

STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

**REPORT OF
INVESTIGATION**



**AGENCY: STATE MEDICAL BOARD OF OHIO
FILE ID NO.: 2012-CA00106
DATE OF REPORT: MAY 21, 2014**

The Office of the Ohio Inspector General ... The State Watchdog

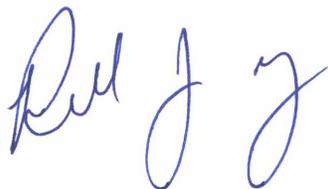
“Safeguarding integrity in state government”

The Ohio Office of the Inspector General is authorized by state law to investigate alleged wrongful acts or omissions committed by state officers or state employees involved in the management and operation of state agencies. We at the Inspector General’s Office recognize that the majority of state employees and public officials are hardworking, honest, and trustworthy individuals. However, we also believe that the responsibilities of this Office are critical in ensuring that state government and those doing or seeking to do business with the State of Ohio act with the highest of standards. It is the commitment of the Inspector General’s Office to fulfill its mission of safeguarding integrity in state government. We strive to restore trust in government by conducting impartial investigations in matters referred for investigation and offering objective conclusions based upon those investigations.

Statutory authority for conducting such investigations is defined in *Ohio Revised Code §121.41* through *121.50*. A *Report of Investigation* is issued based on the findings of the Office, and copies are delivered to the Governor of Ohio and the director of the agency subject to the investigation. At the discretion of the Inspector General, copies of the report may also be forwarded to law enforcement agencies or other state agencies responsible for investigating, auditing, reviewing, or evaluating the management and operation of state agencies. The *Report of Investigation* by the Ohio Inspector General is a public record under *Ohio Revised Code §149.43* and related sections of *Chapter 149*. It is available to the public for a fee that does not exceed the cost of reproducing and delivering the report.

The Office of the Inspector General does not serve as an advocate for either the complainant or the agency involved in a particular case. The role of the Office is to ensure that the process of investigating state agencies is conducted completely, fairly, and impartially. The Inspector General’s Office may or may not find wrongdoing associated with a particular investigation. However, the Office always reserves the right to make administrative recommendations for improving the operation of state government or referring a matter to the appropriate agency for review.

The Inspector General’s Office remains dedicated to the principle that no public servant, regardless of rank or position, is above the law, and the strength of our government is built on the solid character of the individuals who hold the public trust.



Randall J. Meyer
Ohio Inspector General



STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF INVESTIGATION

FILE ID NUMBER: 2012-CA00106

SUBJECT NAME: Richard Whitehouse
Lance Talmage

POSITION: Former Executive Director
Board Member

AGENCY: State Medical Board of Ohio

BASIS FOR INVESTIGATION: Complaint

ALLEGATIONS: Conflict of Interest

INITIATED: October 19, 2012

DATE OF REPORT: May 21, 2014

INITIAL ALLEGATION AND COMPLAINT SUMMARY

The Office of the Ohio Inspector General received a complaint alleging potential conflicts of interest and supplemental compensation violations by Lance Talmage, board member of the State Medical Board of Ohio, and Richard Whitehouse, former executive director of the State Medical Board of Ohio.¹ The complaint alleged that Talmage, while serving as a board member of the State Medical Board of Ohio, also served as the chair of the board of directors for the Federation of State Medical Boards (FSMB), a paid position. The complaint also alleged that Whitehouse, while employed as executive director of the State Medical Board of Ohio, served on the board of directors of FSMB, and was also paid by the FSMB. The complainant believed that it was a conflict of interest for Talmage and Whitehouse to serve concurrently in their positions for the FSMB and for the State Medical Board of Ohio; specifically, as it related to Maintenance of Licensure (MOL).

On October 19, 2012, the Office of the Ohio Inspector General, in conjunction with the Ohio Ethics Commission (OEC), initiated an investigation into this matter.

