine, which along with no income and significant legal expenses, ultimately sends the physician into bankruptcy and destroys their family. Your opinion means nothing regarding the OMB’s final decision. The ALJ is their only to give the illusion of fairness and justice. Complaints to the OMB are easily and anonymously made against doctors, yet there is no system in place to lodge a complaint against the OMB. I and many other physicians have contacted State Senators, the DOJ, the Secretary of State and the Governor’s office and no one cares or seems willing to address the problem. As a result, I no longer have faith in Oregon government or its justice system. They all seem, ALJ Barber included, incapable of upholding and protecting citizens constitutional rights. If you think I am a lone voice regarding the OMB dysfunction and tyrannical behavior you would be mistaken. I can easily connect you with a plethora of physicians who have been unjustly destroyed by the OMB without any regard for them or their family’s financial and psychological well being. I can also provide you with names of many physicians who have been unjustly protected by the OMB such as Dr. Calvert and Dr. George mentioned above. The OMB’s “supposed” mission of protecting the public from “bad” physicians is nothing more than an empty statement used to cover their illegal behaviors and criminal intent.

The revocation of my license in Oregon has resulted in me not being able to practice medicine anywhere in the world forever. That’s a harsh reality for a respected, diligent, compassionate physician of 25 years who went out of his way to help the poor, uninsured, and needy. A small nucleus of bureaucrats, along with a small group of ignorant, authoritative physicians who act as a rubberstamp for the misinformation they are fed, are destroying excellent physicians in this State. Our families are destroyed. All the time in school and residency, all the money spent on education and all the time we gave up in life that we should have spent on our family, friends and our own well being is flushed down the drain without a hint of concern from the OMB or Oregon governmental servants. This occurs because there is no oversight of the OMB and no Ombudsman for physicians to turn to. In reality, there is no legal protection for physicians because lawyers fear for their own license going up against such a vindictive board. All lawyers who represent physicians in front of the OMB instruct them to agree to

all charges leveled against them by the OMB and to do whatever the OMB tells them. They are told that if they put up any argument to protect themselves from false allegations, they will be labeled as arrogant and have their license revoked. Physicians are forced to sign statements of guilt put together by the OMB whether they be true or not, just as prisoners of war were forced to do in the Vietnam War. When a physician is **forced to sign this “statement of guilt”** (if they don’t sign they lose their license), they also sign away any ability to legally challenge the OMB in the future. Now Executive Director Kathleen Haley, along with others at the OMB, is working to make it such that the OMB stands completely autonomous from any governmental entity. If this occurs, the situation for physicians will only worsen in Oregon. Oregon is already getting a reputation nationally as a State not to practice medicine because of the OMB’s draconian attitudes towards physicians, their humiliating treatment of physicians and the fact that they destroy so many physician careers forever. I know this to be true because of my national discussion with physicians. **At this juncture, it is my personal goal to keep physicians out of this State to protect their careers and family from the tragic outcome I and others have suffered at the hands of an out of control Medical Board.** I will not discontinue my warnings until there is definitive remediation of how the OMB operates, my license is reinstated, my name is removed from the National Practitioner Data Bank and I am monetarily remunerated for the damage done to my career, my family and myself.

I have a website, drdovervsomb.weebly.com, which documents in detail my entire experience with the OMB. It contains a significant number of documents that substantiate everything I have written here and much more. I encourage you to contact me if you need additional documents or if you have any questions.

You stated in our phone conversation that you have a tape of my two day “hearing”. I requested a copy from the OMB about two years ago, but they refused. **I am making a formal request of you for a copy of this tape.**

Respectfully,

Eric Dover, M.D.

