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Ralph L. Read
125 SW Collins
Portland, OR 97219
503-892-9614

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

Case Number 3:12 - CV - 2021 MO

Ralph Lewis Read,
Plaintiff

v.

~~KATHLEEN~~ Katherine Haley
Warren Foote
Dove Gutman
Dr. Douglas Kirkpatrick
Dr. Lisa Cornelius
Unknown member(s) of the Oregon Medical Board,
(method of identification described below)
Unknown employee(s) of the Oregon Medical Board
(method of identification described below),
Defendants

COMPLAINT
Personal injury
1st Amendment; 42 U.S.C. §1983
14th Amendment; 42 U.S.C. §1983
Prospective injunction;
Oregon State laws
DEMAND FOR JURY TRIAL

Complaint:

Plaintiff, Ralph Lewis Read, a citizen of the State of Oregon alleges personal injury caused by violations under color of law related to: 14th Amendment; 42 U.S.C. 1983; 1st Amendment; 42 U.S.C. 1983

Plaintiff alleges that some Oregon laws violate the U.S. Constitution (Article I Section 10, and the 14th Amendment), and requests prospective injunction against enforcement of those laws.

1 I. PARTIES

2 PLAINTIFF:

3 [1] Ralph Lewis Read (M.D.) is a citizen of the United States, born in the State of Iowa, and
4 residing continuously in Oregon since 1999.

5 [2] Dr. Read was initially granted an Oregon unrestricted active license to practice medicine in
6 1999 and had renewed that license continuously until January 2008.

7 [3] Dr. Read has not had an active license since April 2008, the license was surrendered in
8 January 2009, and the license was revoked in March 2012.

9 DEFENDANTS:

10 [4] Kathleen Haley, Executive Director -Board of Medical Examiners
11 1500 SW 1st Ave Ste 620 Portland OR 97201

12 [5] Defendant Haley is named in both her official capacity as Executive Director of the Oregon
13 Medical Board and in her individual capacity.

14 [6] The actions complained of in her individual capacity were done under color of law using her
15 position of authority at the OMB to violate well-established civil rights of the plaintiff.

16 [7] Haley is named in her official capacity with regard to request for prospective injunction of
17 implementation of State laws which are alleged to violate the U.S. Constitution.

18 [8] Haley is named because she has signed documents which provide evidence of actions which
19 are alleged to violate civil rights and is believed to have administrative control of the OMB with
20 respect to actions requested as part of the OMB mission.

21 [9] Haley either originated, cooperated with or failed to prevent alleged violations that are
22 proved by documents which she signed.

1 [10] Haley is listed (Sept 29, 2012) on the Oregon Bar website as licensed to practice law (since
2 1989). (<http://www.osbar.org/members/display.asp?b=890084>)

3 [11] Warren G. Foote individual capacity, not official capacity.

4 Warren G Foote

5 Department of Justice General Counsel Business Activities

6 1162 Court St NE Salem, OR 97301 Office: 503-947-4520

7 [12] Mr. Foote is believed to currently be Senior Assistant Attorney General,

8 Oregon Department of Justice and represented the OMB at the hearing on complaint #A144783

9 on May 28, 2009. His actions during that hearing, separate from official duties, but done under
10 “color of law” acted to deny due process and violated plaintiff’s 14th Amendment rights.

11 [13] Dove L Gutman individual capacity, not official capacity

12 2510 Oakmont Way Eugene, OR 97401 (541) 349-4155

13 [14] Gutman was an Administrative Law Judge for the State of Oregon at relevant times. She

14 supervised the hearing on complaint #A144783 on May 28, 2009 after providing pre-hearing

15 supervision and decisions regarding discovery.

16 [15] ALJ Gutman provided a non-binding suggested Final Order to the OMB.

17 Gutman acted individually under color of law to falsify information and to create a new

18 complaint after the hearing on the actual complaint, both being administrative actions (not

19 judicial) and actions which denied due process to plaintiff in violation of the 14th Amendment.

20 [16] Lisa A. Cornelius individual capacity, not official capacity.

21 Lisa A. Cornelius, DPM, Corvallis

22 3640 Northwest Samaritan Drive Corvallis, OR 97330 (541)757-7100

1 Cornelius was a licensed Podiatrist and member of the Oregon Medical Board at relevant times.
2 Cornelius falsified investigational information which acted to deny legitimate due process to
3 plaintiff, in violation of his 14th Amendment rights.

4 [17] Douglas Kirkpatrick individual capacity, not official capacity

5 Community Health Center 19 Myrtle St. Medford, OR 97504 (541)773-3863

6 Kirkpatrick was a licensed physician and member of the Oregon Medical Board at relevant times.

7 Kirkpatrick falsified investigational information which acted to deny legitimate due process to
8 plaintiff, in violation of his 14th Amendment rights.

9 [18] UNKNOWN Oregon Medical Board member(s): individual capacity, not official capacity-
10 were members of the Oregon Medical Board at relevant times.

11 [19] UNKNOWN Oregon Medical Board employee(s) or consultants, in individual capacity, not
12 official capacity - employed by the Oregon Medical Board at relevant times, whether paid or not
13 paid for services.

14 HOW TO IDENTIFY UNKNOWN INDIVIDUALS responsible for alleged violations:

15 [20] Although some individuals involved in alleged violations can be identified with assurance
16 by available OMB documents, others cannot be identified because most activity of the OMB is
17 secret, as required by Oregon State law.

18 [21] OMB individual's activity can be recognized in official documents released by the OMB
19 and in communications to licensees.

20 [22] OMB documents made public or delivered to plaintiff can be used to identify alleged
21 violations, and some of the individuals involved- but discovery of secret documents is needed
22 determine all violations and identify all the individuals involved.

1 [23] Because Oregon law requires a member of the OMB to supervise Haley, and because other
2 employees and OMB members may have been involved in the violations alleged, the OMB
3 records related to the alleged violations need to be discovered by plaintiff.

4 [24] ORS 677.275 Executive director; administrative law judges. (1) The Oregon Medical Board
5 may appoint an executive director, who need not be a member of the board, and fix the
6 compensation. The executive director shall be under the supervision and control of the board, and
7 may discharge all duties as provided in the rules of the board or as directed by the board.

8 [25] Review of secret OMB records may identify all individuals responsible, and perhaps reveal
9 other violations that have not been reflected in public documents.

10 [26] Haley and any supervising OMB member(s) could and should have identified the alleged
11 falsifications and corrected or removed them. If they did not do so, or attempt to do so, they
12 were recklessly indifferent to the damage the falsifications could and did cause to Dr. Read.

13 [27] Thus all OMB members are likely to be "unknown" defendants, unless they can show that
14 he/she should not be reasonably expected to have prevented the harm done by falsifications that
15 were a violation of Dr. Read's 14th (and 5th) Amendment right to legitimate due process, and
16 other violations of civil rights.

17 II. JURISDICTION AND VENUE

18 [28] This action arises under the Constitution of the United States including the 1st Amendment,
19 the 5th Amendment, the 14th Amendment, and 42 U.S.C 1983.

20 [29] This Court has jurisdiction pursuant to 28 U.S.C. 1331 and 1343.

21 [30] This Court has jurisdiction to issue the injunctive relief requested pursuant to the District
22 Court's jurisdiction under the Civil Rights Act, 28 U.S.C. § 1343, and 42 U.S.C. § 1983.

1 [31] Venue is proper in this district pursuant to 28. U.S.C. 1391(b). All parties are believed to
2 reside in Oregon, or did so at the time of the actions complained of. The events relevant to this
3 complaint occurred in the District of Oregon.

4 III. STATEMENT OF CLAIMS – A-M Numbered 1-9 in sections III.M.1 to III.M.9

5 III A. PRELIMINARY STATEMENT

6 [32] Summary of allegations of violation of well-established civil rights by individuals acting
7 under color of law, which violations caused injury to plaintiff, and for which injuries plaintiff
8 requests damage payments by the individuals involved.

9 [33] The deprivation of Dr.Read's property and liberty interest in his active medical license was
10 denied due process, which is a violation of Dr.Read's 14th Amendment rights. This violation
11 caused injury of loss of property and liberty value of the active license. And caused severe
12 emotional distress. The lack of an active license is alleged to have decreased plaintiff's income
13 by an amount that could be as high as \$250,000 each year, or as low as zero. The deprived
14 liberty value of reputation is difficult to value, because there is no way to know how this damage
15 acts to restrict opportunity and social acceptance, possibly very little, or possibly as much as
16 \$250,000 each year depending on future events. The damage to reputation (liberty value of the
17 license) would affect ability to obtain employment (that did not require a medical license), and
18 would make it less possible to profit from other efforts (education, entertainment, etc) that might
19 be based on reputation, which was unblemished after 38 years (1970-2008) of practicing
20 medicine, and was ruined by a totally unnecessary unrequested and unjustified action against his
21 medical license. If there was a legitimate reason for acting against the license, the OMB should
22 have disclosed it and allowed plaintiff the opportunity to show the reason was not true. Although

1 monetary damage payment would not undo past or future damage, or change the emotional
2 damage in the past, a just verdict and large enough payment would allow plaintiff to answer any
3 reference to the OMB by explaining that the individuals involved were found to have violated his
4 civil rights and had been ordered to pay for those violations that damaged plaintiff.

5 [34] Falsifications related to plaintiff's renewal application, by Cornelius and Kirkpatrick and
6 Haley, acted to deny due process on the deprivation, and also on later threatened deprivations
7 related to the Complaint issued much later.

8 [35] A sham "Order for Evaluation" (OFE) was issued to punish Dr. Read for repeatedly
9 requesting review of the decisions that deprived him of his active medical license, the sham
10 Order punishment intent was a violation of plaintiff's 1st Amendment rights.

11 [36] We do not need to determine intent because the sham OFE could only produce one result:
12 violation of the OFE, which must have been the intent because no error was claimed by the
13 OMB, even when it admitted that the OFE was impossible to comply with.

14 [37] Because this OFE was a sham, not a legitimate Order for evaluation- and as a sham, the
15 individuals who issued it were not authorized to issue it because they are only authorized to issue
16 legitimate orders for evaluation that are needed for OMB function.

17 [38] The OFE violates plaintiff's 14th Amendment right to equal treatment, because it is
18 impossible to comply with and thus will cause violation, and thus substantive due process is not
19 allowed.

20 [39] The information used to justify creation and to create the wording of the OFE must have
21 been falsified because the Order is not needed by the OMB, and is totally impossible to comply
22 with, these falsifications act to deny due process on the Complaint that alleges intentional

1 violation of the OFE.

2 [40] And there are multiple falsifications related to the Complaint and the hearing on the
3 complaint, all of which acted to deny legitimate due process on the deprivation threatened by the
4 Complaint. These falsifications caused severe emotional distress for plaintiff, as did the denial of
5 due process.

6 [41] The Oregon legal scheme for OMB "orders" is a violation of Article I Section 10 of the
7 U.S.Constitution- because it allows the OMB to provide legislative punishment, punishment that
8 is totally in control of the group that creates the law that is alleged to be violated.

9 [42] Any OMB action against a licensee is a violation of 14th Amendment right to equal
10 treatment, unless that action is justified by some compelling State need.

11 [43] Because all compelling State needs with regard to licensees can be met by action against the
12 license, which can return the licensee to the same status as other citizens, the OMB should not
13 be allowed to fine licensees up to \$10,000, nor allowed to make disparaging characterizations of
14 licensees.

15 [44] If a licensee has not violated a law that affects all citizens, there is no valid reason for the
16 OMB to do anything except what is supposed to do: determine license status. The OMB has a
17 simple administrative job to make license determinations, based on the kinds of investigation that
18 would be involved with making employment determinations: licensee actions and the OMB rules
19 that licensees are supposed to follow.

20 [45] A Complaint against Dr.Read (CADR) was issued to complete the punishment started by
21 the OFE, by fining Dr.Read for not complying with the Order. Because the complaint was
22 intended as punishment for exercising 1st Amendment rights, it is a violation of plaintiff's 1st

1 Amendment rights, even if some parts of the Complaint are not related to the punitive sham OFE
2 issued to Dr.Read.

3 [46] Various falsifications were made by individuals during and after the hearing on the
4 complaint, falsifications that acted to deny due process on the deprivations threatened by the
5 Complaint. The most remarkable was falsification of the case record by deleting 32 pages of
6 plaintiff's direct testimony.

7 [47] These various falsifications (and the violation of due process rights by them) caused
8 cumulative continual severe emotional distress for plaintiff.

9 [48] For the injuries related to loss of active license, Dr.Read requests nominal, compensatory
10 damages in the amount of \$2 million from each individual who caused the violation, and \$2
11 million punitive damages from each individual who caused the violation.

12 [49] For the injury of severe emotional distress, that was cumulative from the varied
13 falsifications that acted to deny legitimate due process, plaintiff requests damages that are
14 nominal, and compensatory in the amount of \$4 million from each individual who caused
15 violation(s), and punitive in the amount of \$4 million from each individual who caused
16 violation(s), as allowed by 42 U.S.C. §1983, for proved violation(s) of plaintiff's civil rights by
17 individuals acting under "color of law" while involved with the Oregon Medical Board (OMB)
18 actions involving plaintiff Dr. Ralph Read.

19 [50] The individuals involved in one or more alleged violation include the named defendants as
20 described in this complaint and unknown (unnamed) defendants as may be proved by OMB
21 secret records and other discovery (deposition of defendants and witnesses).

22 III B. BACKGROUND FACTS RELATED TO DEFENDANTS, ALLEGED VIOLATIONS and

1 LAWS INVOLVED

2 [51] Oregon legal ethics demand honesty and legality to a tribunal by licensed lawyers;
3 falsification of the case record may be a fraud on the court, but was not recognized by the OMB,
4 the OCOA, or the Oregon Supreme Court.

5 [52] Definition of ORS 677.080 Prohibited acts. No person shall:

6 (1) Knowingly make any false statement or representation on a matter, or willfully conceal any
7 fact material to the right of the person to practice medicine or to obtain a license under this
8 chapter.

9 [53] The falsifications described in this complaint as violations of civil rights may also be
10 violations of Oregon State law 677.080.

11 [54] The Oregon State legislature clearly wants to have truth and honesty in licensing. Any
12 effort to deceive with incomplete truth, efforts to delete the truth, to mislead regarding the truth,
13 or fabrication of information without evidence, or failure to provide reasonable investigation to
14 reveal the truth - is not a legitimate part of any OMB member's job nor of any OMB employee's
15 job.

16 [55] 42 U.S.C. § 1983 - Section 1983 provides:

17 Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any
18 State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of
19 the United States or other person within the jurisdiction thereof to the deprivation of any rights,
20 privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured
21 in an action at law, suit in equity, or other proper proceeding for redress.

22 [56] The 14th Amendment in part (Section 1 only):

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

6 [57] Falsification of the information used to make decisions related to procedural due process on
7 threatened State deprivations acts to deny substantive due process, and violate plaintiff's 14th
8 Amendment rights, because it perverts any procedural due process that is provided.

9 [58] Falsifications are a denial of legitimate due process no matter what form the falsification
10 took - whether favorable or unfavorable to the plaintiff, and unrelated to any effect they are
11 claimed to have or not have on any judicial decision that involves them.

12 [59] Oregon State law attempts to provide all OMB employees and members with total
13 immunity for any action taken officially:

14 [60] Definition ORS 677.335: Official actions of board and personnel; privileges and
15 immunities; scope of immunity of complainant. (1) Members of the Oregon Medical Board,
16 members of its administrative and investigative staff, medical consultants, and its attorneys
17 acting as prosecutors or counsel shall have the same privilege and immunities from civil and
18 criminal proceedings arising by reason of official actions as prosecuting and judicial officers of
19 the state.

20 [61] Oregon State law provides secrecy and immunity for individuals who file complaints.

21 [62] Definition ORS 677.335 (2) No person who has made a complaint as to the conduct of a
22 licensee of the board or who has given information or testimony relative to a proposed or

1 pending proceeding for misconduct against the licensee of the board, shall be answerable for any
2 such act in any proceeding except for perjury committed by the person. [1975 c.776 §2; 1989
3 c.830 §26].

4 [63] Oregon law also requires most official OMB information be secret.

5 [64] Definition ORS 677.425: Confidential information; immunity.

6 (1) Any information that the Oregon Medical Board obtains pursuant to ORS 677.200, 677.205
7 or 677.410 to 677.425 is confidential as provided under ORS 676.175.

8 (2) Any person who reports or provides information to the board under ORS 677.205 and
9 677.410 to 677.425 and who provides information in good faith shall not be subject to an action
10 for civil damages as a result thereof. [1975 c.796 §8; 1983 c.486 §44; 1989 c.830 §29; 1991
11 c.485 §7; 1997 c.791 §21]

12 [65] The Oregon laws regarding secrecy and immunity, if enforced in a Federal hearing, would
13 effectively repeal 42 U.S.C. §1983, by making it apply to nobody who could violate it, and by
14 making it impossible to obtain information regarding their violations.

15 [66] Federal guidelines for immunity and secrecy should apply here, ignoring State law, to allow
16 individuals to be identified and held responsible for violations of 42 U.S.C.§1983.

17 [67] Discovery of all relevant OMB records can be ordered because Federal law requirements
18 take precedence over State law, and 42 U.S.C.§ 1983 requires the information from OMB records
19 to identify individuals who acted under color of law to violate plaintiff's civil rights.

20 [68] No reversal of any current or completed legal action is requested, nor is any judicial action
21 claimed to be a violation of civil rights nor as consequent damage caused by the violations
22 described herein. (This assumes the listing of the active license as inactive was a deprivation

1 caused by administrative action, as it was described by Haley as a "routine administrative action"
2 in OMB documents.)

3 [69] Most actions by the OMB are best understood as "employment" decisions, because they
4 involve a State license that is necessary to be employed in the practice of medicine. The OMB
5 decides to what extent an individual can be employed in the practice of medicine. Or not be
6 employed.

7 [70] The alleged judicial, legislative, and prosecutor functions of the OMB administrators are
8 exactly what any administrator does when making decisions regarding hiring, firing and/or
9 demoting and promoting employees. They deserve qualified immunity because that is adequate to
10 allow them to do their job without unreasonable harassment by legal action.

11 [71] Creation of a non-administrative scenario to make these employment-like decisions seem
12 more than they are is simply another effort by the State legislature to prevent enforcement of 42
13 U.S.C §1983.

14 [72] Federal guidelines as to the actual function of individuals involved in investigating and
15 deciding licensing matters should be determinative, not the title of the individual, but the nature
16 of the activity the individual performs.

17 [73] Thus OMB employees and members deserve qualified Immunity for decisions made in the
18 course of employment - they are not judges, prosecutors, or legislators, as the State law would
19 characterize them. They are administrators determining whether or not an individual should be
20 employed as a physician, by granting or denying a license depending on information gathered by
21 the OMB investigators. The "contested case" form of managing these employment-like decisions
22 is provided to help the administrators respect licensees' constitutional rights, and should not be

1 used to deprive licensees of these same rights, by pretending that a “contested case” is a trial with
2 a real judge and jury. It is an administrative hearing that is very different from a real trial, and the
3 administrative control of the hearing is very different from what would be provided by a real
4 judge, who might adhere to State laws regarding evidence and testimony.

5 [74] To the extent that OMB actions do anything more than affect license status, this complaint
6 alleges that action is a violation of the U.S. Constitution's 14th Amendment, because the only
7 actions which are required to provide for the State's need to regulate the practice of medicine are
8 actions regarding license status.

9 [75] Any money fine related to violation of OMB rules or orders is alleged to be
10 unconstitutional, as is any pejorative characterization of a licensee who has not violated a law
11 that affects all citizens (even if the licensee has done something that renders him unsuitable for
12 licensing).

13 [76] The only thing a licensing Board needs to decide is whether to grant or limit or withdraw a
14 license, because that is all that is needed to meet the State's need to control the practice of
15 medicine. More than that is a violation of 14th Amendment right to equal treatment by the law.

16 [77] Pejorative characterization is a deprivation of the liberty value of reputation, and that
17 deprivation should not be allowed for “violations” that would not be punished if done by an
18 unlicensed individual; these "violations" are simply acts or omissions that affect licensing, and
19 should be identified as such, not characterized as any kind of “evil” (unless they violate laws that
20 affect all of us).

21 [78] All “non-license” related decisions and punishment should be determined by laws that
22 affect all citizens, and judged by real courts and judges and juries- not using special laws created

1 by an Agency like the OMB, working in secret and enforcing its rules without the benefit of
2 judges or juries.

3 [79] The secret operation of the OMB resulted in most of the falsifications described here being
4 fraudulently concealed, and revealed only as they can be deduced from information in completed
5 "decisions" by the OMB that were released to the public or to plaintiff licensee.

6 [80] Thus the violations alleged here were not clearly identified by anyone until plaintiff realized
7 the OCOA opinion on the OMB "Final Order" seemed to be made without awareness of Dr.
8 Read's uncontested testimony about CPEP. Then Dr.Read discovered that the OMB had deleted
9 Dr. Read's direct testimony from the case record, and then realized that almost everything had
10 likely been perverted by other falsifications that were not identified by those who depended on
11 them.

12 [81] Dr. Read's testimony was the ONLY testimony about the issues of the Complaint which
13 were eventually appealed to the OCOA. But most of that testimony was deleted from the case
14 record provided to the Oregon Court of Appeals, and possibly deleted earlier than that so the
15 OMB tribunal may not have been aware of this uncontested testimony.

16 [82] Denial of due process on the deprivation of the active license resulted in continuing loss of
17 the property and liberty value of the active license.

18 [83] There is no claim that any of the falsification(s) alleged resulted in a different "outcome" -
19 only that these falsifications acted to prevent legitimate due process, in violation of the plaintiff's
20 14th Amendment rights, and did cause injury to the plaintiff in the form of intense continual
21 emotional distress.

22 [84] The OMB documents related to interactions with Dr. Read are important to this complaint

1 because they provide evidence which proves many of plaintiff's allegations and makes the other
2 allegations more likely than not, without other discovery.

3 [85] All relevant secret OMB documents are needed to identify all other individuals involved
4 either by participation in falsifying information, or failing to report falsifications which a
5 reasonable person should have discovered.

6 [86] Full discovery may justify amendment of this complaint to include other similar violations
7 and the other individuals involved in the actions complained of here and other similar actions
8 that may be discovered which are violations of civil rights.

9 [87] The OMB Final Order (or OCOA judicial decision in the case) might have reduced the
10 injury to plaintiff by recognizing the falsifications that had been provided to the OCOA and the
11 Oregon Supreme Court for its decision-making processes.

12 [88] The OCOA opinion did somewhat reduce future damage to plaintiff, by discovering and
13 correcting the falsification regarding the arrest complaint, and by discovering and correcting the
14 claim about "ceased practice".

15 [89] Although recognized by the OCOA, these falsifications remain violations of due process,
16 because of their dishonest effect on any procedure that includes them, regardless of what
17 someone alleges that effect to be.

18 [90] The OMB or Haley removed one new false complaint regarding Dr. Read from the "Final
19 Order", but the false nature of this new complaint, printed in the proposed "Final Order"
20 document was thus admitted, and thus proved to be false.

21 [91] This new false complaint was itself a violation of due process rights that caused injury
22 regardless of its effect on any judicial decision.

1 [92] The OMB effectively admitted that the OFE was impossible to comply with, and thus
2 (logically) some or all of the investigative material relied upon to create the OFE was likely
3 falsified or fabricated, to result in the impossible Order.

4 [93] This falsification was a violation of due process rights because it perverted due process on
5 the hearing which involved compliance with the OFE, and these falsifications caused injury to
6 plaintiff regardless of how the falsifications affected any judicial decision.

7 [94] Falsifications in the original OMB public documents cannot be changed, nor undone, by the
8 recognition of (some of the) falsifications by the OCOA. Their future importance may have been
9 reduced because individuals who care to investigate carefully can discover that (some of) the
10 falsifications are indeed false, based on the authority of the OCOA.

11 [95] The Oregon Supreme Court denied review on March 08, 2012. Until then, all of the
12 falsifications could have been recognized and undone by the OMB, or by the OCOA, or
13 recognized and undone by the Oregon Supreme Court.