BACKGROUND

The State Medical Board of Ohio was established in 1896. Originally responsible for licensing doctors of medicine, the board's responsibilities were expanded to include doctors of podiatric medicine (1915), cosmetic and massage therapists (1916), doctors of osteopathic medicine (1944), physician assistants (1976), acupuncturists and anesthesiology assistants (2000), and radiologist assistants (2009). The board also regulates mechanotherapists and naprapaths licensed before March 1992. In addition, the board establishes standards for education, preprofessional training, and examination. The board sets standards of practice for its licensees, investigates complaints, holds administrative hearings, determines appropriate disciplinary actions, and monitors continuing education compliance among licensees. More than 63,100 licenses issued by the board are currently active.²

¹ Richard Whitehouse resigned as executive director on October 11, 2012.

² Source: www.lsc.state.oh.us

The board's governing authority consists of 12 members appointed by the governor. As set forth by Ohio Revised Code (ORC) §4731.01, the board members include nine physicians (seven who hold a doctor of medicine degree, one who holds a doctor of podiatric medicine degree, and one who holds a doctor of osteopathy degree), and three public members (one who is at least 60 years old). Members are appointed for five-year terms and may be reappointed without limit.³

Federation of State Medical Boards

The Federation of State Medical Boards (FSMB) was established in 1912. The primary function of the FSMB is to “protect the public.” The FSMB is a national non-profit organization representing the 70 medical boards of the United States and its territories through education in best practices, training, advocacy, and various products and services.⁴ These 70 medical boards comprise the FSMB membership and pay annual membership dues. Members of these medical boards are fellows of the FSMB. The FSMB is governed by a house of delegates, which is a representative of each of the member medical boards.

The FSMB board of directors is composed of the officers, the immediate past chair, nine directors-at-large and two associate members. At least two board members, who are not associate members, must be non-physicians; at least one must be a public/consumer member. The officers of the FSMB shall be that of chair, chair-elect, treasurer, and secretary. Only an individual who is a fellow at the time of the individual's election or appointment shall be eligible for election or appointment as an officer of the FSMB, except for the position of secretary.

Maintenance of Licensure

Maintenance of Licensure (MOL) is a framework for medical license renewal that recognizes the value of continuous professional development, including practice-relevant continuing medical education, supports a physician's commitment to lifelong learning, and contributes to improved health care.

³ Source: www.lsc.state.oh.us

⁴ Source: www.fsmb.org

The FSMB is working with its member boards to develop an MOL system for the United States. While the MOL is still several years from being adopted by any state medical board, the FSMB is currently working to develop and implement various pilot projects to help states prepare for MOL and to determine best practices for its use.⁵

INVESTIGATIVE SUMMARY

The Office of the Ohio Inspector General reviewed all documentation submitted by the complainant, including:

- FSMB 2010 Internal Revenue Service Form 990.
- The January 28, 2012, state employee salary report for State Medical Board of Ohio employees and Ohio Board of Nursing employees from <http://das.ohio.gov/Divisions/HumanResources/HRDOCBPolicy/StateEmployeeData/StateEmployeeSalaries.aspx>.

In addition, the Office of the Ohio Inspector General obtained documents from the FSMB and the State Medical Board of Ohio including, but not limited to:

- Payroll, expense reimbursements, or any other form of payment.
- Timekeeping records.
- Meeting minutes.

Richard Whitehouse

Richard Whitehouse was hired as executive director by the State Medical Board of Ohio on May 1, 2005, and resigned that position on October 11, 2012. The executive director position description states, in part:

... Represents the Medical Board through education endeavors; performs liaison duties with other state agencies, federal agencies, legislators, national organizations (i.e., Federation of State Medical Boards, Administrators in Medicine), public groups (i.e., Ohio State Medical Association, Ohio Podiatric and Osteopathic Medical Associations) and executives; has wide and direct or major indirect impact on public groups and

⁵ Source: www.fsmb.org

individuals in important functional areas; initiates or responds to various correspondence from many diverse sources; speaks before various groups in order to educate the public and promote activities of the Medical Board.

As executive director of the State Medical Board, Whitehouse was elected to the FSMB board of directors on May 1, 2011, and served in that position until he resigned his position with the State Medical Board of Ohio on October 11, 2012.