E. DOVER, MD EXC

Federal Constitutional Rights Violated by Judge Rick Barber

The 5th Amendment of the Constitution, *“nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.”*

The 7th Amendment, *“In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.”*

The 8th Amendment, *“Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.”*

The 14th Amendment, Section 1, *“All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”*

State Constitutional Rights Violated by Judge Rick Barber

Section 10. Administration of justice. *No court shall be secret, but justice shall be administered, openly and without purchase, completely and without delay, and every man shall have remedy by due course of law for injury done him in his person, property, or reputation.—*

Section 16. Excessive bail and fines; cruel and unusual punishments; power of jury in criminal case. *Excessive bail shall not be required, nor excessive fines imposed. Cruel and unusual punishments shall not be inflicted, but all penalties shall be proportioned to the offense.—*

Section 33. Enumeration of rights not exclusive. *This enumeration of rights, and privileges shall not be construed to impair or deny others retained by the people.—*

Section 3. Oaths of office. Every person elected or appointed to any office under this Constitution, shall, before entering on the duties thereof, take an oath or affirmation to support the Constitution of the United States, and of this State, and also an oath of office.—

ALJ Code of Ethics Violated by Judge Rick Barber

In the Forward of the **ALJ's Code of Ethics** it's stated, "It [Code of Ethics] is **aspirational** only, and describes the standards of professionalism which every Administrative Law Judge in Oregon's Office of Administrative Hearings **should strive to achieve.**" Wow, can we set the bar any lower? For physicians, integrity of ethics isn't an aspiration, but an **absolute requirement** as it should be for Mr. Barber and all ALJs.

Under MAINTAINING THE INTEGRITY OF THE ADMINISTRATIVE HEARINGS PROCESS, it states:

1-101 (A) An Administrative Law Judge shall **observe high standards of conduct so that the integrity, impartiality and independence of Oregon's administrative hearings system is preserved**, and shall act at all times in a manner that **promotes public confidence in the conduct of administrative hearings as a part of state government. Public confidence is promoted when an Administrative Law Judge conducts hearings in a dignified and respectful manner, and arrives at decisions in which facts have been found fairly and the law has been applied accurately.**

(B) An Administrative Law Judge shall not engage in conduct that reflects adversely on the officer's character, competence, temperament or fitness to serve as an Administrative Law Judge. **An Administrative Law Judge shall not engage in conduct involving misrepresentation, fraud, dishonesty, deceit or felonious criminal behavior.**

(D) An Administrative Law Judge shall not allow family, social or other relationships to influence official conduct or judgment.

(E) An Administrative Law Judge shall not use the position to advance the private interests of the officer or any other person, **nor shall an Administrative Law Judge convey the impression that anyone has a special influence with the ALJ.**

Under IMPARTIAL AND DILIGENT PERFORMANCE OF OFFICIAL DUTIES it states:

2-101 An Administrative Law Judge shall perform **diligently** all official duties.

2-102 (A) An Administrative Law Judge shall provide to all parties or participants in a proceeding, and to their legal representatives, the **right to be heard according to law.**

(D) An **Administrative Law Judge shall promptly disclose to the parties any communication not otherwise prohibited by this rule that will or reasonably may influence the outcome of an adversary proceeding. At a minimum, the disclosure shall identify the person with whom the communication occurred and the substance of the communication and the Administrative Law Judge shall give the parties a reasonable opportunity to respond to the information disclosed.**

2-103 An **Administrative Law Judge shall not, while a proceeding is pending in any forum within the officer's jurisdiction, make any public comment that might reasonably be expected to affect the outcome or impair the fairness of the proceeding.**

2-104 (A) Except as provided in (B) herein, the Administrative Law Judge shall disqualify himself or herself in a proceeding in which the **ALJ's impartiality reasonably may be questioned**, including but not limited to instances when:

(1) the **Administrative Law Judge has a bias or prejudice concerning a party, a representative, or any other participant in the proceeding before the ALJ**, or has knowledge, obtained from sources outside the proceeding, of disputed evidentiary facts concerning the proceeding;

2-105 An Administrative Law Judge shall be **faithful to the law** and shall decide matters on the basis of the facts and applicable law.

2-106 An Administrative Law Judge shall not be swayed by partisan interests, public clamor or fear of criticism.

2-108 An Administrative Law Judge shall not act in a way that the officer knows, or reasonably should know, would be perceived by a reasonable person as biased or prejudiced toward any of the litigants, witnesses, lawyers or members of the public.