14 [96] Recognition by the Court(s) would have greatly reduced the emotional distress which the
15 falsifications will cause the plaintiff in the future, by providing a way to learn the truth for people
16 who might be misled by the falsifications. Otherwise the Court decisions are irrelevant to this
17 complaint, except to suggest that reasonable individuals may fail to recognize the falsifications,
18 as Dr.Read fears.

19 [97] With the appeal process complete, plaintiff has no effective way to deal with the
20 falsifications and denial of due process, thus the emotional distress they cause will continue
21 indefinitely.

22 [98] All Board members are believed to have had complete access to documents made public

1 and had the opportunity and obligation to identify and correct the falsifications.

2 [99] They (like everyone else) may have failed to detect the falsifications because they had a
3 reasonable expectation that the OMB information would be true and that OMB actions would be
4 honest and legal.

5 [100] The failure of any lawyer involved, any judge or any OMB member to identify most of the
6 falsifications should serve as evidence that they were fraudulently concealed by the secret
7 operation of the OMB - even though some of them seem very obvious once they are examined
8 carefully in retrospect.

9 [101] State law does not authorize falsifications of the OMB records, thus there was no
10 requirement that these unauthorized falsifications be kept secret, if they were known to be false.
11 The secrecy was the equivalent of fraudulent misrepresentation of the false information.

12 [102] Plaintiff believes that many individuals acted (or failed to act) with intentional disregard of
13 the damage the falsifications could do to plaintiff if not recognized and corrected, including a
14 failure to investigate allegations.

15 [103] There was a duty by OMB employees and members to find and reveal the truth so that
16 plaintiff would receive legitimate due process on actions that caused or threatened to cause
17 deprivations, as required by Oregon law and by Federal law.

18 III C. FACTS COMMON TO ALL CLAIMS

19 [104] December 2007 - Application for renewal of the active medical license by Dr. Read,
20 plaintiff

21 [105] The renewal application reports no period of inactivity, it does report long unemployment;
22 which is not specifically required to be reported.

1 [106] The renewal application reports a prior arrest of Dr. Read by the Portland Police for Animal
2 Abuse II, and a charge filed against Dr. Read by the District Attorney for "Disorderly Conduct".

3 [107] No charge was filed related to the animal abuse arrest charge. The "disorderly conduct"
4 charge filed against Dr. Read was dismissed by Judge Marcus without any testimony because no
5 witness or police appeared at the court hearing on the charge.

6 [108] There has never been any complaint identified as filed by the public with the Oregon
7 Medical Board (OMB) related to Dr. Ralph Read or to his medical practice. All complaints are
8 believed to have been created internally by the OMB.

9 [109] Jan 2008 - Renewal of active license initially was granted for the 2 year period beginning
10 Jan 1, 2008.

11 [110] The OMB requested additional information from Dr. Read related to the renewal
12 application.

13 [111] Additional information related to practice activity, plans for the future, and the prior arrest
14 in 2006 were submitted to the OMB by plaintiff.

15 [112] April 2008 - Plaintiff received letter from OMB informing him that his license had been
16 listed as inactive because he did not qualify for an active license.

17 [113] The letter does not explain what qualification is lacking and does not identify any
18 complaint against Dr. Read. Specifically, the importance of the prior arrest is not identified as a
19 complaint.

20 [114] Plaintiff (in writing) requested all allowed Administrative Review of Action(s) that
21 deprived him of an active license and is told by the OMB that he needs to request an
22 investigative meeting.

1 [115] June 09, 2008 Investigative Meeting (IMJ08): Plaintiff was ordered to appear at an
2 investigative meeting at the office of the OMB in downtown Portland, OR. and did appear,
3 representing himself.

4 [116] Statements made by OMB members and Haley during the IMJ08 indicate that nobody
5 revealed the "prior arrest" problem, but fabricated other specious problems that included
6 falsification of Dr. Read's renewal application by claiming that Dr. Read reported that he had
7 ceased practice.

8 [117] "Specious" problems in the sense that the voiced concerns were no more reasonable for
9 Dr. Read than they were for every other licensed physician – and were not based on any fact that
10 was ever identified, instead the application information was falsified by claiming that Dr. Read
11 had reported that he had ceased practice.

12 [118] Dr. Read alleges that the only actual concern was his prior arrest, but that this concern was
13 concealed for another 8 months. When finally revealed, the allegation made regarding the prior
14 arrest would not be proved.

15 [119] Dr. Read alleges that this meeting, IMJ08, was not "due process" on the deprivation of his
16 active medical license, but was more in the form of a sham which ignored the role of his prior
17 arrest and pretended he had applied for inactive license.

18 [120] Soon after the investigative meeting, Dr. Read asked to review the transcript of the
19 meeting. He was told that he would not be allowed to review the transcript, and was not asked to
20 authenticate it.

21 [121] June 11, 2008: OMB informed plaintiff by letter regarding OMB decisions based on the
22 June 2008 investigative meeting.

1 The prior arrest was not considered a violation.

2 The license would remain inactive.

3 [122] Plaintiff had previously been informed that he needed to provide proof of competence
4 before the OMB would consider re-activating the medical license, but Dr.Read never requested
5 reactivation of the license.

6 [123] Dr. Read was NOT asked to answer any questions in writing, nor provide any more
7 information - despite his offer (during the meeting) to answer questions in writing.

8 [124] The offer to answer in writing was made by Dr. Read during the investigative meeting
9 when Dr. Read recognized that the committee "investigating" was upset by his persistent request
10 to have the OMB explain the prior decisions that deprived him of an active license.

11 [125] Dr. Read had never applied for an inactive license, and did not ever request to reactivate
12 the inactive license. Dr. Read did repeatedly request administrative review and justification of
13 the OMB actions that deprived him of the active license.

14 [126] Reactivation of an inactive license has requirements for documentation of continuing
15 medical education (which was NOT a requirement for renewal of an active license in 2008).

16 [127] The OMB's listing of the license as inactive deprived Dr. Read of the property and liberty
17 value of the active license.

18 [128] The only information needed to review the prior OMB decision(s) was the information the
19 OMB had relied on in making those decisions- that information has never been revealed
20 completely.

21 [129] Thus the investigative meeting (IMJ08) was unnecessary to know why the active license
22 had been inactivated, and did not clearly explain that decision. And the meeting was

1 unnecessary because there was no complaint that had been disclosed against the licensee, and
2 unnecessary because Dr. Read had not requested that the inactive license be reactivated, so there
3 was no decision needed.

4 [130] Dr. Read knew that he did not have the requisite records of continuing education that are
5 required for reactivating an inactive license.

6 [131] Summer 2008 - Plaintiff again requests, in writing, all administrative review of OMB
7 action(s) that deprived him of an active license.

8 [132] Dr. Read did not "insist he should have an active license".

9 Dr. Read insisted that he should receive due process on the deprivations related to inactivating
10 his license, as required by the 14th Amendment, but he was not aware of the legal terminology at
11 that time.

12 [133] Plaintiff requested refund of his license application fee if the OMB believed he was not
13 actually in active practice, and thus had not been eligible to apply for active license renewal. His
14 offer was ignored.

15 [134] Plaintiff offered to agree that he did not understand the secret rules used by the OMB to
16 determine if a licensee is active enough to be considered active, the offer contingent on refund of
17 his license fee, and removal of any record of unrequested action against the license. The offer
18 and request were ignored.

19 [135] Sept 03,2008 - OMB issues an Order titled "Order for Evaluation" (OFE)

20 [136] This OFE will turn out to be a sham Order, based on false claim it is needed, and false
21 information about the company named to provide the evaluation(s) ordered: The Center for
22 Personalized Education for Physicians (CPEP).

1 [137] At the time of the OFE, plaintiff's medical license had been inactive since April 2008, and
2 he had not asked to reactivate it. Plaintiff had asked for administrative review of the prior OMB
3 decisions that deprived him of an active license.

4 [138] At the time of the OFE, the OMB had already informed plaintiff that he was responsible
5 for proving competence and until then the OMB would not reconsider reactivating the license.

6 [139] There had been no consultation with plaintiff in creating this OFE, but the OMB did have
7 the information provided by the application for license renewal and the investigative meeting.

8 [140] The sham OFE did not mention the prior arrest, nor anything about plaintiff's answers at
9 the investigative meeting of June 2008, nor any other ethical concern. The OFE does not provide
10 specific information regarding competence concern or psychological problems.

11 [141] The OFE allowed 90 days to obtain a "comprehensive evaluation" by CPEP and the OFE
12 also required a psychological evaluation by CPCP.

13 [142] CPEP's internet web pages indicates that CPEP does not provide psychological evaluations
14 and does not provide any evaluation until psychological problems are resolved. (CPEP web site
15 is <http://www.cpepdoc.org>).

16 [143] The OFE was a total sham because it was unnecessary- the license was inactive and no
17 OMB decision had been requested, nor was pending. We can know now that there were
18 undisclosed ethical complaints against the plaintiff, which were not addressed by the sham OFE.

19 [144] CPEP uses the term "comprehensive" to mean "all practical knowledge and ability that are
20 the subject of any complaint against the licensee", but the OFE did not identify any problem that
21 involved knowledge or ability.

22 [145] The only complaints (when eventually revealed) were ethical, so there were no practice

1 related abilities to comprehensively evaluate. And CPEP specifically states that CPEP does not
2 evaluate psychological and ethical problems, nor does CPEP perform any evaluation until the
3 psychological and ethical problems are resolved.

4 [146] CPEP offers a comprehensive evaluation for physicians who have been "inactive" in a
5 specialty, and intend to resume that specialty practice, but this is irrelevant because Dr. Read had
6 reported to the OMB that he had been unemployed in his specialty, and did not intend to practice
7 his specialty in the future.

8 [147] Plaintiff alleges and has always believed that the original action against the license had
9 been made because of his prior arrest, and that the OFE was issued to punish him for repeatedly
10 asking for administrative review of the original action against the license, and prevent plaintiff
11 from obtaining due process on deprivation of his active license.

12 [148] The OMB did not identify "the arrest" (described in the license renewal application) as a
13 violation until 8 months after the action against the license, 6 months after informing Dr. Read
14 that "the arrest" was NOT a violation, and 4 months after the sham OFE failed to mention the
15 prior arrest as a psychological or ethical problem.

16 [149] The information the OMB would rely on to prove that "the arrest" was a violation of
17 medical ethics was identical to the information known at the end of the IMJ08, when the OMB
18 wrote to tell Dr. Read that the arrest was "not a violation".

19 [150] Plaintiff wrote to the Oregon Attorney General's office because he was aware that the OFE
20 was unnecessary, and believed it may have been issued pursuant to some commission / kickback
21 arrangement with CPEP, the private company named to provide the unneeded evaluation.

22 [151] If the ordered evaluation had been something possible to obtain (even though

1 unnecessary), the huge cost for no benefit would have been substantial punishment because Dr.
2 Read could not benefit from any evaluation.

3 [152] Dr. Read sent an email to info@cpepdoc.org informing CPEP of the OFE, and asking for
4 more information regarding compliance, including costs. He never received a reply to the email,
5 and after studying the CPEP website did not persist in attempting to contact CPEP.

6 [153] Dr. Read believes, without any proof at all, that the creation of the OFE was most likely
7 made in the expectation that Dr. Read would not attempt to comply with an expensive time-
8 consuming evaluation that he believed did not offer the slightest chance of providing benefit to
9 him.

10 [154] The OFE was a sham, and because nobody expected Dr. Read to even investigate how to
11 comply with it, nobody bothered to actually investigate CPEP capabilities, nor determine how to
12 evaluate a physician in Dr. Read's situation. They simply hallucinated something that sounded
13 good and seemed likely to be very expensive to obtain, unrelated to anything needed, and
14 unrelated to anything possible or contraindicated (by CPEP policy).

15 [155] Plaintiff quickly learned from the CPEP website (cpepdoc.org) that the OFE violates the
16 guidelines of the private company (CPEP) and was impossible to comply with because it
17 required a psychological evaluation that CPEP did not provide, and has never provided. And
18 CPEP does not provide any evaluation until psychological issues are resolved.

19 [156] Nor did the OFE identify any evaluation that that company CPEP provides for a licensee
20 in Dr. Read's "situation", even if all evaluation was not already contraindicated until the
21 psychological evaluation problem was settled. When the ethical complaints are finally revealed
22 by the OMB in January 2009, they provide two more contraindications to any CPEP evaluation

1 until they are resolved.

2 [157] Plaintiff realized there could not be a kickback arrangement, because there was no way for
3 the expensive sounding evaluation order to create a fee for CPEP to pay a commission on! Thus
4 the OFE was malicious, but made without any expectation of personal profit, which may be
5 better? or may be worse? or maybe Dr.Read was supposed to pay someone to make it go away?

6 [158] The Attorney General (AG) ignored Dr. Read's suggestions (before Dr.Read realized it was
7 unlikely) and forwarded the letter to the Oregon Medical Board, and the AG informed Dr. Read
8 by letter of that action.

9 [159] September 10,2008: Plaintiff Files in Small Claims Court For Refund of \$438 licensee Fee.
10 The hearing was set for December 2008, but was rescheduled to March 25. 2009 because of a
11 snowstorm in Portland. The small claims court ordered the OMB to refund the \$438 license fee.
12 A few years later the OMB would refund the fee.

13 [160] Plaintiff phoned a Board investigator about a week after receiving the OFE, and left a
14 phone message complaining about the OFE being unnecessary, unreasonable and malicious,
15 hoping that it would be withdrawn.

16 [161] The OMB would later claim that Dr. Read failed to inform the OMB that the Order was
17 impossible to comply with. The impossibility of the OFE cannot be known with certainty until
18 the time for compliance has passed and CPEP had not changed its policies and added
19 "comprehensive evaluation" of unemployment.

20 [162] Dr. Read was not informed by the OMB that he had a right to request a hearing to object to
21 the evaluation OFE. The OMB is expected to help licensees understand their legal rights - not
22 violate them.

1 [163] Instead Dr. Read received another copy of the OFE in a letter from the OMB investigator,
2 which explained that he must comply with this OFE or be disciplined for not complying.

3 [164] There is no effort by OMB to discuss the OFE, to modify or withdraw it, after Dr. Read
4 complained that it was malicious.

5 [165] The 90 days allowed for completion of the ordered evaluation expired about Dec 1, 2008.

6 [166] The OMB did not contact Dr. Read regarding the OFE, nor ask if there was any problem
7 obtaining the OFE, nor investigate in any way.

8 [167] The license had been inactive since April 2008, so there is NO problem caused by the lack
9 of evaluation, nor is the OMB making any decision that requires an evaluation.

10 [168] The OMB knew that plaintiff has stopped requesting due process on the deprivation of the
11 active license, and knew that he is not practicing medicine because the license is inactive. And
12 the OMB knew that Dr. Read had filed in Small Claims court to obtain refund of his license fee.

13 [169] January 08, 2009: OMB issues Complaint(s) Against Dr. Ralph Read (CADR)

14 Case #A144783 The complaint has three parts (CADR1,CADR2,CADR3).

15 [170] The complaint contains numerous falsifications, some repeated from earlier documents and
16 some novel.

17 [171] Repeat of the false statement that Dr. Read reported that he "ceased practice", whereas he
18 actually had reported long unemployment in his specialty.

19 [172] False claim that Dr. Read insisted he should have an active license, whereas he had
20 repeatedly requested that the deprivation of his active license should be justified by the OMB.

21 [173] CADR1: First part of the complaint : that a prior arrest is a violation of medical ethics -
22 but the description and date given in the complaint do not match the date or charges of the actual

1 arrest and charge that Dr. Read had reported in his renewal application.

2 [174] The August 2007 date in CADR1 will be changed at the hearing on the Complaint and
3 revealed to be the arrest in August 2006 that the OMB letter June 2008 had informed Dr. Read
4 was NOT a violation.

5 [175] The OMB complaint lists a different arrest charge and a different dismissed charge,
6 falsifying the actual arrest and actual charge filed, and also using the pejorative term "cruelty"
7 instead of the actual term abuse.

8 [176] The arrest part of the complaint does not specify any action or failure to act by Dr. Read,
9 nor explain what was evidence of "unprofesional or dishonorable" behaviour.

10 [177] CADR2: Second part of the complaint: alleges that most of Dr. Read's answers at the June
11 2008 investigative meeting were "evasive or deferred".

12 [178] No specific answer is identified as evasive or deferred, nor is any answer identified as a
13 violation of medical ethics.

14 [179] There is no allegation in the Complaint that Dr. Read refused to answer any question.

15 [180] The two questions mentioned in section 3.3 of the Complaint were both answered, one
16 with "No" and the other by explaining why it was an unreasonable question and asking what kind
17 of answer would be considered adequate.

18 [181] Dr. Read's answers were not mentioned (as a problem) in The OMB letter of June 2008
19 regarding the outcome IMJ08, nor are they mentioned in the OFE.

20 [182] At least three licensed physicians were present at that June 2008 meeting (IMJ08).

21 [183] Licensed physicians have an ethical responsibility to report any physician who acts
22 unethically, but had not done so regarding Dr. Read's answers at the investigative meeting.

1 [184] CADR3: The third part of the complaint: Intentional violation of the OMB "Order for
2 Evaluation (OFE) of September 03, 2008).

3 [185] Based on the replies to document requests by Plaintiff, and the evidence and testimony
4 presented at the hearing on the complaint(s), the OMB had not investigated "the arrest" nor
5 "answers" parts of the complaint since the June 2008 meeting, thus had known of the complaints
6 when the OFE was issued, and had known in June when the OMB letter to Dr. Read failed to
7 identify any ethical problem.

8 [186] The "failure to comply with OFE" Complaint had not been investigated either.

9 [187] January 2009: Dr. Read notified the OMB in writing that he wanted to surrender his
10 (inactive) license. He hand delivered another surrender letter when he did not get a reply.

11 [188] Plaintiff phoned OMB attorney Mr. Foote to inform him that there had been a "binding
12 arbitration hearing" in December 2008 related to Dr. Read's claim that his 2006 arrest had been
13 made without probable cause, and that the police had used unnecessary force in making the
14 arrest.

15 [189] Spring 2009 OMB adds \$10,000 fine punishment to the complaint.

16 Dr. Read had not obtained a lawyer in belief that there was no fine attached to the Complaints,
17 based on the wording of the OFE and CADR.

18 [190] March 25, 2009: Small claims court (Multnomah County) ordered the OMB to refund Dr.
19 Read's 2008 license renewal application fee (\$438).

20 [191] Plaintiff asked Mr. Foote if there is some way to "settle" the Complaint. Mr. Foote agrees
21 to find out and inform plaintiff.

22 [192] April 16, 2009: OMB makes settlement offer (Stipulated Agreement) to Dr. Read.

1 [193] The OMB proposed "Stipulated agreement" requires that plaintiff admit that all claims
2 made in the Complaint are true, agree to revocation of his medical license and agree to not seek a
3 medical license nor perform certain work (that does NOT require a medical license). There
4 would be no \$10,000 fine.

5 [194] Dr. Read did not accept the Stipulated Agreement offered by the OMB because acceptance
6 would require lying about the Complaints. He had already surrendered the license.

7 [195] May 28, 2009 "Contested case" hearing on the OMB Complaint #A144783

8 Dove Gutman, Administrative Law Judge (ALJ), presides.

9 Warren Mr. Foote, Assistant Attorney General represents the OMB.

10 Dr. Ralph Read self-represents.

11 III D. ALLEGED VIOLATIONS AT THE HEARING (on OMB Complaint Case #A144783)

12 Regarding CADR1: "THE PRIOR ARREST" at the THE HEARING

13 [196] When Dr. Read points out that the "arrest" described in the Complaint does not exist, Mr.
14 Foote investigates the evidence (a police arrest report and court dismissal form) and asks that the
15 arrest part of the complaint be modified.

16 [197] He asks to change the date specified on the complaint to match the date of Dr. Read's
17 arrest by Portland Police on Aug 25, 2006, which is on the police arrest report in evidence. Mr.
18 Foote agrees to change "cruelty" to "abuse" which is the term used on the Police arrest report.

19 [198] Mr. Foote falsifies the the arrest charge and falsifies the dismissed charge, in a near
20 identical way as falsified in the original Complaint, although Dr.Read specifically requested that
21 he correct them.

22 [199] This intentional falsification is a violation of the right to legitimate due process on the

1 complaint, falsified investigational material that is pejorative to plaintiff. While it is easy to know
2 that the complaint is falsified, why would anyone who read the complaint bother to search for the
3 proof that it had been falsified?

4 [200] The "arrest part" of the complaint does not identify any action of failure to act that is
5 claimed to be a violation of medical ethics.

6 [201] The individual (Carrie Chronis) who provided information to the police that led to Dr.
7 Read's arrest was not called as a witness, nor had she provided a sworn affidavit.

8 [202] Chronis had testified under oath twice (at deposition and at arbitration hearing) related to
9 the false-arrest case Dr. Read had filed against the Portland Police.

10 [203] Chronis' printed deposition testimony (and that of the Police officers present and of Dr.
11 Read himself - related to a binding arbitration hearing was offered as evidence by Dr. Read when
12 the date of the complaint was changed to match the date of his actual arrest and make this
13 evidence relevant.

14 [204] Mr. Foote objected to all arrest evidence submitted by Dr. Read without reviewing it. Mr.
15 Foote had been informed by phone by Dr. Read that this evidence existed, but Foote had made no
16 effort to obtain it nor evaluate it. Mr. Foote's objection was upheld by ALJ Gutman, although
17 Oregon law allows new evidence whenever a complaint is changed.

18 [205] Gutman explained that Dr. Read should have anticipated that the Complaint would be
19 changed, and offered the evidence even though it was not relevant to the complaint until the
20 complaint was changed.

21 [206] Gutman did not seem to be aware that the evidence that she had already accepted (the
22 police and court documents) had been irrelevant to the original OMB Complaint, but became

1 relevant when the complaint was changed by Mr. Foote.

2 [207] The excluded evidence included printed deposition testimony of everyone present at the
3 arrest scene; also pictures of the dog involved, with the leash and the collar, standing next to Dr.
4 Read; also a "dog simulator" (a weight equal to the dogs weight with leash and collar attached) -
5 to help demonstrate the impossibility of the allegation described in the arrest report. Also
6 recordings of the two 911 calls which were relevant to the arrest events, and a veterinarian exam
7 report of the dog involved, noting weight, health, and lack of injury.

8 [208] The arrest part of the complaint was considered unproved by the OMB Final Order.

9 [209] The OMB decision regarding "the arrest" complaint is irrelevant to determination of issues
10 raised in this 42 U.S.C §1983 complaint regarding intentional falsification, failure to investigate,
11 and exclusion of relevant evidence that served to deny due process on the Complaint (regardless
12 of any proved or alleged effect on the procedure, other than denial of due process).

13 [210] It is these falsifications that are claimed to be violations and to have caused injury, not the
14 decisions of others which may or may not have been influenced by these falsifications.

15 [211] The arrest charge and dismissed charge were correctly described by the OCOA in its
16 opinion, without mentioning that they had been falsified in the Complaint, but this recognition by
17 the OCOA does support the allegation that they were falsified.

18 III E. ALLEGED VIOLATIONS AT THE HEARING (on OMB Complaint Case #A144783)

19 Related to CADR2: "evasive or deferred" answers at the IMJ08

20 [212] There was no testimony, except by Dr. Read, about his answers at the investigation
21 meeting of June 2008; the complaint did not identify any answer as being a violation of medical
22 ethics, and no witness identified any answer as being unethical.

1 Page #32 Complaint 42 U.S.C. §1983 (RLRead)

1 [213] No testimony was provided by anyone regarding IMJ08 transcript accuracy.

2 [214] Dr. Read testified that he answered all questions and did not refuse to answer any
3 question. That is uncontested testimony, but was deleted from the case record.

4 [215] Mr.Foote assumed the IMJ08 transcript was accurate, and interpreted the transcript in a
5 sort of pseudo-testimony in his opening remarks.