A review of all forms of payment made to Whitehouse by the FSMB for the period of January 1, 2010, to December 7, 2012, revealed that Whitehouse was only reimbursed for expenses associated with his work on the FSMB board of directors, which totaled \$5,394.86. Whitehouse was not paid for the work that he did as a FSMB board of director, but was reimbursed for travel expenses. A review of Whitehouse's financial disclosure form filed on April 17, 2012, revealed that Whitehouse properly disclosed the travel reimbursements from the FSMB.

The State Medical Board of Ohio's FSMB meeting attendance policy, dated February 12, 2003, states in part:

Executive Director scholarship from FSMB:

The FSMB Board of Directors has authorized the FSMB to reimburse board executive directors for travel, lodging and meal expenses incurred to attend the Federation's annual meeting. Annual meeting registration fees will be waived.

FSMB policy stipulates that in the event the board executive director cannot attend the meeting, another senior staff person may be designated by the board president/chair to attend in the executive director's place as the FSMB scholarship recipient.

During an interview conducted by the Office of the Ohio Inspector General on January 10, 2013, Whitehouse stated that the State Medical Board of Ohio is a dues paying member of the FSMB. Whitehouse stated that the State Medical Board's membership to the FSMB predates his employment with the State Medical Board of Ohio. Whitehouse said he was appointed to the FSMB board of directors as Talmage was preparing to run for the chair position. When

asked if he was serving on the FSMB board of directors in his official capacity as executive director of the State Medical Board of Ohio, Whitehouse replied, "Well, I couldn't have been a member of the board if I hadn't been executive director." Whitehouse stated that the State Medical Board of Ohio board members were very clear when they hired Whitehouse, that the board wanted Whitehouse to get the State Medical Board of Ohio more involved and make it a "national leader."

Whitehouse continued, stating that serving on the FSMB board of directors was not a "job duty" of the executive director of the State Medical Board of Ohio. Investigators asked Whitehouse who he was representing when he was involved on the FSMB board of directors. Whitehouse replied:

Well, when you're asked to serve on any board you certainly have a, a, a relationship and a responsibility and a duty to, to that board. But I was there because I was executive director of the State Medical Board of Ohio and, and certainly, you know, as I said I couldn't have done the job if I hadn't had this. And that job comes with certain responsibilities, too. They never came into conflict. I, I was there because I could offer knowledge and, and expertise. Uh the board is largely made up of, of physicians uh and, and as board members they kind of have the view from 30,000 feet sometimes and so most organizations, including this one, welcome people have, you know, boots on the ground and they understand the day-to-day. And so that's why they had two seats for executive directors. So they would often have discussions and say well, how will that work practically? Will, that, will that work in Ohio? And, and that's were kind of the discussions, but there was never --- I never felt a conflict.

Whitehouse explained that as executive director of the State Medical Board of Ohio, he served on the FSMB board of directors with the State Medical Board of Ohio board members "knowledge and blessing." Whitehouse stated that he conveyed to the State Medical Board of Ohio information he had learned while at the FSMB meetings. Whitehouse felt this was a benefit to the State Medical Board of Ohio because the board received more information than those state boards that did not have someone serving on the FSMB board of directors. Whitehouse indicated that a high value was placed on participation and involvement with the

FSMB by the State Medical Board members; they deemed it as a privilege, honor, or distinction for Ohio.

Whitehouse confirmed that his position on the FSMB board of directors was not a paid position, but did acknowledge that FSMB reimbursed him for travel expenses.

In a letter to Whitehouse from the Ohio Ethics Commission dated September 6, 2013, OEC advised that the results of the investigation were discussed at the OEC August 15, 2013, meeting and the OEC determined that there was insufficient evidence to support a violation of any of the ethics laws or related statutes. ([Exhibit 1](#))

Ohio University

During the course of the investigation, the Office of the Ohio Inspector General received information that Whitehouse had been teaching at Ohio University since 2007. At the request of the Ohio Inspector General, Ohio University examined their employment records from 2001 to the present and was unable to find any record of an employee named Richard Whitehouse.

During the interview with Whitehouse on January 10, 2013, he explained that as part of a program, Partners in Professionalism, Ohio University offered him a courtesy appointment to Associate Professor of Legal Affairs as "... an expression of the seriousness of the program." Whitehouse explained that once a year he would do a presentation for the first-year medical students that included "medical board jeopardy" to acquaint the students with the medical board. Whitehouse stated that Ohio University required all medical students to attend a State Medical Board of Ohio meeting. Whitehouse indicated that he would also travel to Ohio University at the university's request to speak on different topics to the medical students.

Whitehouse stated that he was not paid by Ohio University and the program was carried out as part of his duties as executive director at the State Medical Board of Ohio.

Additionally, during the course of the investigation, the Office of the Ohio Inspector General received information from a State Medical Board of Ohio member that former State Medical

Board of Ohio employee Lynda Hosken had information regarding a trip Whitehouse took to Ireland with his daughter without taking any type of leave from his position at the State Medical Board of Ohio.

The Office of the Ohio Inspector General conducted an interview with Lynda Hosken on December 11, 2012. Hosken was unable to recall Whitehouse taking a trip to Ireland with his daughter. Hosken stated that there was talk around the office about Whitehouse's hours and his whereabouts, but she had no specific or concrete evidence that Whitehouse took leave without submitting appropriate leave requests.

During the interview with Whitehouse on January 10, 2013, Whitehouse stated that he never was away from the office on personal matters without submitting the appropriate leave request. Whitehouse stated, "I would have been caught. Had a couple people who would have, would have told me."

Lance Talmage

Lance Talmage was first appointed to the State Medical Board of Ohio on March 19, 1999. Talmage was reappointed in 2004 and 2009. Talmage's current term expired March 18, 2014. In 2003, Talmage was elected secretary of the State Medical Board of Ohio, a position he held until 2011.

The position description for a State Medical Board of Ohio member states that the job duties are:

To carry out duties as State Medical Board Member pursuant to Chapters 4730 and 4731., Revised Code, including participation in promulgation of rules and regulations and conducting of administrative hearings pursuant to Chapters 119 and 4731, Revised Code, as well as participation in licensure and certification decisions affecting physicians, osteopathic physicians, podiatrists, physicians' assistants and limited practitioners.

State Medical Board of Ohio payroll records revealed that from January 1, 2011, through September 13, 2012, Talmage submitted per diem requests for a total of 1,880 hours at a per diem rate of \$22.66, totaling \$42,600.80.

State Medical Board of Ohio Procedure Number: 020 dated July 16, 2001,⁶ states, in part:

Board members shall be paid a per diem amount for each day, or any portion thereof, upon which:

1. they are present at the Board offices for purposes of conducting Board business, or
2. they conduct hearings or conferences (including telephone conference calls) related to Board business, regardless of location.

An annual report of per diem salaries for the Board will be prepared and presented at the January meeting of the Board.

Talmage was elected to the FSMB board of directors in 2008 and elected chair-elect in 2011. Talmage served as chair-elect of the FSMB board of directors from April 2011 to April 2012, at which time he began serving his term of chair. Talmage served as chair of the FSMB from April 2012 to April 2013, at which time he became immediate past chair.

While Talmage served on the FSMB board of directors from 2008 to 2011, he was reimbursed by the FSMB for his travel expenses. As chair-elect and immediate past chair, Talmage received a stipend of \$32,000 per year. As chair, Talmage received a stipend of \$64,000. The stipend is paid in quarterly installments. The FSMB claims that the stipend is "... for performing services on behalf of the Federation of State Medical Boards." The stipend is intended to offset time that the chair-elect, chair, and immediate past chair spend away from their medical practice. The FSMB offers the opportunity for the chair-elect, chair, and immediate past chair to waive all or any portion of his or her compensation during his or her term in office by submitting a written waiver.

The FSMB states that the chair's stipend is for FSMB services, including but not limited to the following:

- Chairing regular and special meetings of the board, executive and compensation committees and house of delegates.

⁶ This procedure/policy was updated January 10, 2013.