6 [216] Mr. Foote was not a witness, and did not call a witness to testify about the accuracy or
7 meaning of the transcript in evidence, or to support any of the claims he made in his opening
8 statement. Mr. Foote was intentionally misleading the ALJ.

9 [217] ALJ Gutman did not offer a "proposed final order" regarding the "evasive or deferred
10 answers" part of the Complaint.

11 [218] Instead Gutman created a new complaint AFTER the hearing: "refusal to answer questions
12 (at the investigation meeting)".

13 [219] Gutman claimed that this new complaint had been proved, but did not identify any
14 question that had not been answered, nor any proof that her new complaint was true.

15 The only testimony during the hearing was that Dr.Read answered all questions, and that Dr.
16 Read did not refuse to answer any question.

17 [220] Gutman's new complaint is consistent with Mr. Foote's opening remarks, but there is
18 nothing else in the hearing to support the new complaint, nor Mr. Foote's remarks.

19 [221] There was no action to officially modify the Complaint except as described above (the
20 date of the arrest, and the word cruelty). This new complaint (and others) were added AFTER
21 the hearing was finished.

22 [222] Gutman's conclusion (regarding her new complaint) is contrary to the uncontested

1 testimony of Dr. Read; most of that testimony was deleted from the case record which was
2 provided to the OCOA.

3 [223] Dr. Read did explain that some of his answers consisted of a comment that the answer was
4 easy but could wait until more important matters were considered- this was a deferral, but he
5 offered to answer in writing, and the OMB ended the meeting without returning to the deferred
6 answers- so there is not reason to believe this was an ethical violation.

7 And there was no testimony about answers, except by Dr.Read.

8 [224] Dr. Read's testimony was uncontested: that he answered all questions and did not refuse to
9 answer any question. This testimony was deleted from the case record but can be identified
10 where it is labeled as closing arguments.

11 [225] No physician (or any other person) testified that any action by Dr. Read (or failure to act)
12 was a violation of medical ethics.

13 [226] No answer given by Dr. Read at the investigative meeting was identified by any witness as
14 evasive or deferred (as alleged in the Complaint) in any way that was a violation of medical
15 ethics.

16 [227] There was no testimony about the legitimacy of the OFE by an OMB witness because the
17 OMB had objected successfully to providing a witness who knew about the details of the OFE.

18 [228] The OMB knew from a prior 2007 Court Case that a licensee should be allowed to address
19 the legality of any Order for Evaluation at a contested case involving it. [Grobovsky v. OMB].

20 [229] Although the State may not care why the OMB issues Orders for evaluation, 42 U.S.C.
21 §1983 does care if the OFE was created to retaliate against plaintiff for exercising 1st amendment
22 rights to free speech and to seek redress in the courts.

1 [230] Plaintiff alleges that the actual purpose of the OFE was retaliation, because the only new
2 result possible by issuing the OFE was the ability to prosecute for non-compliance.

3 And because the OFE was impossible to comply with, non-compliance was guaranteed.

4 [231] The Complaint of January 2009, based partly on the sham OFE, was completion of the
5 retaliation planned by creating the OFE, and thus a violation of plaintiff's First Amendment rights
6 to seek redress and free speech.

7 [232] The OFE would allow the OMB to fine plaintiff \$10,000 and revoke his license and brand
8 him as unprofessional and dishonorable.

9 [233] This punishment was the ONLY possible outcome that had not existed before the OFE was
10 issued- and thus logically is the intended purpose of the OFE. The OFE could have no other
11 result, and this result must be the intent - unless the OFE was a total MISTAKE.

12 [234] Plaintiff alleges that the OFE had been based on a false claim of administrative need, and
13 false claims regarding CPEP capability, unless it was intentionally created as a sham.

14 [235] Discovery is necessary to know which individuals fabricated the false information, and
15 which individuals should have recognized it was false.

16 [236] Error seems unlikely because the OMB never admitted "error". Nor did the OMB make
17 any effort to modify the OFE to make it possible to comply with, nor provide a hearing on the
18 legitimacy of the Order when Dr. Read objected to it.

19 [237] The OMB did indirectly admit that the OFE was impossible to comply with, by claiming
20 (after the hearing on the Complaint) that Dr. Read acted unethically by NOT reporting to the
21 OMB that the OFE was impossible to comply with.

22 [238] This claim (that Dr. Read acted unethically by not informing the OMB) was a NEW

1 FALSE complaint against Dr. Read, included in the Final Order by the OMB after the hearing on
2 the actual complaints had ended.

3 [239] There was no testimony or evidence relevant to this new complaint except by Dr. Read in
4 his deleted testimony: Dr. Read testified regarding his effort to get the OFE withdrawn, and the
5 OMB ignored his request. The deleted testimony of Dr. Read described the recorded phone
6 message he left for an OMB investigator, and the letter reply he received from that investigator.

7 [240] This new complaint was not allowed due process, and acts to deny due process on the
8 CADR because it appeared after the hearing and was not part of the hearing testimony or
9 evidence. Instead some (false) information that had not been presented at the hearing was used to
10 argue that the new complaint had been proved.

11 [241] The refusal to provide a witness to testify about the OFE is a violation of the well-
12 established right to contest the legitimacy of an Order for evaluation, when an Order is part of a
13 complaint against a licensee. (Grobovsky)

14 [242] It is not possible to "fail to report" something that is not true.

15 Thus, for the OMB to make the claim of ethical violation of "failure to report", the OMB must
16 first have known there was an impossible OFE for Dr. Read to report.

17 [243] Although the ethical claim is not true for a variety of reasons, that is irrelevant to this civil
18 rights complaint - the acknowledgment that the OFE was impossible to comply is very relevant
19 to showing that it was known at that time by the OMB to be a sham OFE.

20 [244] The IMJ08 transcript does identify Dr. Read's offer to answer any question in writing, but
21 this was ignored and never accepted, even after the investigational meeting was suddenly ended
22 by the OMB.

1 [245] The IMJ08 transcript was not accurate, but that issue was never considered at the hearing.

2 Dr. Read had objected to its inclusion, but ALJ Gutman denied the objection.

3 [246] Incorrect punctuation of Dr. Read's answer in the IMJ08 transcript

4 The actual spoken words are as follows:

5 by Dr.Kirkpatrick: Have you billed for radiology services in the past 5 years

6 by Dr. Read: You mean actually mailed a bill No

7 [247] This was considered a refusal to answer, but there is no testimony about the question or the

8 answer, only pseudo-testimony by Mr. Foote at the hearing (Foote was not a witness), and

9 falsifications added after the hearing.

10 [248] Nobody ever investigated to learn that the transcript punctuated the words incorrectly in a

11 way that might confuse the meaning of the answer, but that confusion could have been clarified if

12 a witness had alleged some significance to it, or if anyone had claimed it was a refusal to answer.

13 [249] Dr. Read was not allowed to punctuate his answers, and was not allowed to proofread the

14 transcript when he asked to do so soon after the hearing.

15 [250] Dr. Read offered during the IMJ08 to answer all questions in writing. If someone did not

16 understand an answer or thought that there was evidence of some billing problem, this problem

17 was never identified to Dr. Read, then or ever, until Dr. Read read the OMB's proposed final

18 order which included the new complaint that was not part of the hearing and pseudo-testimony

19 related to the IMJ08 transcript that also was not part of the hearing.

20 [251] There was no known ethical complaint submitted by any physician who attended the June

21 2008 meeting and IF any licensed physician had reason to believe Dr. Read had acted unethically,

22 he/she was required to report it. If it was reported, it was kept secret for 6 months while the

1 punitive sham Order for evaluation was issued.

2 [252] Nobody ever allowed Dr. Read to review the transcript of the investigative meeting, until
3 he received a 4/1 reduction almost 6 months later as part of the evidence to be used at the May
4 2009 hearing.

5 [253] AFTER the hearing, apparently adopting Mr. Foote's opening statement, there are multiple
6 allegations, unconfirmed by any testimony and contrary to Dr. Read's uncontested (but deleted)
7 testimony.

8 [254] Dr. Read did not testify that any answer was incorrectly punctuated, because nobody
9 claimed that it was correctly punctuated, or was proof of any ethical complaint (made or to be
10 made later), and thus he did not identify the incorrect punctuation until later.

11 [255] There was no affidavit regarding the transcript by any participant at the meeting, nor was
12 Dr. Read or anyone else questioned using the transcript questions and answers.

13 [256] The OMB did not provide any follow-up of any answer after the investigative meeting, nor
14 was there any complaint about any answer for 6 months- nor was any answer identified as a
15 problem to be evaluated in the "Order for evaluation".

16 [257] If an unethical answer (by Dr. Read) had been identified in the "Order for evaluation", it
17 would have been another contra-indication of ANY evaluation by CPEP. As would any complaint
18 regarding an arrest have been a contra-indication of ANY CPEP evaluation.

19 [258] ALJ Gutman accepted Dr. Read's 32 page document (titled "Reply to Complaint") into the
20 hearing transcript as direct testimony and initial closing arguments, which could be amended as
21 needed. There are pages of discussion regarding this in the May 2009 hearing transcript which is
22 part of the case record.

1 [259] Mr. Foote did not object to accepting Dr. Read's printed document as direct testimony and
2 closing arguments. Mr. Foote cross-examined Dr. Read on some of the testimony in the 32 page
3 document.

4 III F. Alleged violations at THE HEARING (on OMB Complaint Case #A144783)

5 CADR3: "Willful failure to comply with the ORDER FOR EVALUATION

6 [260] Mr. Foote asked Dr. Read if he had obtained the CPEP evaluaton which had been ordered
7 by the OMB.

8 [261] Dr. Read testified that the OMB "Order for evaluation" was "confusing"

9 [262] Mr. Foote objected to this answer and then ALJ Gutman asked if Dr. Read had obtained "a
10 CPEP evaluation".

11 [263] ALJ Gutman did not repeat Mr. Foote's question, nor order that Dr. Read keep answering
12 it. She asked a different question.

13 [264] Dr. Read testified that CPEP probably evaluated his email (which had enough information
14 to show that there was nothing for CPEP to evaluate).

15 [265] Suddenly Mr. Foote claimed to know that Dr. Read had not obtained the CPEP evaluation
16 ordered by the OMB, and Mr. Foote further claimed that he knew Dr. Read's was "lying".

17 [266] Then Mr. Foote asks ALJ Gutman to agree with this testimony-like claim that Dr. Read
18 was lying. ALJ Gutman replied, "So noted."

19 [267] Mr. Foote had not been sworn as a witness, and his claim regarding Dr. Read's testimony is
20 false no matter what it actually refers to, but it is not clear what it does refer to.

21 [268] The OFE was confusing because it was not an Order for evaluation (although titled as
22 such), it was a sham OFE which only allowed prosecution for violation, because it was

1 impossible to comply with, and could only result in violation.

2 [269] This might explain how Mr. Foote could be sure that Dr. Read had not obtained the
3 ordered evaluation? Or Mr. Foote was clueless, which is more likely, based on his objection to
4 questions about the psychological evaluation required by the OFE.

5 [270] ALJ Gutman agreed with Mr. Foote, but did not make clear exactly what she was agreeing
6 to because Mr. Foote's comment was general without identifying what testimony he was alleging
7 to be false.

8 [271] Nor does Mr. Foote ever explain how he knew that CPEP did not evaluate Dr. Read's
9 email, which was the testimony given right before Mr. Foote's exclamation.

10 [272] After the hearing, Gutman falsified Dr. Read's initial testimony in order to claim that Dr.
11 Read had testified that he had obtained the CPEP evaluation ordered by the OMB.

12 The transcript shows the actual testimony, which is as described above.

13 [273] All testimony by Dr. Read regarding the OFE and regarding CPEP capability is
14 uncontested by any other evidence or testimony presented at the hearing. However, much of Dr.
15 Read's testimony was deleted from the case record. The deleted testimony can be found
16 relabeled as "closing arguments" in the case record.

17 [274] Mr. Foote was not a sworn witness, but may have an ethical duty to not mislead a tribunal
18 by making knowingly false statements, or statements which he could have easily discovered were
19 simply wishful thinking.

20 [275] The only "finding of fact" that a transcript can supply is that the transcriptionist believed
21 that the individual(s) indicated in the transcript spoke the words that were written, spelled, and
22 punctuated by the transcriptionist.

1 [276] One can presume the transcriptionist did not intentionally falsify this information nor
2 attribute statements of one person to another, nor intentionally punctuate or spell incorrectly. That
3 presumption is not evidence regarding anything.

4 [277] One can presume that nobody edited the transcript after it was completed, without any
5 proof this is true. One might presume that the intent and meaning of the words can be known to
6 anyone who reads them, without any proof that is true.

7 [278] Presumptions are not evidence until the individual who presumes them provides testimony
8 to that effect, and explains why these presumptions should be considered true. Until then, the
9 transcript is a document of uncertain accuracy and meaning.

10 [279] Transcripts can add weight to testimony that agrees with an opinion, and can impeach
11 testimony which conflicts with it, if the individual impeached agrees that the transcript is correct,
12 or others claim that it is correct.

13 [280] But until there is testimony, the transcript is like any other document; an effort of a person
14 who created the transcript document.

15 [281] The hearing transcript shows that Dr. Read never testified yes (or no) to the question "did
16 you obtain the CPEP evaluation ordered by the OMB?" - as claimed by ALJ Gutman.

17 [282] The "evaluation" being asked about- could not exist, but Mr. Foote and Gutman may not
18 have initially realized this because the OMB had not provided any investigation related to the
19 OFE, nor with regard to CPEP, the company named to provide the evaluation.

20 [283] Mr. Foote did not provide evidence or testimony that any part of the OFE was possible, or
21 that CPEP was operational during the period of time allowed to comply with the sham order.

22 [284] Mr. Foote himself would make claims, and other unsubstantiated claims appeared in later

1 OMB documents, but all these are unrelated to any evidence or testimony provided at the hearing
2 on the actual complaint.

3 [285] Dr. Read's testimony was that "the OFE was confusing".

4 [286] Dr. Read was never asked to explain WHY the Order was confusing - but did provide
5 detailed testimony based on CPEP website information and phone conversations with CPEP
6 agents regarding CPEP capabilities with respect to the OFE.

7 [287] Also testimony as to why the OFE was not needed by the OMB, why the OFE was
8 impossible to comply with because it violated CPEP guidelines and was impossible to comply
9 with because it did not specify any evaluation that CPEP provided for a physician like Dr. Read.

10 [288] Information later disclosed by the OMB in the complaint against Dr. Read would show
11 that there were two additional reasons why the impossible OFE violated CPEP policies against
12 ANY evaluation until ethical and psychological issues were settled.

13 [289] There is no evidence or testimony that CPEP was operational during the period allowed to
14 comply with the (impossible) Order. If CPEP had been operational, it may have been able to
15 provide some kind of unnecessary evaluation, but (if so) that fact would be irrelevant to this case,
16 because the only issues here are related to allegations of violation of civil rights, NOT to
17 evaluations that may have been possible in 2008 if not contra-indicated (as was all evaluation, by
18 CPEP policy).

19 [290] OMB Medical Director Parshley testified about events related to ordering CPEP
20 evaluations at some unspecified time in the past, without details about the dates or the types of
21 evaluation, and without connecting his memories of past events to anything that was relevant to
22 the OFE in the CADR, or to current CPEP capability.

1 [291] Nor did Dr.Parshley testify that CPEP was operational during the time allowed for
2 completion of the evaluation ordered. He testified that CPEP did not have to accept any client,
3 and that the OMB could not force CPEP to provide an evaluation.

4 [292] Dr.Parshley did not know anything about the OFE given to Dr.Read, nor was he aware of
5 current CPEP policies or capabilities.

6 [293] Dr.Parshley did explain that (in the past) if a licensee did not comply with an Order for
7 Evaluation, the license was suspended until he did comply.

8 [294] Dr. Read's license was already inactive before the OFE was issued. And the OMB CADR
9 was issued without any investigation by the OMB.

10 [295] Even if an OMB decision regarding Dr. Read's inactive license had been pending, the lack
11 of an evaluation did not cause harm or cause risk of harm to ANYONE - the license was inactive.
12 And there was no decision pending.

13 [296] Not having an evaluation would make an OMB decision easier and less time-consuming,
14 because there is no time spent reviewing the evaluation(s).

15 [297] Parshley also testified that the plaintiff's License renewal application was for "active
16 license" and that the application did not identify any period of inactivity.

17 [298] Parshley testified that a physician did not have to practice "in his specialty", noting that Dr.
18 Parshley himself had ceased practice in his specialty several years before, but had an unrestricted
19 active license.

20 [299] The Oregon Court of Appeals would also recognize that the repeated claim in OMB
21 documents that: "Dr. Read reported that he had ceased practice" was not correct and that Dr.
22 Read had actually reported that he had "ceased practice in his specialty".

1 [300] The OMB did not provide any testimony about the actual OFE involved in the complaint,
2 nor about CPEP capabilities with respect to that OFE.

3 [301] After the hearing, someone would create false claims about CPEP capabilities, and about
4 what should or could have been evaluated, and these false claims (not a part of the hearing)
5 appeared in OMB documents.

6 [302] The historical information Parshley provided is consistent with the OFE in this case
7 having been created and used differently from the evaluation orders Parshley knew about in the
8 past.

9 [303] Parshley's testimony is consistent with plaintiff's allegation that the OFE was issued for the
10 sole purpose of punishing the plaintiff, based on the differences Parshley described regarding
11 evaluation orders in the past.

12 [304] OMB employee Bielaski also testified that Dr. Read's active renewal application did NOT
13 identify any period of inactivity. And that Dr. Read did not request inactive status.

14 III G. THE ALJ PROPOSED FINAL ORDER

15 [305] July 10, 2009: ALJ Gutman issues a "proposed final order"

16 [306] ALJ proposed final orders are not binding on the OMB, which may change any or all parts
17 of the ALJ's proposal, if the OMB identifies facts which support the change.

18 [307] Gutman falsified Dr. Read's initial the testimony about the CPEP evaluation, then says that
19 testimony was changed.

20 [308] Gutman claimed the falsified testimony was changed and thus Dr. Read's testimony was
21 not reliable, but transcript shows that she did not recognize that she had asked about "any"
22 evaluation by CPEP, not the specific evaluation ordered by the OMB.

1 [309] Gutman created a new complaint "Dr. Read refused to answer", but did so after the hearing
2 was over.

3 [310] Gutman did not identify any evidence to support her decision that her new complaint
4 "refused to answer" had been proved. She may have believed Mr. Foote was testifying under
5 oath, but Mr. Foote was not a witness.

6 [311] There is NO testimony regarding this new complaint, except that of Dr. Read, who
7 testified that he did not refuse to answer- but did not know of Gutman's new complaint at the
8 time he testified.

9 [312] Mr.Foote may have confused Gutman into thinking that Mr. Foote was testifying or that
10 some witness would produce testimony consistent with Mr. Foote's claims- but that did not
11 happen.

12 [313] Mr. Foote's opening remarks contained a lot of pseudo-testimony regarding Mr.Foote's
13 interpretation of questions and answers in the transcript of the June 05, 2008 investigation
14 meeting, but he did not provide any witness to testify about any of his opening remarks.

15 [314] Mr. Foote did not provide any witness who agreed with his claims, or even agreed that the
16 parts of the transcript that he referred to were accurate.

17 [315] Gutman found no support for "the arrest" part of the complaint, and the OMB would
18 reluctantly agree with that conclusion.

19 [316] Gutman found no support for the claim the OFE was intentionally violated.

20 Gutman explained that because the required psychological evaluation was impossible to comply
21 with, the OFE could not have been violated intentionally.

22 [317] Gutman failed to identify all the other problems with the OFE: that it was otherwise

1 impossible to comply with, that it was not required by the OMB, that it was intended as
2 punishment. Nor did she mention that nobody actually provided evidence that CPEP was
3 operational at the relevant times, or was accepting new clients if it were operational.

4 [318] Gutman failed to identify that the psychological issue (indicated by the required psych
5 evaluation in the Order) violated CPEP's policy to defer any and all evaluations done by CPEP
6 until the psychological issue was settled.

7 [319] Gutman failed to identify that the ethical complaints identified in the Complaint had been
8 fully known at the time of the OFE, and would also have been contra-indications to ANY
9 evaluation of any kind by CPEP, until these ethical complaints had been resolved.

10 [320] The OMB disagreed with the ALJ conclusion that it is not possible to intentionally violate
11 an order that is impossible to comply with- but did so without any factual support for the change.

12 [321] The OMB also accepted Gutman's new complaint ("refused to answer") which is clearly
13 not the Complaint which the OMB had issued.

14 [322] The OMB accepted Gutman's credibility determination despite the fact that it did not
15 correctly describe the testimony she used in making the determination.

16 [323] ORS 677.415(3) requires licensed physicians to report unethical behavior they become
17 aware of. If the physicians who were present at the investigational meeting of June 2008
18 (Kirkpatrick, Cornelius, Lakovics, and possibly others) did not report (as unethical) Dr. Read's
19 answers to questions (or failure to answer) then the new complaint "refused to answer" was
20 knowingly false, since the physicians who determine what is unethical were present and did not
21 report any unethical behaviour.

22 [324] ORS 677.415 (in part)(3) A licensee licensed by the Oregon Medical Board, the Oregon

1 Medical Association, Inc., or any component society thereof, the Osteopathic Physicians and
2 Surgeons of Oregon, Inc. or the Oregon Podiatric Medical Association shall report within 10
3 working days, and any other person may report, to the board any information such licensee,
4 association, society or person may have that appears to show that a licensee is or may be
5 medically incompetent or is or may be guilty of unprofessional or dishonorable conduct or is or
6 may be a licensee with a physical incapacity.

7 [325] If the OMB claims that this new complaint was not knowingly false when it was created,
8 then it needs to explain why the physicians at the meeting failed to report it in a timely fashion,
9 as required by ORS 677.415.

10 [326] There was no evidence or testimony at the hearing regarding CPEP operation or capability,
11 except that by Dr. Read (mostly deleted from the case record by labeling his direct testimony
12 document as closing arguments).

13 [327] Some claims regarding CPEP capabilities were fabricated after the hearing, to support
14 various claims by the OMB that were created after the hearing. These claims are not supported
15 by the hearing evidence or testimony, and are actually contradicted by the evidence and
16 testimony.

17 [328] Some of the claims are from various statements made by Mr. Foote during the hearing that
18 were NOT testimony and were not supported by any testimony and were contradicted by Dr.
19 Read's testimony.

20 [329] Dr. Read received a letter dated September 19, 2009 to notify him that the OMB would be
21 meeting on October 8, 2009 to consider the Complaint against him.

22 [330] The letter informed Dr. Read that IF he wanted to attend, he must phone and obtain

1 permission to attend. He did not want to attend, and did not phone.

2 III H. RELATED TO THE OMB PROPOSED FINAL ORDER

3 [331] 20 October 2009 : Haley signs a "proposed Final Order" for the OMB

4 [332] Near the end of this proposed Final Order (Haley and/or whoever supervised creation of
5 this document) makes a NEW TOTALLY FALSE allegation of a violation of medical ethics by
6 Dr. Read - and describes how this alleged violation of medical ethics greatly inconvenienced the
7 Oregon Medical Board.

8 [333] Page 31 of Proposed Final Order – signed by Haley

9 “Licensee requested the opportunity to appear before the Board and to present oral argument.

10 The Board sent notice to the Licensee that he was to appear before the Board on October 8, 2009
11 at 8:05am. Licensee failed to appear. After waiting for more than an hour, the Board went into
12 deliberations to review the ALJ's proposed order, made certain changes, and now issues this
13 proposed final order.”

14 [334] The document says that Dr. Read had been ordered to appear at an OMB meeting to
15 consider the proposed Final Order in case #A144783 and that Dr. Read had failed to appear at
16 that meeting as he had been ordered to appear.

17 [335] “Failure to appear as ordered” is a severe violation of medical ethics, and if proven this
18 violation ALONE justifies license revocation.

19 [336] Although the document is signed by Haley, Oregon law requires that a member or
20 members of the Oregon Board supervise her activity, and that unknown member(s) may be the
21 actual source of this new ethical complaint (in the proposed Final Order on case #A144783.

22 [337] No additional official OMB complaint was issued regarding the allegation of "failure to

1 appear as ordered". This issue was irrelevant to the matter being considered in the proposed Final
2 Order, but anyone who read it would be prejudiced against Dr. Read, and it denied due process to
3 the extent the OMB members were exposed to these false allegations (of failure to comply with
4 OMB Order, and of causing inconvenience for the OMB).

5 [338] This ethical allegation would prejudice anyone who read or heard it - because there is a
6 reasonable expectation that all OMB documents will be believed without any effort to determine
7 its truth. This expectation might cause someone to believe allegations in OMB documents,
8 without considering whether they are in any way true. Especially because the claim is presented
9 as a simple fact, and accompanied by a story about how much inconvenience this ethical
10 violation caused for the OMB, providing verisimilitude to an easily disproved confabulation.

11 [339] There had been NO attempt to investigate before making the statement, that was presented
12 as FACT, not as an allegation. Nobody had even phoned Dr. Read to ask why he had not
13 appeared at the OMB meeting, not at the time of the meeting nor later.

14 [340] Dr. Read had NOT been ordered to appear as alleged in the proposed OMB final order.

15 [341] OMB internal records are secret- discovery is necessary to reliably identify the
16 individual(s) who may have been affected by these false allegation, and perhaps find an
17 explanation for why an unsubstantiated, irrelevant allegation was included in this document.

18 [342] Full discovery of how and why this severe false ethical allegation was added to the
19 proposed Final Order is necessary despite Oregon secrecy law because Federal law is precedent
20 and discovery is needed by 42 USC §1983 to identify individual(s) who have violated civil
21 rights, and fully evaluate the nature of the violation(s).

22 [343] October 29, 2009: Letter from Dr. Read to all OMB members & Haley

1 Individual letters from Dr. Read, in separate individual addressed envelopes containing the
2 same 2 pages of information to each OMB member and to Haley, were hand-delivered to the
3 OMB office reception secretary in downtown Portland, OR.

4 [344] This letter included the one page OMB invitation letter to Dr. Read, which did NOT order
5 him to appear but informed him he was allowed to request to appear.

6 [345] Dr. Read had noted in cursive writing on a copy of page 31 of the proposed Final Order: "I
7 never requested to appear -RLR" (that he had not requested to attend the meeting.)

8 [346] The second page had a copy of the invitation letter Dr. Read had received (which explained
9 that he must apply for permission if he wished to attend the meeting).

10 [347] Dr. Read did not receive a reply from Haley or from any Board member, and has no way of
11 knowing if the letters were received or read by some or any of the intended recipients.

12 [348] Board members may be unaware of the totally false nature of the new allegation made in
13 the proposed Final Order. If they were informed about the totally false nature of this claim, it
14 should have alerted them to the possibility that other allegations were similarly made without
15 investigation and were false.

16 [349] There is well-established 14th Amendment right for a licensee to address the legality of an
17 Order for evaluation, when a Complaint alleged intentional violation of the OFE. The OMB
18 objected to providing a witness who knew about the OFE to prevent plaintiff from proving the
19 OFE was a sham. This denial of due process is a violation of plaintiff's 14th Amendment rights
20 which caused injury of severe emotional distress (as described elsewhere) and for which plaintiff
21 requests damages as described elsewhere.

22 III I. ALLEGED VIOLATIONS RELATED TO THE OMB FINAL ORDER

1 [350] Jan 14,2010: OMB Final Order on Complaint #A144783 issued

2 Arrest Complaint - not proved.

3 Evasive or Deferred answers- not really mentioned?

4 Intentionally failed to comply with Board OFE - proved

5 [351] The OMB "Final Order" included what seem to be decisions regarding the two new

6 complaints that were created after the hearing:

7 Refused to answer questions - proved

8 Ethical violation of not informing the OMB that the OFE was impossible to comply with –

9 assumed to be proved in the OMB Final Order, this new complaint seems to be the “fact” the

10 OMB relied upon to reverse the ALJ determination that there had been NO intentional violation

11 of the OFE.

12 [352] The new ethical complaint allegation ("failed to appear") that had been included in the

13 proposed final order was withdrawn from the Final Order (by Haley or her supervisor) without

14 apology.

15 [353] There is no way to measure how much this false allegation prejudiced those who read it

16 but it acted to prevent legitimate due process and caused extreme emotional distress for plaintiff

17 by being falsely accused of a severe ethical violation.

18 [354] The credibility determination by ALJ Gutman was adopted by the OMB, without

19 recognizing that it was based on testimony that had been falsified by Gutman.

20 [355] Comparison of the falsified testimony with actual testimony (in the hearing transcript)

21 shows that the OMB administration chose to preserve the ALJ falsifications.

22 [356] The new complaint made by ALJ Gutman ("refusal to answer") and the claim that this had

1 been proved as a violation of medical ethics, was adopted by the OMB although it is clearly not
2 the complaint which had been referred to ALJ Gutman. And there was no testimony or evidence
3 at the hearing to support this new complaint.

4 [357] ALJ Gutman did not identify any testimony or evidence to support her decision that her
5 new complaint ("refused to answer") had been proved.

6 [358] The OMB administration would add information to the case record which was not
7 provided at the hearing, in order to support the "refuse to answer" complaint which was not
8 presented at the hearing, and was not part of the actual Complaint being considered.

9 [359] The OMB "Final Order" includes another new complaint, "Failure to inform the OMB that
10 the OFE was impossible to comply with". This was not presented at the hearing, and thus the
11 OMB administration failed to provide a written complaint or a contested case hearing on this
12 new complaint.

13 [360] The testimony of Dr. Read that was later found to be deleted from the case record provided
14 to the OCOA for appeal did include testimony that refuted the newest Complaint ("failure to
15 inform the OMB the Order was impossible") as it had ALJ Gutman's new complaint ("refused to
16 answer").

17 [361] Dr. Read testified that he had left a phone message on an OMB investigator's answering
18 machine, explaining that the OFE was both unnecessary and malicious- and Dr. Read testified
19 that he had received an answer letter from that investigator that simply ignored his complaints
20 and told him that he must comply with the OFE.

21 [362] Until the time for completion of the evaluation was expired, there is no way to be totally
22 certain that the OFE could not be complied with – because the private company (CPEP) might

1 have changed its policies.

2 [363] Thus there was nothing certain to report, especially because Dr. Read had already tried to
3 get the OMB to withdraw the OFE and was aware that the Order was created to punish him, and
4 was totally unnecessary.

5 [364] There is sworn testimony (by Dr. Read) that CPEP did not change its policies during that
6 period of time - but the OCOA opinion on the case speculated that perhaps the web site evidence
7 in the hearing was obsolete.

8 [365] This speculation caused Dr. Read to realize that the OCOA did not consider his
9 uncontested testimony about CPEP, and allowed Dr. Read to discover that the direct testimony
10 had been deleted by identifying the testimony as closing arguments. This discovery led to
11 recognition of the probable role of many other falsifications related to information provided to
12 the OMB.

13 [366] The "case record" used by the OMB in determining the Final Order is secret: the case
14 record provided to the OCOA is public.

15 [367] The falsifications of the case record that are now apparent were at least partly adoption of
16 falsifications made originally by ALJ Gutman, and adoption of the statements by Mr. Foote as
17 testimony, adopted despite their conflict with actual facts and sworn testimony that can be
18 identified in the case record.

19 [368] The exact time when Dr. Read's direct testimony document was deleted from the case
20 record is thus unknown, but it was deleted by the time the case record provided to the OCOA,
21 and possibly before the OMB created its "Final Order".

22 [369] The OMB administration failed to provide contested case hearing for the new complaints

1 that appeared in the OMB Final Order on the original complaint, but the OMB determined that
2 the complaints were proved using (false) information that was not presented at the hearing,
3 without evidence or testimony from the hearing, and without Dr. Read's deleted testimony.
4 [370] Plaintiff believes that the ALJ in an OMB contested case hearing is allowed by Oregon
5 law to discuss the case with the agents of the OMB.

6 [371] If discussions did occur, they might identify everyone who falsified information related to
7 the new complaints (or the original ones) and when they did that.

8 III J. RELATED TO THE APPEAL TO THE OREGON COURT OF APPEALS

9 [372] February 17, 2010: Petition for Appeal of OMB Final Order to Oregon Court of Appeals
10 (OCA)

11 [372] Oregon law advises the OCA to not substitute its judgment for that of the OMB.

12 [374] Dr. Read hired George Kelly (Eugene OR) to appeal the OMB decision to the OCA.

13 [375] The case record provided to the OCA was falsified by deletion of 32 pages of direct
14 testimony by Dr. Read. and by addition of information that was unrelated to the hearing, as
15 described above.

16 [376] The case record provided to the OCA was also falsified by inclusion of two(2) new
17 complaints that were created after the hearing on the actual complaint was finished, and addition
18 of testimonial information that did not occur at the hearing.

19 [377] There are multiple pseudo-testimonial allegations that are false or misleading and were not
20 part of any evidence or testimony presented during the hearing. (Some resemble statements by
21 OMB attorney Mr. Foote, who was not a witness).

22 [378] Haley signed the falsified case record delivered to the OCA, and is responsible for its

1 accuracy, but others must also be involved because OMB members are supposed to supervise
2 Haley.

3 [379] April 10, 2011: Separate (but identical) letters from Dr. Read to each individual OMB
4 member & to Haley. The letters include: Dr. Read notes that new OMB Members may be
5 unaware of the unreasonable happenings related to his interactions with the OMB and asks that
6 they correct errors that have been made, and withdraw all complaints before the OCOA issues its
7 opinion.

8 [380] The letters include: Dr. Read also asks that the license fee refund ordered by the
9 Multnomah County small claims court a few years earlier be paid to him.

10 [381] It is unknown whether each OMB member received or read his/her letter.

11 [382] Letter Reply from Haley to Dr. Read: "let the court decide".

12 [383] August 03, 2011 OCOA opinion Case A144783 Read v OMB
13 Remand to OMB by OCOA of \$10,000 Fine for reconsideration by OMB.
14 Otherwise OMB decisions in its "Final Order" were upheld.

15 [384] Dr. Read notes a hypothetical by the OCOA (in its opinion) that the evidence related to
16 CPEP website may have been obsolete -

17 [385] When Dr. Read reviewed the OCOA opinion, he asked his lawyer why the OCOA would
18 bother to speculate in writing in its opinion - on the validity of the CPEP web page information
19 in evidence in the hearing record?

20 [386] Dr. Read's direct testimony had made clear that this CPEP information was up to date- and
21 had not been changed between September 2008 and Spring 2009, and was identical to the
22 information provided by CPEP agents in phone conversations in Spring 2009.

1 [387] Dr. Read's uncontested testimony made clear that CPEP did not provide evaluations while
2 there were unsettled psychological or ethical complaints against a licensee. This information was
3 also in the web pages, copies of which were in evidence, but which the OCOA thought might be
4 "obsolete".

5 [388] There was also testimony that CPEP did not provide "comprehensive" evaluation unless
6 the request for evaluation identified each element of medical practice which was supposed to be
7 evaluated- and there was no complaint against Dr. Read identified in the OFE.

8 [389] Nor had Dr. Read been practicing his specialty, and he had made clear that he was not
9 intending to practice his specialty in the future. Thus the comprehensive "return to specialty"
10 evaluation was irrelevant to Dr. Read (even if there had not been THREE contra-indications to
11 ANY CPEP evaluation.)

12 [390] Dr. Read's lawyer (George Kelly, Eugene OR) explained to Dr. Read that the information
13 Dr. Read had provided in his closing arguments was not testimony but simply arguments, which
14 are not considered fact but rather discussion of the interpretation of facts provided at the hearing
15 by testimony and evidence.

16 [391] Eventually lawyer Kelly read specific parts of the hearing transcript in which ALJ Gutman
17 orders the printed document "Reply to Complaint" to be considered "direct testimony", given
18 under oath at the hearing. Mr. Kelly agreed that the direct testimony had not been included as
19 testimony.

20 [392] This direct testimony had been deleted and transmogrified into closing arguments about
21 testimony that no longer existed.

22 [393] Mr. Foote's arguments about facts that had not been established were adopted as facts

1 provided by the hearing, but were not testimony or evidence.

2 [394] Dr. Read wrote OMB attorney J.Contreras with information that his Direct testimony had
3 been deleted from the case record, but never got a reply.

4 [395] There is no evidence that Contreras notified the OCOA that the case record had been
5 falsified by deletion of Dr. Read's direct testimony. Neither did Mr.Kelly.

6 [396] Dr. Read tried to notify the Court of Appeals by phone that its opinion in the case had been
7 based on a falsified case record, but was told by phone that the individual lawyers involved were
8 supposed to ensure the record was accurate.

9 [397] Direct testimony by Dr. Read explained that the CPEP website information used as
10 evidence had identical information regarding policies and ("comprehensive") evaluation as did
11 the information provided by CPEP agents in phone conversations months after the Complaint
12 (CADR) was issued.

13 [398] The information in evidence at the hearing, and the testimony by Dr. Read conform to the
14 information at cpepdoc.org in October 2012 and were not obsolete during the period allowed for
15 compliance with the OFE.

16 [399] The website information was not obsolete. But the website information did not prove that
17 CPEP was operational at relevant times, nor prove that CPEP was accepting new clients at
18 relevant times - that is unknown and is what the OCOA should have wondered about.

19 [400] OMB filed a motion for the OCOA to reconsider the remand of the decision to fine Dr.
20 Read \$10,000, based on the Oregon law that advises the OCOA to NOT substitute its judgment
21 for that of the OMB.

22 [401] OCOA denied the OMB request for reconsideration (of the remand).

1 [402] January 12, 2012 : OMB reconsidered the \$10,000 fine and reduces it to \$zero.

2 III K. RELATED TO THE APPEAL TO THE OREGON SUPREME COURT

3 [403] Appeal of the Case OCOA decision to the Oregon Supreme Court, involved the case
4 record provided to the OCOA, and thus included all the falsifications described above related to
5 that case record. All the same allegations related to denial of due process of the appeal are
6 repeated here, and caused repeated injury of emotional distress, for which damages are requested
7 as indicated elsewhere.

8 [404] March 2012: The Oregon Supreme Court declines to review the case, without comment.

9 [405] No further State action is possible related to the Complaint against Dr. Read, and the
10 falsifications in are now preserved forever, in the OMB records and in various court documents.

11 [406] No further denial of legitimate due process can be caused by the falsifications which were
12 introduced in the OMB records at various times before the case record was delivered to the
13 OCOA (and Oregon Supreme Court).

14 III L. FACTORS INVOLVED IN UNDERSTANDING THE ALLEGATIONS & FACTS

15 [407] When Dr. Read identified the deletion of his testimony by someone acting administratively
16 for the OMB, he also realized that this kind of "behind the scenes" falsification of many matters
17 would explain "what had happened" much better than his prior belief that Board members were
18 simply not paying attention, and this improved explanation is proven in many regards by the
19 OMB documents themselves.

20 [408] There are so many clues, such as the totally uninvestigated, totally untrue, allegation by
21 Haley ("failure to appear as ordered") in the proposed Final Order, the "false claim that Dr.Read
22 reported that he ceased practice", and the falsification of the arrest charge and charge dismissed.

1 The manufacture of testimony-like information and complaints after the hearing, which is proved
2 by comparison of the OMB "Final Order" with the actual Complaint and the hearing transcript.

3 [409] The deletion of Dr.Read's sworn testimony can be identified by noting that it was
4 designated as direct testimony by the ALJ, but labeled "closing arguments" by Haley or someone
5 working under her direction, and the direction of an unknown Board member. These are all
6 "hiding in plain sight", but you have to know to look for them, or they are not very apparent.

7 [410] The "not very apparent" is supported by the fact that nobody had identified that
8 information was being systematically corrupted, altered, deleted and fabricated- before any
9 official OMB decision was made.

10 [411] The public, and the Courts have an enormous reasonable expectation that the OMB will
11 act legally and honestly. This makes it easy to overlook almost anything that happens.

12 [412] The underlying evidence, investigation, and information is unknown to a large degree,
13 except as shown by OMB documents produced for official purposes, and as explained in this
14 complaint.

15 [413] The information used to make the "simple administrative decision" to list plaintiff's license
16 as inactive is not fully known, mostly because the OMB did not divulge it!

17 [414] The criteria used to determine that plaintiff did not "qualify" for active license are not
18 completely known, but can reasonably be approximated by the statements made by Haley,
19 Kirkpatrick, and Cornelius at the investigation meeting, some which are demonstrably false (as
20 proved by sworn testimony of OMB witnesses, and the correct description by the OCOA).

21 [415] The false statements made by individuals at the June 2008 investigative meeting that Dr.
22 Read reported he had ceased practice are either the basis, or reflect the basis of that decision or

1 decisions regarding inactivating the license, while the true problem (the arrest reported in the
2 renewal application) was concealed from Dr. Read, and possibly from some OMB members.

3 [416] When Dr. Read asked to know the complaint(s) against him, he was told that the
4 complaint was his renewal application, which did include his report of being arrested, his report
5 of being unemployed, but did not include any report of "cease practice".

6 [417] To the extent that the "investigative meeting" of June 2008 resulted in another
7 administrative decision, based on the investigation, this decision is documented by the letter to
8 Dr. Read after the investigative meeting.

9 [418] The information provided for this decision likely included the repeated false claims by
10 Haley, Cornelius, and Kirkpatrick that "you reported that you had ceased practice", because they
11 did not seem to understand or believe what they were being told, but never explained why. And
12 there was a pretense that the prior arrest was not considered "a violation", a pretense that was
13 even included in the letter to Dr. Read about the OMB decisions based on the IMJ08.

14 [419] The information used to justify issue of the "Order for evaluation" and the information
15 used to create the Order are unknown because they are secret OMB information. But it seems
16 logical that this information must have been very defective to result in an unnecessary, totally
17 impossible, totally contra-indicated OFE.

18 [420] Oregon Ethical Standards for Attorneys: RULE 3.3 CANDOR TOWARD THE
19 TRIBUNAL

20 (a) A lawyer shall not knowingly:

21 (1) make a false statement of fact or law to a tribunal or fail to correct a false statement of
22 material fact or law previously made to the tribunal by the lawyer;

- 1 (2) fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the
- 2 lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel;
- 3 (3) offer evidence that the lawyer knows to be false...

4 [421] The OMB did provide a witness (Dr.Parshley) who knew nothing about the OFE in the
5 case, and nothing (current or relevant to the OFE) about the company (CPEP) named to provide
6 the evaluations.

7 [422] OMB attorney (Foote) had an ethical responsibility to not include knowingly false
8 information or opinion in his opening statement and closing arguments.

9 [423] Mr. Foote had an ethical responsibility to alert the ALJ to the well-established right of
10 plaintiff to address the validity of the OFE, which he must have known because it involved a case
11 in which the OMB violated this right of licensee Grobovsky.

12 [424] Grobovsky v. Board of Medical Examiners:

13 "... petitioner's failure to seek review of the order in accordance with ORS 183.484 did not
14 preclude her from challenging its basis as part of her defense to the charges in this contested
15 case."

16 [425] The evidence and testimony from the hearing and from other OMB documents indicate
17 that the only justification provided for the OFE in OMB documents is false: Dr. Read did not
18 apply to re-activate the inactive license, so no evaluation information was needed to make any
19 decision regarding reactivation because reactivation had not been requested.

20 [426] Hearing to justify the deprivation of the active license HAD been requested but that did
21 not require any new information. This is consistent with plaintiff's allegation that the OFE was
22 issued as part of a punishment plan to retaliate against plaintiff.

1 [427] Although the State may allow the OMB to create an OFE for “any” reason, Federal law
2 does not allow an OFE that is created for the purpose of violating of licensee's civil rights.

3 [428] All testimony and evidence at the hearing shows that the OFE was impossible to comply
4 with and that ANY evaluation by CPEP was contra-indicated by CPEP policy.

5 [429] This provides a strong logical conclusion that the information provided to the individuals
6 who created the OFE was simply fabrications regarding the need for evaluation, and fabrications
7 regarding CPEP capability and policy.

8 [430] But there is no way of knowing which individual(s) other than Haley created this mass of
9 disinformation for the OMB to rely on in creating the OFE.

10 [431] Haley is responsible for this information because everything is supervised by Haley, and at
11 least one OMB member is supposed to supervise Haley, so that member would also be
12 responsible unless he/she was not supervising as required by Oregon law. Discovery could
13 determine all the individuals responsible for the falsified information.

14 [432] The OMB Final Order does recognize that the Order for evaluation was impossible to
15 comply with (as explained herein)

16 [433] The Final Order seems to suggest that there was evidence or testimony that some parts of
17 the Order (or some other Order that was not issued) were possible to comply with – this also
18 must be disinformation because all evaluation was contra-indicated by CPEP policy until the
19 psych and ethical problems were settled.

20 [434] These fabrications must have been relied upon, but are not known exactly because they are
21 secret. They were relied upon instead of actually reviewing the evidence and testimony from the
22 hearing, because there is NO evidence or testimony that any part of the OFE is possible for

1 Dr.Read, nor that ANY evaluation of any kind is indicated until the psychological and ethical
2 problems are settled.

3 [435] The judicial decision on the Complaint was probably made with the same falsified case
4 record that the OCOA was given, or similar falsified information provided internally - but that is
5 currently all secret until discovered.

6 [436] An opening statement... may be dramatic and vivid, but is supposed to be limited to the
7 evidence reasonably expected to be presented during the trial.

8 [437] Mr. Foote never provided any witness about the Order, about CPEP capability, or about the
9 answers at the investigative meeting, so his opening was intended to corrupt the information
10 available in a transcript of the hearing on the Complaint.

11 His opening statement was quoted as fact by the OMB Final Order.

12 [438] Closing Argument (definition): A closing argument is not supposed to contain any new
13 information and may only use evidence introduced at trial. During closing arguments, counsel
14 may not (among other restrictions) vouch for the credibility of witnesses, indicate their personal
15 opinions of the case....

16 [439] This would be true of Mr. Foote's closing arguments, but not of the Direct testimonial
17 statements by Dr. Read in the document titled "Reply to the Complaint" that was accepted by
18 ALJ Gutman as Direct testimony by Dr. Read, but became closing arguments when the testimony
19 was deleted.

20 [440] Dr. Read offered to read this "Reply to Complaint" document into the transcript and was
21 assured by ALJ Footman that reading it would not be necessary. Any allegation of fact in that
22 document, and any explanation of belief, should have been considered sworn testimony

1 regarding Dr. Read's knowledge or belief.

2 III M. SUMMARY OF COMPLAINTS of violation of 42 U.S.C. §1983 (Roughly Chronological
3 Order):

4 1. RELATED TO Inactivation of the Active License:

5 [441] April 2008: False claim by the OMB that "Dr. Read reported that he had ceased practice",
6 and failure of OMB to identify the known ethical allegation regarding a prior arrest.

7 [442] The falsification about "cease practice" was introduced into the January 2009 Complaint,
8 and recognized as false by the OCOA.

9 [443] The ethical complaint about the arrest was concealed for 8 months, then included in a
10 complaint as a justification for license revocation.

11 [444] These falsifications act to deny due process on the deprivation of the active license by
12 falsifying the information used to make decisions about that deprivation of the active license.

13 [445] Denial of due process on the deprivation of the active license is a violation of the 14th
14 Amendment because it is a deprivation caused by law, no matter what you call it..

15 [446] Despite repeated requests by Dr. Read, the OMB failed to provide a "contested case
16 hearing" on the deprivation of the active license.

17 [447] This denial of hearing on the active license deprivation is a violation of 14th Amendment
18 right to due process, a violation by the individuals involved in this decision which was described
19 by Haley as a "simple administrative decision". Whether or not the active license was deprived
20 without due process is a question of Federal law, not a question of State law.

21 [448] The complaint known in April 2008 eventually appears 8 months later, suggesting that false
22 information was provided for the "inactive" decision that deprived plaintiff of his active license.