- Serving as the designated representative for the FSMB, including representing the FSMB to external organizations.
- Attending training and development activities.
- Administrative activities including development of agencies, review of supporting materials, preparation of reports to the board and the FSMB membership, correspondence, audio visual presentations and speeches.
- Attendance at regular meetings and/or participation in conference calls with the president/chief executive officer and other staff as necessary.
- Attending FSMB and board committees in an ex officio capacity.
- Travel to and from required activities.

The stipend for the chair-elect and the immediate past chair is based upon those individuals sharing some of the responsibilities of the chair.

A review of the FSMB payroll records revealed that while Talmage served as chair-elect, he received quarterly checks of \$8,125 from FSMB, and when he served as chair, Talmage received quarterly checks of \$16,250.

During an interview conducted on February 5, 2013, by the Office of the Ohio Inspector General, Talmage stated that he submitted per diem requests to the State Medical Board of Ohio for attending the FSMB meetings while he served on the board of directors and as chair-elect. Talmage admitted that while serving as chair-elect, he received a stipend from the FSMB at the same time he was submitting per diem requests to the State Medical Board of Ohio. Talmage said that he had consulted with Whitehouse, who, according to Talmage, advised him that the per diem requests were “legitimate” requests because when Talmage attended the FSMB meetings, he brought information and issues back to the State Medical Board of Ohio.

Talmage reported that when he began serving as chair of the FSMB, he no longer submitted per diem requests to the State Medical Board of Ohio, because as chair of the FSMB, Talmage “felt that I represent fully the Federation at that point at those meetings.”

Talmage stated that the State Medical Board of Ohio board members were well aware that, while he was serving as State Medical Board of Ohio member, Talmage was also serving on the board of directors for the FSMB as chair-elect, chair, and immediate past chair. Talmage explained that in order to be elected to the FSMB board of directors, the members of your state board are required to “sponsor” you. Talmage continued to explain that at the FSMB annual meeting, any state board members who attended assisted with campaigning. Talmage confirmed that the State Medical Board of Ohio board members understood that Talmage was serving on the FSMB board of directors, as chair-elect, chair, and immediate past chair in his official capacity.

Talmage was asked by investigators if the State Medical Board of Ohio had a policy regarding board members receiving a stipend from the FSMB while serving as chair-elect, chair, or immediate past chair, to which he responded:

... the policy was that you were paid per diem for activities that benefited the --- or for the State Medical Board. So as the secretary, uh at that point I was being compensated per diem for reviewing of complaints at home on the computer. Uh, you know, like 440 and 50 complaints a month um, as well as attending meetings and attending preparation meetings for the uh Medical Board. Uh so I was down here approximately seven days a month...to attend to secretarial duties. Um as far as the uh the Federation of State Medical Boards, as I said, the ---I don't know that there was any policy at that time, not that I was aware of. I simply went to Mr. Whitehouse and asked him what was the appropriate thing to do.

When asked by investigators if the State Medical Board of Ohio board members were aware that Talmage was receiving a stipend while serving as chair-elect for the FSMB, Talmage responded:

Yes. That's --- that is common knowledge at the federation that the --- in fact, one of the um --- the stipend for the past chair was just passed at the last annual meeting, and that's common knowledge then of everybody who's there and uh particularly for the members of the House of Delegates.

The dates that Talmage submitted per diem requests to the State Medical Board of Ohio were compared with the dates of FSMB events. The comparison revealed that from July

19, 2011, through April 29, 2012, Talmage submitted 27 per diem requests to the State Medical Board of Ohio while attending FSMB events. For the time period previously stated, Talmage was paid \$4,894.56 by the State Medical Board of Ohio while attending FSMB events. ([Exhibit 2](#))

On February 24, 2014, the Ohio Ethics Commission entered into a settlement agreement with Talmage. ([Exhibit 3](#)) This agreement required Talmage to reimburse the State Medical Board of Ohio for the per diem payments he received while serving as chair-elect for the FSMB in the amount of \$4,894.56. As part of the agreement, Talmage agreed not to engage in this type of activity in the future.

The Office of the Ohio Inspector General confirmed that on March 6, 2014, the State Medical Board of Ohio received a check in the amount of \$4,894.56 from Talmage. ([Exhibit 4](#))

CONCLUSION

The allegations against Richard Whitehouse were found to be unsubstantiated. At its meeting on August 15, 2013, the Ohio Ethics Commission concluded that Whitehouse was not in violation of Ohio ethics laws when he both served on the State Medical Board of Ohio as executive director and was appointed to the FSMB board of directors. Whitehouse served in those two positions from May 1, 2011, until he resigned his position with the State Medical Board of Ohio on October 11, 2012, at which time he was removed from the FSMB board of directors, as he was no longer permitted to serve due to his separation from the State Medical Board of Ohio.

The Office of the Ohio Inspector General determined that Whitehouse was not employed as a professor at the Ohio University. Whitehouse was offered a courtesy appointment by Ohio University to Associate Professor of Legal Affairs for his work with the Partners in Professionalism program.

The investigation further determined that there was no evidence to support the allegation of theft of time by Whitehouse. The initial information received specifically mentioned a trip to Ireland

that Whitehouse took with his daughter without submitting the appropriate leave requests. The investigation was unable to substantiate the allegation.

Accordingly, the Office of the Ohio Inspector General finds no reasonable cause to believe that a wrongful act or omission occurred in this instance.

The investigation revealed that while serving as a board member for the State Medical Board of Ohio, Lance Talmage served as the chair-elect, chair, and immediate past-chair of the FSMB. The investigation determined from July 19, 2011, to April 29, 2012, Talmage received per diem payments from the State Medical Board of Ohio totaling \$4,894.56 while attending FSMB events. During that same time period, Talmage was serving as the chair-elect for the FSMB and receiving a yearly stipend of \$32,000 from the FSMB. Talmage was only able to serve in the positions of FSMB chair-elect, chair, and immediate past chair because of his position as a board member with the State Medical Board of Ohio.

The Ohio Ethics Commission reviewed the results of the investigation with the commission in executive session on August 15, 2013. The commission found that the facts of the investigation support a violation of ORC §102.03(E) which states, “No public official or employee shall solicit or accept anything of value that is of such character as to manifest a substantial and improper influence upon the public official or employee with respect to that person’s duties.”

Talmage acknowledged that the facts of the investigation demonstrate a violation of ORC §102.03 (E), and entered into a settlement agreement with the Ohio Ethics Commission on February 24, 2014. However, Talmage refused to acknowledge any wrongdoing. As part of the settlement agreement, Talmage issued a check in the amount of \$4,894.56 to the State Medical Board of Ohio on March 6, 2014.

Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe that a wrongful act or omission occurred in this instance.

RECOMMENDATIONS

The Office of the Ohio Inspector General makes the following recommendations and asks the president of the State Medical Board of Ohio to respond within 60 days with a plan detailing how the recommendations will be implemented. The State Medical Board of Ohio should:

- 1) Review the conduct of Lance Talmage and consider whether administrative action is warranted.
- 2) Develop and implement a policy regarding per diem payments to board members to include when per diem payments are appropriate, the proper process to request such payments, and establish who reviews and approves the per diem requests.
- 3) Contact the Ohio Ethics Commission to schedule ethics training for board members and employees.
- 4) Seek guidance from the Ohio Ethics Commission to assist in developing and implementing policies related to the State Medical Board of Ohio's relationship to the FSMB, and include guidance to board members and employees serving on the FSMB board of directors.
- 5) Once a policy is developed and implemented regarding the State Medical Board of Ohio's relationship with the FSMB, provide routine training on the policy to board members and employees.

[\(Click here for Exhibits 1 – 4 combined\)](#)



STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

NAME OF REPORT: State Medical Board of Ohio

FILE ID #: 2012-CA00106

KEEPER OF RECORDS CERTIFICATION

This is a true and correct copy of the report which is required to be prepared by the Office of the Ohio Inspector General pursuant to Section 121.42 of the Ohio Revised Code.

Jill Jones
KEEPER OF RECORDS

CERTIFIED
May 21, 2014

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