1 Page #64 Complaint 42 U.S.C. §1983 (RLRead)

1 [449] The failure to identify Dr. Read's 2006 arrest as the complaint which was the actual reason
2 for acting against the license, and the false reporting that he had "ceased practice" were actions
3 that denied substantive due process on the deprivation caused by inactivation of the license, and
4 thus violate his 14th Amendment right to due process.

5 [450] Instead of the actual reason for acting against the license, other reasons for action were
6 fabricated, believed to be falsifications of the renewal application, based on false statements
7 made by Kirkpatrick and Cornelius and Haley at the June 2008 investigative meeting, which can
8 be compared to sworn testimony by Parshley and Bielaski that Dr. Read did not report any period
9 of inactivity.

10 [451] The falsification of the renewal application: a claim that Dr. Read had reported that he had
11 "ceased practice", or had requested inactive status, or both these claims.

12 [452] The truth provided by the OMB witnesses at the May 2009 hearing on the January 2009
13 complaint, and also by Dr. Reads statements, testimony, Oregon law, and the OCOA opinion: the
14 application did not identify any period of inactivity, but reported unemployment.

15 [453] These actions (failure to identify the arrest as a complaint and falsification of the
16 application information) were done by Haley, Cornelius, and Kirkpatrick and possibly by others
17 acting administratively for the OMB, including unknown individuals who may have issued
18 reports related to their attendance at the investigative meeting of June 2008.

19 [454] The violations caused plaintiff severe emotional distress, because Dr. Read anticipated that
20 these falsifications would adversely affect him, his family, friends and descendants.

21 [455] The public has a reasonable expectation that the actions of the OMB will be honest and
22 legal.

1 [456] The public would not be likely to recognize the falsifications because they were presented
2 in the form of completed OMB decisions, not the false claims that were part of the information
3 relied upon to make the decision.

4 [457] If the lawyers, OMB members, courts and Dr. Read did not identify the importance of the
5 falsifications, the public is not likely to recognize them either unless this complaint results in
6 their being revealed publicly.

7 [458] These individuals should be liable for damage caused plaintiff by violation of his civil
8 rights which caused severe emotional distress for plaintiff.

9 [459] Damages requested include nominal damages, compensatory damages of \$2 million for
10 loss of the property and liberty value of the active license, \$4 million for the injury of emotional
11 distress, and punitive damages of \$4 million, and legal expenses.

12 [460] The individuals who falsified the information could reasonably expect the false
13 information would pervert any due process that relied on their falsified information

14 [461] The OMB repeats ad nauseum the false description that "Dr. Read reported that he had
15 ceased practice...", in every document. This served to deny legitimate due process on actions
16 against the license, by creating the false impression that Dr. Read had ceased practice.

17 [462] The OMB witnesses at the May 2009 hearing and the OCOA all recognized that Dr. Read
18 had actually reported unemployment, and did NOT report any period of inactivity.

19 [463] Kirkpatrick and Cornelius were involved in "investigation meeting" and seemed to be
20 oblivious to the fact that Dr. Read had not and did not intend to request inactive status, nor had
21 he intended to report that he "ceased practice".

22 [464] Dr. Read reported unemployment and clearly did NOT identify any period of inactivity, as

1 Board witnesses have testified under oath, and as recognized by the OCOA, and as stated by Dr.

2 Read at the investigative meeting.

3 [465] Dr. Read never requested inactive status, nor did he ever request that the inactive license be
4 re-activated.

5 [466] Dr. Read did not have the documentation of continuing education that was required in 2008
6 for reactivation of an inactive license. He did have all the required continuing education for
7 renewing an active license (because there was none required then).

8 [467] Dr. Read repeatedly requested administrative review of the decision(s) that deprived him of
9 his active license.

10 [468] The truth that unemployment at a specialty is not "cease practice" is established in the
11 OMB case record when OMB Medical Director Parshley testified at the May 2009 hearing: that
12 Parshley himself had ceased practice in his specialty but still had an active unrestricted license 7
13 years later. The OCOA recognized this truth also, by describing "unemployment in his specialty",
14 not "ceased practice".

15 [469] DEPRIVATION by OMB of property value of the active license caused by listing the
16 active license as inactive -

17 [470] DEPRIVATION by OMB of liberty value of professional reputation and choice of
18 profession caused by listing the active license as inactive.

19 [471] An unrequested limitation of a medical license must be reported to health agencies
20 (including other State licensing agencies).

21 [472] Unrequested restriction of a license is very damaging to the reputation and/or expectation
22 of competence of the licensee.

1 [473] These deprivations were denied due process despite repeated requests in writing to provide
2 administrative review of decisions to not renew the active license and to list it as inactive..

3 [474] Although the OMB may have pretended to consider inactivation of the license requested
4 rather than a deprivation, the actual deprivation is identical to an emergency suspension if the
5 inactive status was not requested, and it was not requested in this instance.

6 [475] If the original decision to list the license as "inactive" was actually a "routine
7 administrative decision" as Haley has described in writing, then the (unknown) individuals who
8 made the decision to deny required procedural due process related to the deprivation should be
9 liable for damages caused by the violation well-established 14th Amendment right to due process
10 on deprivations by the individual acting under "color of law" for the State.

11 [476] If Oregon law does not provide for "due process" on a deprivation, the 14th Amendment
12 does, and this is a well-established right.

13 [477] Haley knew or should have known that Dr. Read had been deprived of his active license.
14 More so when Dr. Read repeatedly asked for administrative review of the adverse decisions
15 against his license.

16 [478] When an administrator chooses to PRETEND that inactive status has been requested when
17 all evidence and testimony is contrary to that pretense, the ability to act in secret should not
18 prevent Federal law 42 USC §1983 from being enforced.

19 [479] If a Board member learns about the falsifications while performing a function that
20 provides total immunity (such as judicial-type decisions) - that member has an ongoing
21 administrative responsibility to reveal the truth.

22 [480] An OMB member who falsifies or fabricates information is not involved in judicial action

1 - he/she is involved in falsifying investigational evidence- an action that denies legitimate due
2 process and is thus a violation of 14th Amendment rights.

3 [481] This is analogous to the situation when a police investigator or child welfare investigator
4 hides or fabricates evidence related to the case he/she is working on.

5 [482] This complaint is about violation of 14th and 5th Amendment rights to due process, done
6 by falsifying information, actions which acted to deny or pervert the legitimate due process
7 allowed on (threatened) deprivation(s), such as when such due process was allowed on the
8 January 2009 Complaint(s) made by the OMB against plaintiff.

9 [483] These violations of civil rights caused extreme emotional distress of plaintiff.

10 [484] Some individual(s) OMB employee or member believed the prior arrest was a violation of
11 medical ethics that justified license revocation - but instead of identifying this complaint,
12 he/she/they decided to pretend otherwise while depriving Dr. Read of the active license in
13 another manner, by falsely reporting that he had ceased practice and thus was not eligible for an
14 active license renewal.

15 [485] The OMB records may not identify that person clearly until he/she induces the OMB to
16 include the arrest as part of the COMPLAINT eventually issued Jan 2009, without identifying the
17 connection to the original actions against the license.

18 [486] The above allegation is supported by the facts that "the arrest" becomes a Complaint
19 EIGHT months after the OMB has been given all the information which it will claim it depends
20 on to prove that "the arrest" is a violation of medical ethics, and 6 months after the OMB has
21 informed Dr. Read that "the arrest is not a violation". The arrest is never identified as the reason
22 the license was inactivated, but a reasonable person would conclude that it was related because

1 the OMB had all the information it relied on when later claiming "the arrest" was a violation of
2 medical ethics that justified license revocation.

3 [487] The OMB was aware that Dr. Read was seeking employment that did not require an active
4 medical license, but an active medical license would have increased his chance of obtaining
5 employment.

6 [488] Dr.Parshley, OMB Medical Director, testified that he quit practice 7 years earlier and was
7 doing work that did not REQUIRE a medical license, but had renewed his active unrestricted
8 medical license anyway.

9 [489] Dr.Kirkpatrick and Dr.Cornelius both repeatedly stated to Dr. Read that "you reported you
10 had ceased practice", even though they had evidence that claim was not true (the renewal
11 application, if they looked at it) and Dr. Read's had just explained that he did NOT report any
12 period of inactivity- and Dr. Read even provided the explanation that he had been continuously
13 practicing medicine according to ORS 677.085 definition of the practice of medicine - which
14 requires only that a practitioner inform the public that he is a license medical practitioner.

15 [490] Definition: ORS 677.085 What constitutes practice of medicine.

16 A person is practicing medicine if the person does one or more of the following:

17 (1) Advertise, hold out to the public or represent in any manner that the person is authorized to
18 practice medicine in this state.... {remainder not included here}

19 [491] The decision to list the license as inactive caused a deprivation of the active license every
20 bit as much as suspension or revocation would have caused, and the denial of due process on the
21 deprivation is a violation of 14th Amendment rights.

22 [492] The falsification of application information may have violated ORS 677.080.

1 [493] Definition: ORS 677.080 Prohibited acts. No person shall:

2 (1) Knowingly make any false statement or representation on a matter, or willfully conceal any
3 fact material to the right of the person to practice medicine or to obtain a license under this
4 chapter. {remainder not included}

5 [494] A reasonable person would/should have known the truth. Dr.Parshley and Mr.Bielaski had
6 very little difficulty identifying the truth, when they both testified (May 2009) that the renewal
7 application did not identify any period of inactivity. It reported unemployment.

8 [495] Plaintiff requested (in writing) all administrative review of the action(s) by the OMB to
9 not renew the active license and instead to list it as inactive. He had not requested inactive status,
10 and thus the action to deprive Dr. Read of the active license was a deprivation of property value
11 of the active license and liberty value of professional reputation related to the active license.

12 [496] Haley has described the inactivation of the license as a "routine administrative action".

13 [497] Listing the license as inactive caused the identical deprivation that license suspension
14 would have caused, because it was not requested by Dr. Read.

15 [498] In retrospect, that IMJ08 should have suggested that someone was falsifying or falsely
16 reporting plaintiff's renewal application as showing a report that plaintiff had ceased practice, but
17 Dr. Read assumed there were secret rules or laws that he simply was not aware of, so great was
18 his expectation of being treated honestly and legally.

19 [499] This belief in the legality and truth of the OMB is shown by Dr. Read's offer to agree that
20 he did not understand the secret rules/requirements for license renewal, and asked that his
21 application for active renewal be withdrawn, actions against his license undone, and his license
22 fee refunded. This seemed reasonable because the renewal application did not explain the secret

1 rules Dr. Read thought the OMB was applying.

2 [500] Dr. Read had received a renewal application that did not make clear what the secret
3 requirements were - and this OMB information did not describe any practice-related
4 requirements such as those that are suggested by the questioning of Dr. Read at the investigative
5 meeting of June 2008.

6 [501] At that time (2008) there was NO requirement for Dr. Read (or any licensee renewing an
7 active license) to provide records of continuing education of any kind.

8 [502] There was no requirement for minimum number of patients treated or diagnosed, no
9 minimum number of cures, no maximum number of failures, no requirement related to billing.

10 [503] There was no specific complaint that offered evidence to indicate that Dr. Read was
11 incompetent at any medical practice that he had attempted or offered to perform.

12 [504] Unrestricted license means that the physician (Dr. Read) was licensed to provide all types
13 of medical care, including those he had not ever provided and might not ever attempt to provide
14 or claim he could provide - like heart transplantation for example.

15 [505] Without a specific complaint or a specific aspect of medical practice to consider, claims of
16 incompetence are specious because they could be made against almost any licensed physician
17 with regard to some unusual aspect of medical practice that the physician had not ever attempted.

18 [506] This is true of every physician with an unlimited license, such as Dr.Parshley who testified
19 that he had ceased practice 7 years before and still had an unlimited license to practice medicine -
20 which meant that he could attempt a heart transplant the next day.

21 [507] Dr.Kirkpatrick and Dr.Cornelius both stated that Dr. Read had reported that he had ceased
22 practice, apparently not consulting the actual license renewal application, and intentionally

1 disregarding Dr. Read's explanation that he had been continuously in practice while licensed.

2 [508] They ignored Dr. Read's review of the Oregon statutory legal definition of the practice of
3 medicine in Oregon, which does not include any requirement for actually diagnosing or treating
4 disease.

5 [509] Plaintiff believes that some physicians with active licenses work for insurance companies
6 and do nothing but prevent patients from getting medical care by denying insurance coverage!

7 [510] Both Dr.Parshley (OMB Medical Director) and Mr.Bielaski (OMB employee) testified
8 under oath that the application did not identify any period of inactivity. The OCOA recognized
9 that Dr. Read had ceased practice in his specialty.

10 [511] Kirkpatrick and Cornelius (and possibly others including Haley) are believed to have
11 falsified the renewal application or falsely reported it to the OMB members who made the
12 decision to list the license as inactive.

13 [512] Dr. Read was upset to learn that his license was inactivated, but more upsetting was the
14 falsification of his application that seems most likely to have been made, even as the ethical
15 complaint regarding his prior arrest was not cited as a reason for action to deprive him of the
16 active license.

17 [513] We can know now that "the arrest" was considered a significant ethical violation (without
18 any attempt to investigate it). Dr. Read was unable to defend against the false allegation that had
19 not been made, but which plaintiff believes was used to justify action against the license.

20 [514] The documents that have been kept secret might better identify all individuals involved in
21 falsifying the renewal application, or falsely reporting that application to the OMB members
22 making decisions regarding the license.

1 [515] The deprivation of active license and damage to reputation caused by that deprivation
2 were denied due process, a violation of the 14th Amendment right to due process - and this
3 failure to provide due process related to the deprivation seems to have been justified by falsifying
4 the application information to be able to claim that there was no deprivation because Dr. Read
5 had requested inactive status.

6 [516] The falsifications, and the deprivation of the active license without due process, caused
7 severe emotional distress of the plaintiff, which was believed to be due to unreasonable action by
8 the OMB, but which would eventually be recognized as more likely due entirely to falsification
9 of information provided to the OMB members: a reasonable decision based on falsified
10 information.

11 [517] The recognition of the likely role of falsifications affecting administrative actions of the
12 OMB did not occur until Dr. Read recognized in October 2011 the falsification of the case record
13 provided to the OCOA.

14 [518] Once the intentional falsification of the case record was identified, the many prior
15 intentional falsifications identified in this complaint became apparent to plaintiff.

16 III M 2. VIOLATIONS Related to THE ORDER FOR EVALUATION:

17 [519] The September 2008 OFE was a SHAM : Not needed for any OMB purpose, and not
18 capable of providing any evaluation because it was totally impossible to comply with, and all
19 evaluations were contra-indicated by the policy of the private company (CPEP) named to provide
20 the evaluations.

21 [520] Falsifications regarding the need for the OFE, and falsifications regarding CPEP capability
22 were provided to the OMB by Haley or some investigator and approved by Haley.

1 [521] These falsifications deny due process on that part of the January 2009 Complaint that
2 involves the OFE, and thus are violations of the 14th Amendment right to legitimate due process.

3 [522] The falsifications cause severe emotional distress for Dr. Read, described elsewhere as is
4 the demand for damages (nominal, compensatory and punitive) which are described elsewhere.

5 [523] The Order was totally impossible to comply with, because CPEP does not offer the
6 evaluations ordered for a physician such as Dr. Read. As proved by all evidence and testimony at
7 the May 2009 hearing.

8 [524] Every possible evaluation of Dr. Read by CPEP was contra-indicated for three different
9 reasons by the policy of the company (CPCP) named to provide the evaluation.

10 [525] This was proved at the May hearing on the Complaint as regards the one contra-indication,
11 the others had not yet been revealed by the OMB, but were known.

12 [526] Plaintiff alleges that the OFE was created to punish plaintiff, and could not do anything
13 other than punish him (because it could not result in evaluation).

14 [527] This punishment was retaliation for Dr. Read's repeated requests for administrative review
15 of the OMB action depriving plaintiff of his active license, and the punishment is alleged to be a
16 violation of Dr. Read's 1st Amendment right to free speech, and to seek redress.

17 [528] The OFE is a violation of 14th Amendment right to equal treatment by the law, because
18 the OFE is impossible to comply with and thus cannot be justified by any State need.

19 [529] Because the OFE is a sham, the individuals who issued it were not authorized to do so-
20 they were only authorized to issue legitimate Orders for evaluation.

21 [530] The Order is a part of a legal scheme in Oregon that allows the OMB to create the
22 equivalent of a "bill of attainder", which is a violation of Article I section 10 of the

1 U.S.Constitution.

2 [531] The Order is a violation of plaintiff's 14th Amendment right to due process- because the
3 OFE makes substantive due process impossible by making it impossible to NOT violate it.

4 [532] No due process can exist for the deprivations related to violation of the Order, because
5 violation of the Order must occur, and thus cannot be disproven in any procedure.

6 [533] The Order is a violation of the 14th Amendment right to due process because the OMB
7 did not provide a contested case when Dr. Read objected to the OFE itself, a well-established
8 right when a licensee is issued an Order for Evaluation.

9 [534] The false information about the need for an evaluation order and the false information
10 regarding CPEP capability were never corrected, and thus served to pervert the procedural due
11 process on the Jan 2009 complaint that included a complaint of "intentional failure to comply"
12 with the OFE.

13 [535] Thus the falsifications provided to the OMB members who issued the Order - were a
14 violation of the 14th Amendment right to due process on the complaint of violating the Order.

15 [536] These falsifications cause intense emotional distress for the plaintiff (described elsewhere)
16 and he requests damages(described elsewhere).

17 [537] The OMB administrative information provided for decisions regarding the "Order for
18 evaluation" is secret, and the OMB successfully objected to providing information or testimony
19 about the Order, so this issue could not be evaluated at the hearing on the Complaint of January
20 2009.

21 [538] We do not have to guess the intent of the falsifications or of the Order, because the OFE
22 can have only one result that would not otherwise have occurred - and simple LOGIC indicates

1 that this one possible result is the intent - unless the individual(s) involved claimed error (which
2 did not occur).

3 [539] The falsifications could not be simple errors because the individuals involved did not
4 admit to simple error, and concealed the falsifications with false claims regarding compliance
5 with the Order and false claims regarding CPEP capabilities:

6 “the least he could have done was.....” is a claim that lacks any supporting evidence or
7 testimony, and is contrary to uncontested testimony.

8 [540] Furthermore, it would be very unlikely for anyone to actually get EVERYTHING wrong -
9 that is not "simple error" – it is the kind of error made when someone is creating a sham Order to
10 punish, not to evaluate.

11 [541] IF the OMB members who are involved were aware of the falsifications, then they failed
12 to reveal them and are complicit in violating Dr. Read's right to legitimate due process on the
13 complaint against him.

14 [542] The failure of the OMB, the OCOA and the OSC to identify these falsifications was not an
15 additional injury, but this inability to identify the falsifications proves that Dr. Read's concern that
16 other people will be fooled by the falsifications and will believe them is a reasonable concern.

17 [543] The reason it took so long for Dr. Read to identify them: they are concealed as secret OMB
18 information except as deduced by OMB actions and identified in OMB documents.

19 [544] These falsifications are repeated daily in the documents that are available to the public as
20 part of the State records, including on the internet.

21 [545] Haley and others have claimed in writing that Dr. Read insisted he should have an active
22 license - but that did not happen.

1 [546] Dr. Read requested review (due process) of the administrative action which deprived him
2 of the active license. If the OMB action were reversed, he would have an active license- but that
3 would NOT require any evaluation of Dr. Read, it would require evaluation of the information
4 used to make the OMB decision(s).

5 [547] The complaint that the prior arrest reported by Dr. Read was a violation of medical ethics-
6 this complaint was concealed, a falsification that denied due process on the deprivation caused by
7 listing the license as inactive.

8 [548] If this complaint had been identified instead of concealed, a contested case could have
9 been provided on that complaint to allow Dr. Read to have his license, if the complaint was not
10 proved (and it was not proved 8 months later!) - or justify and provide due process on the
11 deprivation of the active license.

12 [549] Dr. Read never applied for re-activation of the license, and thus the only action required of
13 the OMB was to provide due process on the deprivation of the active license.

14 [550] This did not require any new information, and thus the OFE was not for the purpose of
15 providing any needed information, even if it had been possible for the Order to result in any
16 information.

17 [551] This is most consistent with plaintiff's allegation that it was created for the sole purpose of
18 punishing the plaintiff.

19 [552] The OFE was a sham which is easy to identify if you do more than just read it with the
20 belief that it must be legitimate.

21 [553] The ONLY way a reasonable person could believe that such a sham OFE could be created
22 that was both impossible and contra-indicated (doubly contra-indicated if you agree the arrest

1 complaint was well known when the OFE was issued, triply contraindicated if there was a known
2 complaint about "answers")... the only way to do that is to totally NOT need any evaluation, and
3 then simply make up some kind of evaluation that sounds plausible, without regard to what the
4 company CPEP actually provides.

5 [554] The Order is a fabrication that reaches such a level of contradiction and impossibility that
6 it could only be created by simply ignoring any reality and fabricating something that sounded
7 good.

8 [555] Comprehensive evaluation which shall include a psychological evaluation.

9 It does sound good, doesn't it? Something everyone may wish his/her own doctor had to provide
10 regularly? Sounds great, authentic until you actually know something about CPEP, but did not
11 include any detail needed for an actual evaluation, and was impossible for several different
12 reasons described too many times already.

13 [556] This falsified information (about the company CPEP) is reflected in pseudo-testimony
14 provided in the OMB Final Order and in OMB pleadings to the OCOA.

15 [557] These falsifications (which are not actual hearing testimony or evidence) pervert the due
16 process rights of plaintiff in the appeal to the OCOA, and to the Supreme Court, and possibly to
17 the OMB acting as tribunal to determine the Final Order, if the OMB members on that tribunal
18 were clueless to the fact that the information related to the creation of the OFE had been
19 fabricated to allow the OMB to fine Dr. Read \$10,000.

20 [558] IF OMB members were initially clueless as to the truth but learned later that the
21 information was false, then they were responsible as administrators to make the truth known (that
22 the OFE they had created was a Sham.

1 [559] If they chose to conceal the fact that the information was false, that is violation of
2 plaintiff's 14th Amendment right to legitimate due process also.

3 [560] Thus all OMB members may be liable for the damage caused by concealing the
4 falsifications that denied Dr. Read due process on the complaint of "failure to comply", UNLESS
5 OMB records show that individual Board members were somehow prevented from learning the
6 truth.

7 [561] Logical analysis does not require that we GUESS at the intent of the individuals who
8 created the Order for Evaluation - because unless they did not realize they were acting on false
9 information, they must have intended to cause plaintiff to violate this OFE by making it
10 impossible to comply with.

11 [562] The OMB has broad authorization to create Orders for evaluation to meet its needs in
12 evaluating licensees, however this Order was created to punish licensee for requesting due
13 process on the license inactivation and to punish him with a \$10,000 fine, and license revocation,
14 and to "brand" him as unprofessional and dishonorable.

15 [563] The complaint 8 months after the deprivation of the active license reveals that the prior
16 arrest WAS considered a significant ethical violation, because the only information relied on to
17 prove the complaint was the information available 8 months before-- but this complaint was
18 concealed so that Dr. Read could not defend against it. This falsification denied due process on
19 the complaint for 8 months, and when the complaint was issued, it was not identified as the
20 reason for depriving Dr. Read of the active license.

21 [564] Because it was the only complaint that existed at the time (although concealed from
22 Dr.Read), it must be the only reason for deprivation of the active license.

1 [565] The OMB made a concerted effort to NOT know any more (about the arrest) than the
2 arrest report and court dismissal.

3 [566] The OMB (in the January 2009 Complaint) falsified both the arrest charge and the
4 dismissed charge, listed the date incorrectly, and changed the wording of the arrest charge to
5 make it sound worse (“cruelty”).

6 [567] Although informed of sworn testimony by everyone with knowledge about the events
7 surrounding the arrest, OMB lawyer Mr. Foote did not make any effort to learn about this
8 testimony, nor about the two 911 calls related to the arrest, nor about anything else related to the
9 arrest except the police and court documents that the OMB had from before April 2008.

10 [568] OMB lawyer Mr. Foote objected to submission of valid information regarding the arrest,
11 without evaluating the information – his objection was based on the failure to submit this
12 evidence when it was irrelevant (before the date of the arrest listed in the Complaint was
13 changed, which made the evidence relevant).

14 [569] The OMB was unaware of the reason the police were dispatched, and unaware of almost
15 everything related to the arrest. This may explain why the OMB complaint did not identify any
16 actual action by Dr. Read - the complaint did not identify something he was alleged to do or
17 failed to do - as being a violation of medical ethics, only that he was arrested - for charges that
18 are not why he was arrested, and the complaint described charges being dismissed that were
19 never filed.

20 [570] Oregon does not care WHY the OMB orders an evaluation, but Federal law 42 U.S.C
21 §1983 does care if individuals acting under color of law violate the 14th Amendment by creating
22 the equivalent of a State law against one person and the law must result in a violation by that

1 person and allow successful prosecution- this is about as "unequal protection" as you can get.

2 [571] And Federal law cares if a sham order is used to punish someone in violation of his 1st
3 Amendment right to free speech and right to seek judicial redress.

4 [572] A legitimate Order (of any kind) can be justified as unequal treatment under the law, if it
5 can be shown to be necessary to provide the control of the practice of medicine that is a
6 compelling State need.

7 [573] A Sham order that cannot result in evaluation but can only result in violation does not
8 serve any compelling State need, and thus is a violation of the equal protection demand of the
9 14th Amendment, even for a "group of one" in this case.

10 [574] This issue (the need for and legality of the OFE) was not actually an issue at the hearing
11 on the Complaint (that included an allegation of "intentional failure to comply" with the Order)
12 because the OMB objected to providing a witness who could testify about the OFE and about
13 CPEP capabilities relevant to the OFE.

14 [575] Although Dr. Read's deleted testimony does discuss the OFE and CPEP capabilities, and
15 also describes why the OFE was unnecessary for the OMB, that testimony was deleted at some
16 time before the case record was provided to the OCOA, and possibly the OMB members judging
17 the complaint never actually read that sworn testimony either.

18 [576] The OMB did not provide any evidence or testimony about the OFE or about CPEP
19 capability to provide the evaluation described in the Sham Order.

20 [577] The OMB did not even provide evidence or testimony during the hearing that CPEP was
21 operational during the period allowed to comply with the OFE.

22 [578] Indirect Admission by the OMB that OFE was impossible to comply with:

1 The OMB claimed (in its Final Order on the complaint) that Dr. Read had an ethical
2 responsibility to inform the OMB that the OFE was impossible to comply with.

3 [579] This was not discussed during the hearing or claimed by any witness. NO evidence or
4 testimony showed that Dr. Read had failed to inform the OMB.

5 [580] Dr. Read's testimony (the testimony that was deleted) described how he phoned an OMB
6 investigator and left a message complaining about the OFE and asking for the Order to be
7 withdrawn.

8 [581] For the purpose of 42 U.S.C §1983, Dr. Read's ethical responsibility is irrelevant, although
9 there is a letter from OMB investigator that Dr. Read called soon after receiving the OFE that
10 shows he did try to get the OMB to rescind the OFE.

11 [582] The OMB claim of unethical action requires that the OMB first recognize that the OFE
12 was impossible to comply with - before it decides what Dr. Read's ethical requirement was
13 related to that.

14 [583] Thus the OMB admitted that the OFE must result in violation- yet proceeded with
15 prosecution based on fabricated post-hearing pseudo-testimony after deleting most of Dr. Read's
16 uncontested testimony about the OFE and about CPEP capabilities.

17 [584] These action help prove that the purpose of the sham OFE was to allow prosecution of Dr.
18 Read related to the OFE and to fine him \$10,000, both of which the OMB did do.

19 [585] The falsifications related to the case record were not identified by plaintiff until October
20 2011

21 [586] In the OCOA opinion, plaintiff noted a strange comment by the OCOA about.... CPEP web
22 pages that might be obsolete

1 [587] The various falsifications described in this complaint were first recognized after the
2 falsification of the case record was identified by Dr. Read and confirmed by Mr.Kelly (October
3 2011), after the OCOA had issued its opinion on the OMB Final Order: confirming it except for
4 remanding to reconsider the \$10,000 fine.

5 [588] Mr.Kelly searched the May 2009 hearing transcript and found the ALJ order that the
6 plaintiff's document (Reply to Complaint) be considered Direct Testimony, not the closing
7 arguments which it had been labeled in the case record.

8 [589] OMB administrators failed to allow Dr. Read to contest the legitimacy of the "OFE for
9 evaluation" at the contested case hearing- a well-established 14th Amendment right (established
10 when the OMB violated this right in a 2007 case).

11 [590] This violation of well-established right to contest OMB Orders, which is a violation of the
12 14th Amendment, caused plaintiff intense emotional distress as detailed elsewhere, and he
13 requests damaged as described elsewhere.

14 [591] This issue could not be properly raised in the hearing on the Complaint which includes
15 intentional failure to comply with the Order, because the OMB objected to providing a witness
16 who know anything about the Order.

17 [592] The OFE was assumed to be legitimate in all regards by the OMB, and the OCOA is not
18 allowed (by Oregon law) to substitute its judgment for that of the OMB.

19 [593] The OMB COMPLAINT of January 2009 (CADR) - completed the punishment of Dr.
20 Read by the Sham OFE, by complaint that Dr. Read intentionally violated the OFE.

21 [594] Two additional complaints in the CADR were both indirectly disproved by prior OMB
22 documents, and by silence regarding them for months after they allegedly occurred.

1 [595] Dr. Read's answers (at the investigative meeting of June 2008) had not been mentioned as
2 a violation during or after the IMJ08 at which the answers were given, nor in the letter to Dr.
3 Read summarizing the meeting, and the arrest had been described as "not a violation" in that
4 summary letter sent to Dr. Read after the IMJ08 meeting.

5 [596] This is consistent with the purpose of punishment of Dr. Read for requesting
6 administrative review, and irrelevant to any legitimate OMB function - more so because the
7 license was already inactive and plaintiff had filed to obtain license fee refund.

8 III M. 3. FALSIFIED INFORMATION: by AAG Mr. Foote at the May 2009 Hearing on the
9 Complaint

10 [597] Claim that falsified information provided by Mr. Foote acted to deny legitimate due
11 process on the Complaint, and caused injury of severe emotional distress of plaintiff. Plaintiff
12 requests damages as described elsewhere.

13 [598] Warren Mr. Foote was serving as OMB attorney, representing the OMB at the hearing on
14 the Jan. 2009 Complaint against plaintiff by the OMB.

15 [599] Mr. Foote Falsified both the arrest charges and the dismissed charges -

16 Someone initially had created the false "cruelty" and false descriptions - but Mr. Foote re-
17 investigated when he recognized the incorrect date of the complaint, then Mr. Foote changed the
18 date of the arrest described in the Complaint, but falsified his investigative findings as regards
19 the arrest charge and dismissed charge description in the Complaint - an intentional falsification
20 that could only act to prevent legitimate due process on the Complaint.

21 [600] Mr. Foote falsified the arrest part of the complaint by combining it with a charge that was
22 not part of the arrest, then added the arrest as a charge that was dismissed (but no charge had

1 been filed on the arrest).

2 [601] Mr. Foote refused to correct the Complaint to match the information available in the
3 evidence (the arrest report, and the court dismissal form).

4 [602] The only possible reason for a pejorative false description of the arrest and dismissal
5 charges is to create prejudice against plaintiff - which is an intentional effort to prevent plaintiff
6 from obtaining legitimate due process on the deprivation threatened by the Complaint against
7 him.

8 [603] The OCOA, in it's review of the case, corrected the intentional falsifications created in
9 describing the arrest charge and dismissed charge- but did so without identifying the pejorative
10 effect these falsifications might have had - possibly because the OMB had already concluded that
11 the arrest part of the complaint was not proved.

12 [604] The OMB did not correct the falsified complaint and the damage done by this falsified
13 complaint will never disappear because the OMB never withdrew or corrected it.

14 [605] Thus the combining of the arrest charge with the actual charge filed was for the purpose of
15 making the situation seem more serious than it was, and that was to deny legitimate due process
16 while corrupting the due process provided.

17 [606] Regardless that the falsification was identified and corrected by the OCOA, the
18 falsification acted to deny legitimate due process, and is a violation of 14th Amendment rights no
19 matter if it affected any Court judgment or not.

20 [607] Mr. Foote's falsifications caused severe emotional distress described in detail elsewhere
21 and plaintiff requests damages as described elsewhere.

22 [608] Mr. Foote provided false information in his opening statement and during questioning of

1 Dr. Read - statements that were not supported by any evidence or testimony discussed at the
2 hearing, and were contrary to uncontested testimony by Dr. Read

3 [609] Mr. Foote ignored relevant evidence (related to "the arrest")- intentionally failed to
4 investigate it and successfully objected to it's submission, although he had not evaluated it.

5 [610] During the pre-hearing period, by phone conversation with Mr.Foote, plaintiff Dr. Read
6 informed Mr. Foote that there had been a "binding arbitratation" related to Dr. Read's charge that
7 the Portland police had arrested him without probable cause and had used unnecessary force in
8 making the arrest.

9 [611] These documents were not relevant to the Complaint made by the OMB which listed a
10 different arrest complaint, a different dismissed complaint and a different date.

11 [612] Mr. Foote would later admit that he knew the arrest in the complaint had an incorrect date-
12 but Dr. Read did not submit any of his "arrest-related evidence until it became relevant (when the
13 date of the arrest was changed to correspond with the actual arrest that had occurred).

14 [613] At this time, Mr. Foote objected to any additional evidence related to the arrest, and his
15 objection was upheld.

16 [614] The objection itself was an effort to pervert procedural due process because Mr. Foote had
17 himself failed to seek out information that would be relevant to the Complaint, and did not
18 review Dr. Read's offered evidence before objecting to it.

19 [615] This was a legal objection, but done for an illegal purpose: to deny legitimate due process
20 to Dr. Read by limiting evidence related to the Complaint. This caused extreme emotional
21 distress for Dr. Read because he expected the truth to be concealed because of lack of evidence.

22 [616] If the complaint had been intentionally given an incorrect date to prevent Dr. Read from

1 submitting relevant evidence, then that intentional falsification is another denial of due process.
2 [617] Oregon law allows new evidence when a complaint is changed, and allows for a delay or
3 suspension of a hearing when new evidence is introduced.

4 [618] The truth- that Dr. Read was arrested for animal abuse 2 but not charged, and was charged
5 with disorderly conduct, but the conduct which was "disorderly" was not identified. The actual
6 disorderly charge was dismissed – without any testimony.

7 [619] Mr. Foote's Denial of due process by falsifying the evidence occurred by failure to collect,
8 or even CONSIDER evidence (from the false arrest claim arbitration) which seems entirely
9 relevant.

10 [620] Even if his failure to include a lot of valid evidence is not considered falsification that is a
11 violation by denying legitimate due process, the INTENTIONAL falsification of the arrest charge
12 and falsification of the actual charge that was dismissed is clearly an effort by Mr. Foote to
13 produce prejudice against Dr. Read, using falsified evidence that he himself had created after
14 investigating, instead of the truth which he could read on the documents in evidence when he
15 investigated to learn the correct date of the actual arrest.

16 [621] When Mr. Foote falsified these elements of the complaint, he was acting as an investigator
17 and this action denied legitimate due process and was a violation of plaintiff's due process rights
18 under color of law because Mr. Foote was acting as an administrative investigator when he
19 looked for and found the information needed to correct the Complaint date.

20 [622] He got the date right, and finally agreed to change cruelty to abuse, but decided to simply
21 falsify the rest. This may seem trivial to anyone who has not being accused falsely.

22 [623] There is no way to measure the damage this LIE does because it may influence anyone who

1 reads it to believe that Dr. Read was actually arrested for disorderly conduct, which did NOT
2 happen.

3 [624] And they might be influenced to believe that he was charged with animal abuse, which did
4 not happen. Most people would assume that the OMB would not falsify something that is so
5 simple and easy to get exactly right, but Mr. Foote did and it is easy to prove from the OMB
6 documents without other testimony.

7 [625] Even though this (arrest) part of the Complaint was not found to be proved, the
8 falsifications in the case record caused great emotional distress to plaintiff because of the
9 expectation that anyone who read it would believe it despite the actual conclusion that the ethical
10 complaint was not proved.

11 [626] The fact that the falsification seems related to a part of the Complaint that was eventually
12 determined to be unproved is irrelevant to determining whether or not the falsification was a
13 violation of civil rights, and whether it caused injury that deserves compensation.

14 [627] The intense ongoing emotional distress caused by this intentional falsification by Mr.
15 Foote is similar to the distress detailed elsewhere, made worse because it amounts to TWO new
16 additional false allegations: 1) that Dr. Read was arrested for disorderly conduct and 2) that he
17 was charged with animal abuse.

18 [628] Plaintiff requests damages for the injuries caused by defendant Mr. Foote: nominal,
19 compensatory in the amount of \$4 million, and punitive damages in the amount of \$4 million.

20 [629] If discovery shows that the original falsifications of the arrest date of the Complaint was
21 made to prevent plaintiff from submitting evidence, then this was a violation of plaintiff's First
22 Amendment right to seek redress by preventing any evidence from being relevant to the arrest

1 date identified in the complaint until the time allowed to provide evidence had passed, when the
2 date listed in the complaint could be changed.

3 [630] It was bad enough to be arrested without any evidence of a crime, by an emotionally labile
4 woman who never told the same story twice- but to be accused falsely by a State Assistant
5 Attorney General who intentionally falsified information to create new false allegations is
6 infuriating. More so because Mr. Foote had no knowledge regarding anything that had happened,
7 and intentionally avoided learning any information other than the story in the arrest report. His
8 questions at the hearing show that he was unaware of the 911 calls involved in the events
9 surrounding the arrest, and was unaware of the reason the police were dispatched- which was
10 totally unrelated to any concern that a dog had been abused.

11 [631] During the hearing, frustrated by plaintiff's answer to Mr. Foote's question regarding the
12 CPEP evaluation ordered by the OMB, Mr. Foote objected to an answer rather than ask Dr. Read
13 to explain it and learn what Mr. Foote had not bothered to learn about the sham OFE.

14 [632] Mr. Foote was unaware of the details of the OFE and was unaware that the OFE was
15 impossible to comply with because it described evaluation which CPEP did not provide and was
16 contraindicated by CPEP policy.

17 [633] The ALJ did not help in this because she herself was clueless as to details of the OFE and
18 to CPEP's ability to provide evaluations, even though she had obtained printouts of the CPEP
19 website to make sure they were legitimate (rather than use those provided by plaintiff).

20 [634] Neither Gutman nor Mr. Foote had read this "Order for evaluation" carefully enough to
21 understand that it required a psychological evaluation, and Mr. Foote had not bothered to learn
22 anything about CPEP (the company that was supposed to provide this evaluation).

1 [635] Mr. Foote had not investigated the OFE to find out if it was legitimate, nor did he have any
2 knowledge that it was possible for Dr. Read to obtain any part of the evaluation and he did not
3 realize that CPEP policy precluded any evaluation because of the psychological problem
4 identified in the OFE, nor that CPEP did not provide psychological evaluations. Mr. Foote really
5 did not know anything about CPEP, so he simply fabricated claims that he hoped would sound
6 reasonable, or confuse those who knew nothing about CPEP.

7 [636] Like Mr. Foote's questions about "travel to Colorado" and "entering CPEP's office":
8 neither is necessary to obtain some CPEP evaluations, but someone might assume they are (as
9 Mr. Foote did, without any investigation to support this).

10 [637] Mr. Foote did not have any legitimate reason to believe that CPEP was even operational
11 during the period allowed for Dr. Read to obtain the ordered evaluation(s).

12 [638] Mr. Foote never provided any testimony or evidence except his own unsupported claims
13 about the OFE, about CPEP or about the "answer" part of the Complaint.

14 [639] Mr. Foote alleged that Dr. Read had refused to answer questions, and Mr. Foote analyzed
15 the transcript, but never provided a witness to give testimony to support Mr. Foote's speculations.

16 [640] ALJ Gutman did create a new complaint after the hearing and claimed it was proved, but
17 did not identify Mr. Foote's statements as the proof, and there was no other evidence or testimony
18 related to the new complaint.

19 [641] When ALJ Gutman asked "did you obtain a CPEP evaluation", this question that did not
20 identify the evaluation in terms of what had been ordered by the OMB.

21 [642] Gutman's question used an indefinite article rather than refer to THE evaluation (ordered
22 by the OMB), so Dr. Read testified that he considered it very likely that CPEP had evaluated the

1 email he had sent to CPEP requesting information regarding the obtaining of the evaluation
2 ordered by the OMB.

3 [643] ALJ Gutman would later claim to have asked earlier about the CPEP evaluation ordered by
4 the OMB, but in fact she never did that.

5 [644] Gutman would claim that Dr. Read testified that he did obtain the ordered CPEP
6 evaluation, then changed that testimony- which is not true either, and that is easily proved by
7 reference to the transcript of the hearing.

8 [645] The transcript is not confusing, and Gutman's falsification is not difficult to identify if you
9 know it is there and look for it. But nobody has done that.

10 [646] CPEP had never replied to Dr.Read's Email, and Dr. Read's testimony makes very clear
11 that he did not have any definite evidence that CPEP had evaluated his email because he testified
12 that he never received a reply to that email.

13 [647] Absent any evidence CPEP was operational during that period of time, it is possible that
14 nobody at CPEP even read the email, but Dr. Read (like everyone else) actually assumed that the
15 OMB knew that CPEP was operational at that time.

16 [648] Even though the OMB never provided any evidence or testimony, and it seems now that
17 information used in creating the OFE had been fabricated without reference to actual CPEP
18 capability, so it may have been created without any concern as to whether CPEP was actually
19 operating during the period designated by the OFE.

20 [649] Dr. Read's testimony did not meet the expectation of Mr.Foote (who had no understanding
21 of the Ordered evaluation, CPEP policy, or CPEP capabilities) and thus did not understand the
22 answer.

1 [650] Mr. Foote suddenly decided to provide his own testimony and exclaimed,

2 "Dr. Read did NOT obtain the CPEP evaluation and now he his lying in this proceeding!"

3 [651] Then Mr. Foote insisted that ALJ Gutman agree with him, and ALJ Gutman did agree-
4 without perhaps understanding exactly what Mr. Foote was trying to testify about- he had not
5 been sworn in nor had he been asked any question.

6 [652] Mr. Foote claimed during the hearing that Dr. Read refused to answer questions during the
7 investigative meeting, but he did not provide any witness to make that claim and he himself was
8 not at that meeting and could not speak for the accuracy of the transcript.

9 [653] Dr. Read was not allowed to cross-examine any of the false claims, and the only testimony
10 at the hearing (by Dr. Read) is the exact opposite of Mr. Foote's pseudo-testimony.

11 [654] Gutman eventually realized that the psychological evaluation required by the Order was
12 impossible, and used that one fact as the basis for her decision that the OFE could not be
13 intentionally violated.

14 [655] Without any evidence or testimony to contradict Gutman, the OMB used Mr. Foote's
15 allegations and its new complaints to somehow claim that the OFE was intentionally violated
16 because Dr.Read would have violated a possible OFE.

17 [656] This violation was alleged to be proved by the failure of Dr. Read to inform the OMB that
18 the OFE was impossible.

19 [657] This new claim was not proved by evidence or testimony at the hearing, and was contrary
20 to Dr. Read's testimony that he did phone an OMB investigator to complain about the OFE soon
21 after it was issued, to try to get the OFE withdrawn.

22 [658] IF CPEP was operational at that time, CPEP might have changed its policies and

1 capabilities (as the OCOA hypothesized had happened!), so until the time for compliance had
2 expired, there was no way to be CERTAIN that the OFE was impossible, and there was nothing
3 certain for Dr. Read to report that he had not reported by his phone message.

4 [659] The OMB claim does prove that the OMB knew (at the time they made the claim if not
5 before) that the Order was impossible to comply with.

6 [660] The claim that Dr. Read was ethically responsible for reporting that fact could not even be
7 considered unless the Order was impossible to comply with.

8 [661] Someone provided false investigative findings to the OMB, which were used as testimony
9 to support a determination by the OMB that the Complaint had been valid, or to support the new
10 complaints added after the hearing (or both).

11 [662] The individuals providing this false information corrupted the due process being provided
12 and thus violated plaintiff's right to legitimate due process, and did so under color of law,
13 resulting in the damage of extreme emotional distress caused by the realization that someone
14 might believe this false information which was now in the form of testimony (but was not
15 testimony and did not appear until after the hearing was complete).

16 [663] Dr. Read's evidence (CPEP web page information) and testimony regarding conversations
17 with CPEP agents was uncontested testimony- but was mostly deleted from the case record
18 provided to the OCOA, and may have been deleted earlier.

19 [664] This unauthorized deletion can be proved by the case record available, but the
20 individual(s) who falsified the case record are not clearly identified, except that Haley signed the
21 case record.

22 [665] The case record was approved by Haley, but she is legally supervised by OMB member(s)

1 and others may be involved). There was no evidence from the hearing that the OMB could use to
2 reverse the ALJ decision regarding compliance with the OFE.

3 [666] The evidence of CPEP web page information is that CPEP does not provide any
4 psychological evaluation which was required by the OMB Order for evaluation.

5 [667] The effort by the OCOA to explain away this proof that the OFE was impossible to
6 comply with, by wondering if the web page information was obsolete - is what revealed the
7 falsification of the case record by deletion of direct testimony, and thus led to recognition that
8 other extensive falsifications had occurred.

9 III M. 4. COMPLAINT THAT ALJ GUTMAN FALSIFIED INFORMATION, AND ADDED A
10 NEW COMPLAINT AFTER THE MAY 1009 HEARING ON THE COMPLAINT, AND
11 USED FALSIFIED INFORMATION TO SUPPORT THE NEW COMPLAINT.

12 [668] Plaintiff alleges that ALJ Gutman's falsified information and created a new complaint after
13 the hearing was finished- and that these actions denied legitimate due process on the deprivations
14 threatened by the actual Complaint.

15 [669] These actions which violated 14th Amendment rights and caused severe emotional distress
16 by plaintiff (described in detail elsewhere). Plaintiff requests damages (as described elsewhere).

17 [670] Dove Gutman was serving as Administrative Law Judge, supervising the May 28, 2009
18 hearing regarding the Jan. 2009 Complaint ## against plaintiff by the OMB.

19 [671] An administrative law judge is acting as an administrator while presiding at a hearing,
20 which most resembles a decision regarding the termination of employment.

21 [672] ORS 677.275 (1)...

22 (2) Each administrative law judge conducting hearings on behalf of the board is vested with the

1 full authority of the board to schedule and conduct hearings on behalf and in the name of the
2 board on all matters referred by the board, including issuance of licenses, proceedings for placing
3 licensees on probation and for suspension and revocation of licenses, and shall cause to be
4 prepared and furnished to the board, for decision thereon by the board, the complete written
5 transcript of the record of the hearing. This transcript shall contain all evidence introduced at the
6 hearing and all pleas, motions and objections, and all rulings of the administrative law judge.
7 Each administrative law judge may administer oaths and issue summonses, notices and
8 subpoenas, but may not place any licensee on probation or issue, refuse, suspend or revoke a
9 license.

10 [673] Plaintiff believes that ORS 677.275 (above) does not provide authority to act on any issue
11 that is not referred by the board, (either before or during the hearing) and thus has NO authority
12 to create new issues after a hearing is finished.

13 Nor does the law authorize inclusion of evidence that was not introduced at the hearing, an
14 action that is more investigational than judicial, but corrupts legitimate due process.

15 [674] Mr. Foote was aware that the Gutman would attempt to agree with whatever objections
16 were made by the OMB, and Gutman did so.

17 [675] Mr. Foote was aware that the Gutman would attempt to deny any objections or requests
18 by Dr. Read, even when Oregon law seems to direct otherwise (as it does regarding new evidence
19 when a Complaint is changed during a hearing).

20 [676] The Administrative law judge, although somewhat independent, acts as part of the agency
21 – with some Agency authority to make changes and decisions, but all of these changes and
22 decisions can legally be undone, reversed, and redone by the Agency if the Agency disagrees.

1 [677] Thus the ALJ is not acting independently in any way that an actual judge does.

2 An ALJ can annoy the agency by actions which need to be reversed and or redone as many times
3 as the OMB pleases.

4 [678] This is very different from an individual with JUDICIAL power, and the ALJ is analogous
5 to a child who is allowed by a parent to decide, unless the parent does not like the decision.

6 [679] The hearing transcript shows that ALJ Gutman was aware of the Agency powers and
7 explained them to Dr. Read at the hearing, as documented in the hearing transcript.

8 [680] The ALJ is supposed to be independent from the agency involved, but plaintiff believes
9 that Oregon law allows an ALJ to confer with agency employees in secret, (before, during, and
10 after the hearing), unlike a judge - for whom these secret communications would be considered
11 unethical "ex parte" communication in violation of the rights of the individual(s) in opposition to
12 the agency.

13 [681] The ALJ ethics statement is not a legal requirement but "aspirational only":

14 CODE OF ETHICS FOR ADMINISTRATIVE LAW JUDGES OF THE OFFICE OF
15 ADMINISTRATIVE HEARINGS (Foreword: This Code of Ethics is adapted from the Oregon
16 Association of Administrative Law Judges' "Code of Conduct for Oregon Administrative Law
17 Judges." It is aspirational only....{parts A & B not included})

18 (C) An Administrative Law Judge may communicate ex parte when circumstances require for
19 scheduling, administrative purposes or emergencies that do not deal with substantive matters or
20 issues on the merits, provided that the ALJ reasonably believes that no party will gain a
21 procedural or tactical advantage as a result of ex parte communication....

22 [682] OMB records and other discovery might show if ALJ Gutman was acting to cooperate

1 administratively with the OMB by adding the new complaint, and by claiming there was
2 evidence to support the new complaint, by falsifying testimony in her credibility determination,
3 and possibly by altering or falsifying other parts of the case information.

4 [683] The actions described (and proved by the case record) and other similar actions (if
5 discovered) are all alleged to be in violation of plaintiff's right to legitimate due process on the
6 actual Complaints being considered at the hearing.

7 [684] ALJ Gutman refused to allow relevant evidence after the arrest complaint was changed in
8 a way that made irrelevant evidence (about a different date), now relevant to the new (changed)
9 date of the arrest described in the complaint.

10 [685] ALJ Gutman created a new complaint ("Dr. Read refused to answer") after the hearing and
11 Gutman claimed that the new complaint had been proved.

12 [686] ALJ Gutman did not indicate what the proof was and the hearing did not (could not)
13 include any testimony about this complaint because it did not appear until after the hearing.

14 [687] Mr.Foote had made sweeping quasi-testimonial allegations in his opening statement that
15 support this new complaint, and he did so before it was created and revealed in Gutman's
16 proposed Final Order.

17 [688] ALJ Gutman seems to have relied on Mr. Foote's pseudo-testimony and claims regarding
18 the Complaint, rather than the actual complaint and the hearing evidence.

19 [689] There was no testimony or evidence presented at the hearing to support this new
20 complaint, which did not appear until the hearing was finished.

21 [690] Dr. Read's uncontested testimony directly denied the new complaint (although the
22 testimony was made without hearing the complaint, which was not made until AFTER the

1 hearing was finished).

2 [691] The creation of a new complaint by ALJ Gutman after the hearing was finished is beyond
3 the jurisdiction to supervise the hearing referred to her, which had very different complaints.

4 [692] The OMB had a duty to identify the new Complaint and issue it legitimately if the OMB
5 chose to do so, and provide legitimate due process on the new complaint as required by law.

6 [693] By inserting this new complaint into the existing one, Gutman (and the OMB by not
7 removing the new complaint) acted to deny due process on the deprivation(s) that might be
8 caused by the new complaint, and thus violated plaintiff's 14th Amendment right to legitimate
9 due process, on the actual complaint and the new complaint.

10 [694] ALJ Gutman falsified Dr. Read's testimony to support her claim the testimony was
11 changed and thus not credible.

12 [695] The actual testimony by Dr. Read in answering Mr. Foote's questions and answering
13 Gutman's different questions can be evaluated in the transcript of the hearing; and the
14 falsification recognized without other discovery.

15 [696] This falsification serves to deny legitimate due process on the deprivations being
16 considered, and is thus a violation of the plaintiff's 14th Amendment right to due process.

17 [697] The various falsifications, the new complaint, and the denial of due process caused intense
18 emotional distress for plaintiff, which added to other distress described in this complaint.

19 [698] These falsifications made it more likely that others might believe false statements
20 (whether testimony or fabrications) that were contrary to Dr. Read's testimony, and might cause
21 them to disbelieve Dr. Read's testimony (to the extent it was not deleted from the case record).

22 [699] This falsification could cause others to act in accordance with the conclusions that a

1 reasonable person might make if that person believed the falsifications and failed to determine
2 the truth.

3 [700] Plaintiff requests Jury trial, and damages paid by Gutman for injurys caused for plaintiff
4 by the described violations of his civil rights: (nominal, compensatory in the amount of \$4
5 million and punitive in the amount of \$4 million) or as determined by the jury.

6 [701] The jurisdiction of the ALJ is restricted to the case to which the ALJ is assigned, and does
7 not extend to other matters. The suggested "final order" created by the ALJ is not binding on the
8 OMB, and was not binding in Case #A144783, it was changed.

9 [702] Her discussion of this with Agency employees or Board members might explain how she
10 created the new complaint and determined that it was proved- AFTER THE HEARING WAS
11 FINISHED.

12 [703] Because the case record is not known until it was delivered to the OCOA, Gutman may
13 have had a role in falsifying the case record, if AFTER THE HEARING, she changed her
14 decision during the hearing to include the "Reply to Complaint" document as direct testimony.

15 [704] EVEN if Gutman did this after the hearing was finished, the OMB administrators had a
16 duty to correct this, because Gutman ordered the document to be considered direct testimony
17 during the hearing.

18 [705] The OMB did not agree with the ALJ opinion regarding "failure to comply" with the OFE,
19 but the OMB provided only "pseudo-testimony" as the factual basis for changing that opinion,
20 because there were no facts or testimony to support changing the ALJ opinion.

21 [706] The OCOA did not have access to all the testimony by Dr. Read whose testimony was
22 contrary to the pseudo-testimony created by the OMB after the hearing.

1 [707] The OMB certainly could and should have changed any falsifications that Gutman created.

2 [708] Failure to correct the falsifications may indicate that they were developed at the request of
3 the OMB administrators after the hearing, when it was apparent that none of the actual
4 Complaints had been proved at the hearing.

5 [709] Only evaluation of all OMB records, and discovery of individual interactions with the ALJ,
6 can show the exact role of individual(s) in the falsifications described in this complaint.

7 [710] The only testimony during the hearing about plaintiff's "answers" given at the investigative
8 meeting of June 2008 was testimony by plaintiff, but that testimony was deleted from the case
9 record provided to the OCOA.

10 [711] That deleted testimony was available to ALJ Gutman unless she herself deleted it and
11 ignored it (after ordering that it be included as direct testimony during the hearing).

12 [712] Mr. Foote had an opportunity to provide a witness(es) to contradict the deleted testimony,
13 but did not do so.

14 [713] Nor did Mr. Foote cross-examine Dr. Read using any specific question (using the IMJ08
15 transcript which was in evidence).

16 [714] Mr. Foote did not present any testimony or evidence to support this "refused to answer"
17 complaint, nor question Dr. Read about it, but that may be because it did not exist until after the
18 hearing was finished.

19 [715] Dr. Read's testimony is uncontested testimony that was made without knowledge of the
20 complaint that was created later, but is absolutely "on point": that he did not refuse to answer
21 any question.

22 [716] If Gutman provided her own testimony by interpreting the transcript which had been

1 submitted as evidence, she did not allow cross-examination of her testimony, nor did she record
2 it for the OCOA to review.

3 [717] If she used Mr. Foote's pseudo-testimonial opening statement or claims of some other
4 OMB employee or OMB member, she did not explain that either.

5 [718] No physician or witness ever claimed (during the hearing) that any specific action or
6 answer by Dr. Read was a violation of medical ethics, whether evasion, deferral or refusal to
7 answer.

8 [719] The OMB complaint itself does not identify any specific action by Dr. Read (or failure to
9 act) with regard to the arrest, does not identify any answer considered to be a violation of medical
10 ethics, and does not actually explain what it was that Dr. Read could have done in order to avoid
11 being in violation of an Order that the OMB has admitted was impossible to comply with.

12 [720] Although it seems too simple to state, the ALJ recognized that part of the OFE (the
13 required psychological evaluation) was impossible to comply with, and thus the OFE would be
14 violated no matter what else happened.

15 [721] This seems basic because if a law is created in a way that allows selective prosecution of
16 every citizen (because all citizens will be in violation of the law), the selective prosecution would
17 be a violation of the 14th Amendment right to equal treatment under the law.

18 [722] This fact regarding selective enforcement would be obvious if it happened to you, but may
19 be obscured when the law affects a "group of one" (only the plaintiff).

20 [723] In its brief to the OCOA, the OMB created pseudo-testimony which dissects an answer
21 recorded in the transcript of the investigative meeting (after the hearing on the complaint was
22 complete).

1 [724] That answer was transcribed correctly in terms of the words spoken, but was punctuated in
2 a way that separated a simple "No" answer and attached it to the next statement.

3 [725] This could and was be misinterpreted without testimony of the individuals involved, but
4 no discussion or testimony about this answer was given during the hearing.

5 [726] The failure of the OMB and the OCOA to identify the falsifications is a good indication
6 that they were not "obvious", although they may seem obvious in retrospect.

7 [727] The OMB "Final Order" should indicate to a jury that plaintiff was reasonable in his
8 emotional distress that included worry that the falsifications could affect him and his descendants
9 adversely, but plaintiff does NOT claim that the OMB decision nor the OCOA decision was a
10 violation of civil rights that caused injury – they are the predictable result of relying on perverted
11 case record.

12 [728] If the OBM or the OCOA had identified the falsifications, the deletion of testimony, the
13 added complaints and the (false) information that was added after the hearing - that might have
14 reduced the ongoing emotional distress of the plaintiff caused by these violations of due process.

15 [729] Now that the State case is completed, that emotional distress is permanent because the
16 various falsifications are permanent.

17 [730] The thousands of dollars paid by plaintiff are not damage from the violations alleged, but
18 those payments did nothing to relieve the intense emotional distress that the violations had
19 caused and will continue to cause for plaintiff.

20 [731] Plaintiff expects the violations to cause permanent emotional distress for plaintiff because
21 of the problems they may cause for plaintiff, friends, family and descendants because people are
22 likely to consider the falsifications true and act accordingly.

1 [732] Any damage caused by the falsifications in the past or in the future cannot be prevented or
2 undone directly, but plaintiff can be compensated for the past and ongoing intense emotional
3 distress caused by these falsifications.

4 [733] This compensation, if known to the public, might also allow individuals who encounter
5 the falsifications to reconsider their accuracy based on the determinations in this case,

6 [734] This complaint is about the falsifications themselves, and the injury they caused plaintiff by
7 causing severe emotional distress related to the denial of due process and related to the
8 expectation that the falsifications might affect what others believe, with adverse results that are
9 impossible to measure exactly.

10 [735] OMB members have continuous administrative responsibility to ensure that the OMB
11 records are honest and legal, and should not have intentionally ignored clues that made it likely
12 that individual(s) were falsifying the information they received.

13 III M.5.a. VIOLATIONS RELATED TO THE OMB PROPOSED FINAL OFE

14 [736] Someone, probably Haley as author, added 3 new complaints to the proposed final order;
15 complaints that were not made until after the hearing on the actual Complaint was finished.

16 [737] One was the new complaint ALJ Gutman created (“refused to answer”).

17 [738] Another new complaint was a claim that Dr. Read acted unethically by failure to inform
18 the OMB that its OFE was impossible to comply with.

19 [739] The third new complaint was a new allegation of completed ethical violation: that Dr. Read
20 had failed to appear at a meeting he had been ordered to attend. (see [333])

21 [740] This new complaint was presented in the printed proposed OMB Final Order on
22 Complaint #A144783 as if the new allegation were a proved fact.

1 [741] Haley included a short story about how damaging this violation was in terms of
2 inconvenience to the OMB and waste of OMB time.

3 [742] Dr. Read had been advised by letter - to apply for permission to appear at the meeting IF
4 he chose to appear in person.

5 [743] Dr. Read did not request to appear, and had not been notified that anyone expected him to
6 appear - nor was he informed that he was alleged to have violated ethics by not appearing at this
7 meeting until he read it in the proposed final order.

8 [744] This allegation is totally false and thus the story that goes with it is also false but the story
9 itself was not withdrawn when the allegation was admitted to be false and withdrawn from the
10 Final Order.

11 [745] Each individual who was supposedly inconvenienced should have a chance to explain
12 what actually happened at this meeting.

13 [746] This allegation was false, not investigated, and irrelevant to the purpose of the proposed
14 final order document.

15 [747] This printed false accusation is a violation of Dr. Read's right to due process, because of its
16 pejorative nature; it is also libel because it is false.

17 [748] The libel is not claimed as a violation of civil rights, but the effect of the libel on due
18 process is a violation of the 14th Amendment by acting to deny legitimate due process.

19 [749] The false allegation and the denial of due process caused severe emotional distress that
20 was not relieved much by withdrawal of the allegation, because the withdrawal was done in a
21 way that was unlikely to undo the damage done by the allegation and its accompanying story of
22 inconvenience and delay.

1 [750] This violation of due process rights is easy to understand and is totally proved by the
2 OMB's own documents, and proved false by admission in the OMB Final Order that the
3 allegation was false.

4 [751] The inclusion of a new complaint may seem trivial to someone who has not been so
5 accused, especially because the claim was later admitted to be false and was removed from
6 subsequent documents.

7 [752] This may seem trivial compared to other alleged violations of the right to due process, but
8 (if proved) it would have justified license revocation by itself, if there were no other complaint.

9 [753] Once it is recognized as totally false, the lack of investigation before making it becomes
10 clear and proves the reckless disregard of the possible damage it might cause plaintiff.

11 [754] Or this new false allegation may have been made because it was false.

12 [755] The secret operation of the OMB does not allow us to know if this false allegation by
13 Haley affected the operation of the OMB by causing reassignment of members who were
14 exposed to it.

15 [756] Purposeful false allegation to justify reassignment would be an even greater violation of
16 the right to due process, and could explain why such a totally false allegation might be made - to
17 make it possible to remove some individuals from the panel considering the Final Order on the
18 Complaint.

19 [757] This (new, false) allegation was totally irrelevant to the issues involved in the proposed
20 Final Order on the Complaint, even if it were true (which it was not).

21 [758] There can be no legitimate reason for including an irrelevant false allegation about Dr.
22 Read in this document – other than to cause predictable prejudice against Dr. Read (although the

1 motive for causing prejudice is unknown).

2 [759] This false allegation caused severe emotional distress with manifestations described
3 elsewhere, distress that persisted after the false allegation was withdrawn, because the
4 withdrawal seemed unlikely to undo the damages done by it.

5 [760] Dr. Read knows that the public has a great reasonable expectation that the OMB will act
6 honestly, and thus Dr. Read expected anyone who read the false allegation would believe that he
7 had been ordered to appear and had failed to appear, and that this failure to appear had caused
8 inconvenience for the Board members who were waiting and waiting for him to appear.

9 [761] Dr. Read believed he was likely to suffer as a result of the belief by others that these false
10 allegations were true.

11 [762] Withdrawal of the false allegations did occur, but the damage to opinion of all who read
12 them may have already been done – whether or not the individual ever learned that the allegation
13 had been withdrawn.

14 [763] The “story” of inconvenience was NOT withdrawn.

15 III M.5b. WHY THIS FABRICATED IRRELEVANT ALLEGATION AND STORY WAS NOT A
16 SIMPLE MISTAKE:

17 [764] The allegation was serious, unsupported by any evidence, and no effort was made to
18 determine if it were true or not before making it in print in an official document.

19 [765] The allegation, even if true, was irrelevant to the matter being considered which was the
20 validity of the Jan. 2009 Complaint which had been the subject of a contested case hearing. This
21 allegation had nothing to do with the judicial matter being considered.

22 [766] This allegation, and the claims of inconvenience that resulted from it could only result in

1 more "character assassination", similar to the false claims by Mr. Foote during the contested case
2 hearing.

3 [767] Even if a malicious falsification "could" be easily identified by minimal investigation,
4 there is no reason for individual to investigate, if he/she has an expectation that any and every
5 allegation in an OMB document will have been well investigated and TRUE, because of the
6 expectation that the OMB will act honestly and legally.

7 [768] The false nature of the allegation is easy to prove by reference to the OMB's own records
8 which show no "order to appear", and do show an invitation, without any reason to believe it was
9 accepted.

10 [769] But that is true of the repeated claim that "Dr. Read had reported he had ceased practice",
11 which the OCOA recognized was not true because Dr. Read had reported that he had ceased
12 practice in his specialty.

13 [770] This false allegation (regarding "ceased practice") has appeared in every OMB document
14 or statement about the inactivation of the license, so the fact that it is easy to disprove does not
15 mean that ANYONE bothers to discover the truth.

16 [771] Dr. Read wrote individual letters to each OMB member and to Haley, which did include
17 the OMB letter invitation to Dr. Read and the relevant part of the "proposed Final Order" which
18 included the NEW allegation. Dr. Read wrote "I did not request to appear." in his handwriting
19 near the story about his failure to appear.

20 [772] There is no way to know if these letters were delivered to the OMB members to which
21 they were individually addressed, or if the note was read and understood.

22 [773] The allegation was withdrawn by Haley, but there is no way of knowing whether the

1 individual OMB members were aware of how reckless and false it had been.

2 [774] Please realize that the operation of the OMB is secret and not every OMB member is
3 involved in every decision. If Haley wanted to prejudice individuals, and did so with the false
4 allegation that was irrelevant to the document in which she inserted it- she was aware she could
5 claim it was a simple mistake and be believed.

6 [775] If Haley admitted the false allegation as a "mistake", she could use the prejudice created in
7 those OMB members who had read the false allegation- as an excuse to replace them with other
8 members "who had not been prejudiced" and claim this was done to remove any damage done by
9 the false allegation.

10 [776] Conversely, if the individuals who were prejudiced by being told that Dr. Read had
11 disrespected an order to appear were allowed to decide the question of whether he disrespected
12 an Order to obtain an evaluation-- that also acts to deny legitimate due process.

13 [777] The OCOA recognized that the OMB had made LEGAL error in approving the maximum
14 \$10,000 fine and remanded the case. On remand the fine was reduced to zero.

15 [778] Until the OCOA expressed speculation regarding the accuracy of CPEP web page
16 information, the plaintiff believed that his severe emotional distress had been caused by
17 unreasonable decisions by the OMB members.

18 [779] Once plaintiff learned that his testimony had been deleted from the case record provided to
19 the OCOA, it seemed likely that the unreasonable decisions by the OMB were simply the best
20 decision that could be made using falsified information provided to the members making the
21 decisions.

22 [780] The actual falsified, incomplete information and deceptive information was mostly hidden

1 by the secret operation of the OMB, and presented to plaintiff mostly as completed DECISIONS
2 by the OMB.

3 [781] The proposed final order included new falsified and fabricated information presented as
4 fact, evidence or testimony. This was not testimony and was not information included in the
5 hearing, and thus its inclusion was a violation of due process.

6 [782] The proposed final order included previously falsified information from other OMB
7 documents and from the hearing.

8 [783] Examples of new falsified information that was not part of the hearing:

- 9 1) false information used to justify creation of the OFE
- 10 2) false information regarding CPEP capability with regard to providing the evaluations ordered
- 11 3) false information regarding what would constitute compliance with the order
- 12 4) false information regarding the transcript of the June 2008 Investigative meeting- presented
13 as evidence or testimony from the hearing, but it had never been presented at the hearing.
- 14 5) false information used to claim that the new complaints (created after the hearing) were
15 proved
- 16 6) ignored actual testimony by Dr. Read, testimony (which may have already been deleted).
17 This uncontested testimony was relevant to disproving these new complaints, even though the
18 testimony was given before the new complaints were created.
- 19 7) falsified Dr. Read's remaining testimony, to support at claim that it had been changed and
20 thus was not reliable.
- 21 8) failed to investigate any of the complaints, not the actual ones, and not the ones that were
22 added after the hearing ended.

1 [784] Violation: All the above were intentional efforts to undermine and pervert legitimate due
2 process on the CADR, a violation of the 14th Amendment right to due process which caused the
3 injury of severe emotional distress of plaintiff Dr.Read.

4 [785] The dramatic lack of investigation, even simple investigation, is alleged to be an
5 "intentionally ignored duty", that acts to deny due process and is a violation of the 14th
6 Amendment.

7 [786] Some of the evidence was intentionally ignored even though it was very easy to obtain.

8 III M. 6. VIOLATIONS RELATED TO THE OMB "FINAL ORDER"

9 [787] The Final Order includes all of the violations alleged for the Proposed Final Order, except
10 the one new allegation which was removed from the Final Order because it was acknowledged to
11 be false.

12 [788] The case record may have already been falsified by removal of Dr. Read's direct testimony
13 document by labeling it as closing arguments, but the documents available to the OMB acting as
14 a tribunal are secret.

15 [789] Injury/Damages: These falsifications caused severe emotional distress of plaintiff, as
16 described elsewhere and included here by reference. Damages are requested as described
17 elsewhere, and included here by reference.

18 III M.7. VIOLATION BY DELETION OF Dr. Read's DIRECT TESTIMONY

19 [790] Falsification of the case record provided to the OCOA, by deleting most of Dr. Read's
20 direct testimony, and by including all the falsifications described above for the proposed Final
21 Order (except the one acknowledged as false in the Final Order).

22 [791] Deletion of the Direct testimony served to deny legitimate due process on the deprivations

1 threatened by the Complaint of January 2009, and was a violation of 14th Amendment right to
2 due process.

3 [792] Procedural due process occurred but was perverted by falsification of the information
4 provided by the OMB, OCOA and Oregon Supreme Court for use in the procedure.

5 [793] This violation of civil rights caused severe emotional distress, when discovered by Dr.
6 Read, and led to recognition that intentional falsifications of OMB information was a much more
7 likely explanation for the unreasonable actions that Dr. Read had believed were the cause of his
8 intense emotional distress.

9 [794] The OMB decisions were not unreasonable, they were decisions that reflected the
10 falsified, distorted, and deleted information - which could have been effected by Haley and the
11 OMB member who supervises her.

12 [795] Falsification of the case record provided to the OCOA was identified by Dr. Read in
13 October 2011, and verified in October 2011 by his appeal lawyer George Kelly, who had until
14 that time accepted the OMB designation of Dr. Read's direct testimony as "Closing arguments"
15 instead of the uncontested sworn testimony that the 32 page document contained.

16 [796] Thus the OCOA appeal document made by Kelly, was made without knowledge of most of
17 the uncontested testimony about most issues, because this testimony was identified as "closing
18 arguments".

19 [797] Similar falsifications may have been provided to the OMB for use creating the OMB
20 judicial opinion on Case #A144783 (its Final Order), but OMB records related to that decision
21 are secret and the OMB may simply have ignored Dr. Read's uncontested testimony.

22 [798] The falsifications (signed by Haley) consisted of:

1 1) deleting 32 pages of plaintiff's mostly uncontested direct testimony, the only testimony about
2 many issues.

3 2) adding two new complaints after the hearing was finished, and

4 3) falsifying or falsely reporting Dr. Read's answers to Mr. Foote's and Gutmans questions about
5 obtaining CPEP evaluation.

6 4) fabricating pseudo-testimony after the hearing was finished.

7 a) regarding CPEP capabilities, which contradicts the plaintiff's uncontested hearing testimony
8 (that was deleted from the case record).

9 b) that supported the new complaint ("refusal to answer") that had been created after the
10 hearing, and was contrary to plaintiff's uncontested hearing testimony (that was deleted).

11 [799] Creation of new complaints and testimony-like information related to those new
12 complaint by unknown person(s), after the hearing, deprived plaintiff of all due process on the
13 new complaints, because they did not exist until the hearing was finished. And the complaints
14 acted to deny legitimate due process on the actual CADR1-3, a separate violation of due process
15 rights.

16 [800] There was no chance to know the new complaints, to offer testimony or evidence related
17 to them, nor to cross-examine witnesses (although there were no witnesses because the new
18 complaints appeared after the hearing). Thus these new complaints were completely denied due
19 process.

20 [801] The deletion of testimony, fabrication of new complaints after the hearing and fabrication
21 of testimony after the hearing all deprive plaintiff of substantive due process by perverting the
22 procedural due process on the actual Complaint.

1 [802] The falsifications were not identified by the OMB, not identified by any of the lawyers
2 involved, and only partly identified by the OCOA, which did not recognize that Dr. Read's
3 (mostly uncontested) direct testimony had been deleted.

4 [803] The falsifications were hidden in the OMB secret proceedings and revealed as decisions
5 by the OMB; these were revealed to people who had a reasonable expectation that the OMB
6 would act honestly and legally, including Dr. Read.

7 [804] K.Haley was responsible for the case record because she has responsibility for OMB
8 documents, but is supervised by an unknown OMB member.

9 [805] Discovery is necessary to identify all individuals involved, but Haley knew or should have
10 recognized and corrected the various falsifications of the case record.

11 [806] OMB operation is secret (by Oregon law), but Federal law 42 U.S.C. §1983 takes
12 precedence because of the need to identify which individuals have violated plaintiff's civil rights.

13 [807] The violations are clear, but the individuals are not as clearly identified, even as Haley
14 seems certain to be involved because of her overall control of OMB administration.

15 [808] Falsification of the case record provided to the Oregon Supreme Court - identical to the
16 case record provided to the OCOA (described above).

17 This repeats all the falsifications alleged to be violations of civil rights previously described,
18 including the failure to identify the arrest as the reason for initial action against the license, and
19 the false claim that Dr. Read had reported that he had ceased practice (even though that claim
20 was recognized as false by the OCOA).

21 [809] The decisions of the OMB, the OCOA and the Oregon Supreme Court were based on
22 information that included the falsifications described in this complaint – and may have been

1 affected by this false information, or may not have been substantially affected. The complaint
2 created by Gutman after the hearing, and then adopted by the OMB - could not have been
3 “decided” if it had not been illegally created in violation of plaintiff’s right to due process, but
4 removal of this new complaint might not have affected the overall outcome. The OCOA did not
5 seem to recognize that the new complaint was not part of the complaint in the case, possibly
6 because the OCOA is not allowed to determine facts that the OMB has determined.

7 [810] The violation of civil rights by individuals caused injury and damages as claimed herein,
8 related to the loss of property and liberty value by deprivation of the active license without due
9 process of law, related to violation of First Amendment rights, and related to intentional infliction
10 of severe emotional distress by the falsifications of information which acted to deny legitimate
11 due process on threatened deprivations related to the Complaint of January 2009, and by the
12 denial of due process .

13 [811] The decisions related to the Complaint of January 2009, decisions by the OMB and the
14 OCOA and the Oregon Supreme Court are not claimed to be violations of civil rights, nor
15 claimed to be injury that was directly caused by the violations described. The violations alleged
16 caused injury, and by denying legitimate due process may have affected the decisions made by
17 the OMB, the OCOA and the Oregon Supreme Court – that is irrelevant because no action is
18 requested in this complaint to overturn or sully the State judicial rulings, nor will any decision
19 related to this complaint affect those rulings.

20 [812] The falsifications may have tricked the OMB and the OCOA, but the falsifications did not
21 require these tribunals to make any specific decision, which were based on the entire record. The
22 individuals involved in creating these falsifications had no way of knowing anyone would

1 believe them, but they knew (or should have known) they were false, misleading, or incomplete.
2 The State Court decisions do seem to justify Dr.Read's emotional distress that the falsifications
3 and denial of due process complained of here might adversely affect him, and the Court decisions
4 did little to suggest that the falsifications would NOT adversely affect Dr.Read.

5 [813] The failure of the tribunals involved to recognize all the falsifications is not a violation of
6 civil rights, but it is exactly the kind of thing Dr. Read expects from every person because the
7 falsifications are likely to be believed - most people do not have the time or interest or ability to
8 determine the truth when they have an expectation that the government agency will be honest.

9 [814] Some falsifications cannot easily be identified by simply reading them- one needs to learn
10 what happened before and what happened afterward, and in some cases to apply logic.

11 [815] Fraud is rarely intended to be easy to recognize, and although some of the falsifications
12 alleged here actually seem very simple to recognize when they are explained, the only person
13 who has identified them (so far) is plaintiff Dr. Read.

14 [816] The failure of others to recognize them is best explained by fraudulent concealment - the
15 only information released to the public was in the decisions made by the OMB using information
16 provided by investigators.

17 [817] For example, the OMB informed Dr. Read that he did not qualify for an active license, but
18 did not identify any useful detail as to how that decision was made. Dr. Read was accused of
19 violating medical ethics by being arrested, but the OMB did not identify any act or failure to act
20 that it considered a violation of medical ethics.

21 [818] Similarly, the OMB did not provide any witness to testify about the OFE, nor CPEP, nor
22 regarding the answers that were claimed to be "evasive or deferred".

1 [819] There is no evidence or testimony from the hearing that seems to support the OMB “Final
2 Order”, so it is logical to believe that the information to support the decision exists in the secret
3 documents of the OMB, which is known only by the statements in OMB documents (that
4 includes complaints and information that was not part of the hearing).

5 [820] The actual information is secret, legally secret. However, using this cloak of legality to
6 shelter falsifications created by the OMB itself is not the legitimate purpose of the secrecy law-
7 the individuals who intentionally falsified information must have known the information that was
8 true, and which the law wants kept secret.

9 [821] The use of the OMB legal cloak of secrecy to obscure known falsifications is fraudulent
10 concealment. The case record identifies several examples of falsifications that were not well
11 concealed, discovery is expected to find many more.

12 [822] Even Dr. Read did not really identify the key role the falsifications played until he
13 discovered that his direct testimony had disappeared, leaving the case record devoid of testimony
14 on many issues, and allowing specious facts to be inserted after the hearing was finished.

15 [823] Because he had heard everything at the hearing, the addition of complaints and
16 information AFTER the hearing was more apparent to Dr. Read than it was to others.

17 [824] Dr. Read had been confronted by unreasonable actions by the OMB, but these were always
18 presented as OMB decisions, and even though they were unreasonable- he assumed they were
19 being made legally with honest information, even though they seemed to ignore a lot of
20 information which Dr. Read considered relevant and opposed to the OMB decision.

21 [825] The failure of the OMB and the OCOA to identify most of the falsifications does indicate
22 that the worry and emotional distress which plagued Dr. Read's mind was reasonable - other

1 people would be no more likely to recognize the various falsifications than these tribunals have
2 been.

3 [826] Some of the falsifications were recognized by the OCOA which had responsibility for
4 reviewing the entire case record.

5 [827] The OCOA recognized the falsifications regarding the arrest charge, and the "ceased
6 practice" claim.

7 [828] The falsifications which were recognized were not directly related to the issues being
8 considered by the OCOA.

9 [829] The OCOA recognition of these falsifications should allow this Court to recognize that
10 they are falsifications.

11 [830] The arrest complaint was dropped as unproved, and the inactivation of the active license
12 was not an issue in the CADR - only whether or not the CADR had been proved.

13 [831] All the other falsifications have been memorialized in the case record, because they were
14 not identified or corrected by the OCOA or the Oregon Supreme Court.

15 [832] Nor were they corrected by the OMB before the final appeal to the Oregon Supreme
16 Court, disregarding the written request by plaintiff for the OMB to withdraw the Complaints
17 against him.

18 [833] The falsification of the Case-record indicates that Haley and/or some individual(s) in
19 control of OMB documents have violated plaintiff's 14th Amendment right to legitimate due
20 process on the Complaint.

21 [834] This should justify a complete evaluation of all otherwise secret records that could indicate
22 which individual(s) are responsible, and better prove the allegations made in this 42 U.S.C.

1 §1983 complaint.

2 [835] Accurate identification of ALL individuals involved is needed by 42 U.S.C. §1983 and this
3 Federal law should take precedence over Oregon State laws that allow the individuals to act in
4 secrecy and provides them all judicial immunity.

5 [836] Although only Haley may seem responsible for falsifications, these may have been caused
6 by other employees or by OMB members themselves, with or without Haley's initial
7 involvement.

8 [837] Haley should have recognized the falsifications and corrected them- she was aware that
9 due process on the deprivation of active license had not been allowed.

10 [838] Haley must have been aware that no "evaluation" was needed by the OMB, because no
11 "re-activation" had been requested by Dr. Read.

12 [839] Full discovery can show if any of the doctors present at the investigative meeting filed a
13 report of ethical violation soon after the meeting that involved the "answers" described in the
14 January 2009 complaint.

15 [840] Medical ethics requires licensed doctors to report ethical violations by other doctors. They
16 should be allowed to testify why they did not report the ethical violations that occurred, if they
17 were aware of them and did not report them.

18 [841] The only way to prove that the OMB members who created the "Order for evaluation"
19 actually believed they were creating a legitimate "Order for evaluation" is to know the
20 information they were provided by OMB administration, and know why they did not recognize it
21 was totally fallacious.

22 III.M.8. FIRST REQUEST FOR PROSPECTIVE INJUNCTION AGAINST OREGON STATE

1 Page #119 Complaint 42 U.S.C. §1983 (RLRead)

1 LAWS

2 [842] FIRST Request for Prospective injunction against OMB actions that involve the
3 Unconstitutional Oregon law that allows a fine up to \$10,000 for violation of Agency Orders.

4 [843] This fine is a violation of 14th Amendment rights because it is not necessary to meet any
5 compelling State need. Plaintiff alleges that he was fined \$10,000, as provided by this law, and
6 has standing to claim that the law is likely to applied to citizens in the future, in violation of 14th
7 Amendment rights. Plaintiff alleges that the OMB has threatened large money fines in many
8 prior cases, many of which have been “resolved” by removal of the proposed fine when the
9 licensee agrees to confess that he/she has sinned exactly the way the OMB has claimed. Thus
10 the future use of this Unconstitutional action is almost guaranteed unless this Court rules the
11 excess damage to licensee's (beyond license related actions) is a violation of 14th Amendment
12 rights.

13 [844] The fine necessarily denies equal treatment under the law because the fine does not apply
14 to all citizens.

15 [845] Action against a license by the OMB fulfills any compelling State need as regards any
16 OMB Order or any proved violation; the money fine is simply malicious punishment that the
17 14th Amendment should protect citizens against.

18 [846] If a licensee has violated the laws that affect all citizens, then further punishment can be
19 provided by prosecuting the violations of those laws. If not, let a licensing board simply decide
20 whether or not to issue a license, or to revoke or limit it - nothing else is required to meet any
21 compelling State need, and nothing more should be allowed.

22 [847] If a licensee has NOT violated laws that affect all citizens, the huge fine or pejorative

1 application of terms like “unprofessional and dishonorable” is simply unreasonable punishment
2 unrelated to any real offense, because if it were a REAL offense, it would violate some law that
3 affects all citizens, and could be prosecuted as such. The facts of this complaint should make it
4 clear that the OMB does not need any reason to make license decisions, so restricting the ability
5 to punish licensees beyond the punishment related to actions against the license will not affect
6 OMB legal operation, even as more licensees may choose to defend the truth if not faced with an
7 unreasonable monetary fine- that outcome does not conflict with any legitimate State interest.

8 III.M.9. SECOND REQUEST FOR PROSPECTIVE INJUNCTION

9 [848] Second request for Prospective injunction- against use of the Oregon Legislative "scheme"
10 that allows the OMB to effectively issue a "bill of attainder" which is prohibited by section 10 of
11 Article I of the U.S.Constitution. The OMB can create an “Order” (equivalent to State law) that
12 affects only one individual, the OMB can decide to prosecute, and can determine “judicially” that
13 the Order was violated, and the OMB can determine the punishment- this is no different from
14 having the State Legislature do these things, and should be recognized for what it is- a legislative
15 action that the Constitution prohibited, before the Bill of Rights was added to it.

16 Plaintiff alleges that he was the subject of a “bill of attainder” as described above because the
17 “Order for Evaluation” is the equivalent of State law, thus plaintiff has standing to make the
18 request for this Courts ruling. Furthermore, it is plaintiff’s belief that the OMB routinely has
19 created this legislative punishment for other licensees in the past, and thus there is an almost
20 certain chance they will do so in the future, using this legislative scheme to violate licensees
21 constitutional rights in the future, including those of plaintiff if he is again licensed to practice
22 medicine.

1 [849] Because legislative punishment is prohibited by the Constitution, legislative punishment
2 cannot be justified by any associated due process after punishment is determined. There is no due
3 process on the original complaint that involves authentic independent judges, separate from the
4 body which created the law that the individual is accused of violating.

5 [850] The pretense that some members or the OMB are legislators and other members are
6 judicial is simply that - a pretense, because they are all simply acting administratively to
7 determine whether or not to allow employment of applicants and licensees, by granting,
8 restricting and removing the license. All are all members of the same agency, not independent.
9 The inclusion of a supposedly independent ALJ that is effectively powerless - except to impose
10 Agency will on licensees - does not provide the kind of judicial consideration that the
11 Constitution requires. The ALJ is a sham created to attempt to circumvent the requirements of
12 the Constitution by pretending the ALJ is a judge; but if you look at the JOB rather than the title,
13 the ALJ is simply an administrator whose actions can be easily undone by the OMB.

14 [851] The Constitutional prohibition of Article I should not be allowed to be so easily
15 circumvented by State laws that may not have considered how malicious individuals can be when
16 given too much individual power and not supervised closely. The facts of this complaint should
17 alert everyone to the capricious nature of OMB "orders for evaluation", the lack of investigation
18 involved in making them and in deciding to enforce them, and the denial of plaintiff's right to
19 address the legitimacy of the OFE when he was charged with violating it (despite a prior ruling
20 by the 9th Circuit Court of Appeals (Grobovsky v. Oregon Medical Board).

21 [852] More so when the State allows them to operate in secrecy, and restricts appeal review of
22 the actions based on secret information.

1 III.M.10 INJURY AND DAMAGES [1]-[852] ARE REASSERTED AS IF REPEATED HERE.

2 [853] These falsifications and denial of due process caused severe emotional distress of plaintiff,
3 as described in several other sections. Damages are also described elsewhere, as is relief
4 requested and included here by reference.

5 [854] Severe emotional distress caused by the violations alleged has totally disrupted life and
6 future expectations, in part because of damage that has occurred, and also because of expectation
7 that other damages in the future will visit him or his family or friends or even descendants who
8 are as yet unborn. This worry resulted in withdrawal from life, problems with interpersonal
9 relationships with family who need to know of their risk (related to being my family) but who
10 would prefer to have plaintiff "recover" and thus cannot acknowledge the risk to themselves.

11 [855] The falsifications that violated plaintiff's civil rights and the resulting lack of legitimate
12 due process resulted in severe emotional distress that manifested by persistent repetitive
13 continual thoughts about the denial of due process by the falsifications, and about the damage the
14 falsifications could do. There was no obvious way to avoid the unpredictable damage because
15 the role of the falsifications seemed certain to be believed by others, with resulting adverse
16 thoughts and decisions regarding plaintiff, his family, descendants and friends (who might be
17 considered "guilty by association").

18 [856] The worry was that anyone might believe various falsifications, most of which are
19 presented as "decisions" by the OMB, and thus might be thought to represent legitimate honest
20 information provided by investigation and confirmed by the OMB.

21 [857] The true nature of all the falsifications cannot be known without access to all OMB
22 records and investigative reports which (unlike police investigations in a criminal proceeding)

1 are not revealed, they are SECRET.

2 [858] This worry and rethinking by Dr. Read, repeatedly, continually, interrupted and drove out
3 all other thoughts, interrupted most activities including sleep, which was reduced to 4 hrs on
4 most nights. Driving became more difficult, because of the rethinking about the falsifications and
5 attempts to discover solutions to the problems they caused.

6 [859] Almost all personal plans and hope for a happy transition to full retirement were
7 abandoned because of the intense emotional distress. What few plans and personal activity that
8 remained was done at the request of plaintiff's wife, who was interested in having plaintiff "get
9 over it".

10 [860] Intrusive thoughts would result in forgetting travel plans and plaintiff would miss turns
11 and take "usual" routes that did not actually lead to his planned destination, and required turning
12 back.

13 [861] Ruminative thinking about the falsifications and how to reduce the damage that the
14 falsifications might cause if believed by others (currently and in the future) eliminated most
15 other activities, and greatly reduced enjoyment of the few activities that plaintiff's wife managed
16 to convince him to attempt, often interrupting these efforts to enjoy life.

17 [862] Intrusive thoughts about the falsifications interrupted plaintiff's thinking about anything
18 else, when something else could be considered. Enormous amounts of time were spent trying to
19 enlist the help of a qualified lawyer, and even more time spent reading about the various legal
20 technicalities that the lawyers were aware of.

21 [863] Determination to find a solution of some kind resulted in a one-dimensional life, with
22 repeated reconsideration of the identical problems that nobody wanted to hear about, because

1 they could offer no help.

2 [864] Distress at the falsifications, and amazement that nobody else seemed to notice- wonder
3 that there had been no investigation of... anything. Adding to the emotional distress was the
4 wonder "How many other doctors has this happened to, and why would I expect anyone to
5 notice now if I did NOTHING to help them?"

6 [865] The legal scheme did not seem to need any truth and the legal scheme does not allow
7 licensee's to prove the truth - the OMB actions related to the complaints listed here show a
8 willingness to ignore the law, ignore the truth, and depend on fabrications while true information
9 is deleted, ignored, or made very difficult to recognize in the mass of fabrications.

10 [866] Specific falsifications (or misleading statements) would recur over and over again, and
11 plaintiff would again realize that there was "nothing to do". As an example of a trivial
12 misleading statement, Haley stated in an OMB document that Dr.Read had no records of
13 continuing education- but she did not bother to mention that this lack of records was all that was
14 required for license renewal. Would anyone realize that? How can that misleading statement be
15 "corrected", why would she bother making it, when it would be likely to confuse anyone who
16 read it.

17 [867] Disingenuous statements were obvious to plaintiff, but he realized that nobody else cared
18 or would take the time to determine the truth about anything, because there is enormous
19 presumption that the OMB will act honestly.

20 [868] Upset at the details he was aware of, Dr. Read was upset that he himself had never
21 attempted to discover the truth about any of the actions the OMB had taken against other
22 physicians. Plaintiff realized that the public in general would not care whether or not he had

1 received legitimate due process, any more than he himself had considered that any other licensee
2 had been deprived of honest legal treatment by the OMB. Plaintiff was well aware that the OMB
3 had not investigated the complaints against him, and wondered if they ever investigated anything.
4 [869] Plaintiff was aware that the “investigative meeting” he had attended, did not actually
5 investigate anything that was relevant, and it totally ignored the ethical complaint about his prior
6 arrest. The individuals attending this meeting seemed clueless that Dr.Read had requested that the
7 OMB justify its deprivation of his active license, and remained clueless right after he repeated
8 this request, more than once. Where did they get these people?

9 [870] And then it all would run through his mind again, until he told himself to just STOP IT.
10 But that did not stop it. Nothing really stopped it except total fatigue and intoxication, and that
11 only stopped it for the same 4 hours that total fatigue did.

12 [871] Review of legal texts to seek a “solution” was extremely difficult because most of the
13 information seemed irrelevant to the recurrent intrusive thoughts about various falsifications and
14 denial of due process. Plaintiff realized that the OMB attorneys were aware of what they could
15 get away with because Oregon State law allows the OMB to be arbitrary and capricious, as long
16 as the OMB pretends that it is nor being arbitrary and capricious, and asserts any other reason for
17 an action.

18 [872] And there are myriad barriers to enforcing civil rights. There was a desire to confront
19 those who seemed to have lied about him, resulting in a fantasy that they could be required to
20 answer about their various falsifications, but even that was not helpful because it was both
21 unlikely, and they could simply continue to make false statements.

22 [873] Most falsifications were concealed by secrecy laws, and became apparent only by

1 deductions related to "decisions", without clear identification of the information on which the
2 decisions were based.

3 [874] Persistent focus on some details, even trivial details, while ignoring many others, was a
4 colossal waste of time but would not stop. No way to take any action to correct the situation
5 which seemed guided by (obvious) malice, but there was no way to identify exactly how this was
6 happening, or who was actually responsible because of the secrecy involved.

7 SPECIFIC SIGNS AND SYMPTOMS of intense emotional distress.

8 [875] No joy in activities that previously were enjoyable. Most were eliminated or mostly
9 eliminated except as reasonably requested by wife. Plaintiff recognized the medical aspects of
10 this perseverative thought pattern, and "knew" that he should not spend so much time on this
11 worry, but it had a way of forcing out other thoughts and interrupting all activity.

12 [876] Suicidal ideation was rejected because predictably the individuals who violated civil rights
13 would claim suicide to be the result of guilt related to some wrong doing they could allege
14 without proof or investigation, rather than desperation at having life and happiness destroyed by
15 falsifications and failure to care about the truth.

16 [877] How could intelligent life forms do this and nobody noticed? Or if they noticed, they did
17 not care. Pastor Niemoller, where are you?

18 [878] Like post-traumatic stress, the falsifications were relived and ways to deal with them were
19 sought, but not found. More and worse were and are expected, resulting in fear, even if no
20 attempt to seek redress was made by filing a civil rights complaint. The individuals involved
21 have positions of authority and power, and plaintiff believed they would not hesitate to use it
22 more to harm him.

1 [879] Dread of adverse consequences and attempts to find ways to avoid adverse consequences
2 of the falsifications. Is there anything I can do? Why does it seem that nobody really cares about
3 the things that seem so obviously wrong to me?

4 [880] Unreasonable neglect of wife and family, as all time was devoted to ceaseless worry about
5 the situation, even though it "should be over". Arguments with loved ones, to the extent they
6 recognize that plaintiff seemed to have abandoned normal life: only worrying about something
7 they reasonably believed was without possible solution. Family considered the injury to be like a
8 broken bone that needed to heal. Plaintiff considered the situation more like a dog-bite with the
9 dog still biting all day and all night, and many others at risk of being bitten.

10 [881] Unwilling to waste huge amounts of money on a lawyer who would not be likely to
11 represent him any better than had already been done. Knowledge that all the cost of this would
12 end up depriving his wife or family of the money that he might pay to try to find solutions to the
13 problem.

14 [882] Unable to really be productive in terms of solutions because the repetitive thoughts are so
15 distracting and diverting: this complaint is an example of that because plaintiff did make an effort
16 to remove redundant repetitive facts and ideas, but they keep coming back and cannot be
17 removed easily because they are true and may not be exactly like some other statement. They
18 have visited me countless times so I worry that I will remove something that is not repeated,
19 because they all have been repeated too many times to count- is this a repetition, or am I just
20 remembering some other time I typed it in one of the many failed documents that were typed and
21 retyped over and over again..

22 [883] Avoidance of social situations, such at plaintiff's 50th HS reunion. Eventually classmates

1 found out why plaintiff reluctant to attend, because the internet gives access to so many things
2 (like the OMB web site information). This made emotional distress worse because it confirmed
3 plaintiff's fear that the falsifications would be believed and would affect him and others
4 adversely.

5 [884] Ruminative thinking that prevented sleep and interrupted all other activity. It is difficult to
6 be pleasant to others when constantly angry and afraid because of past and dreaded future
7 falsifications and their effect on others who are exposed to them.

8 [885] Alcohol to achieve sleep, but it worked for only 4 hours, and on waking with a mild
9 hangover, all the same repetitive thoughts about falsified information, false allegations,
10 everything done without any care for the truth, would return. And the realization that plaintiff
11 had simply ignored what he should have known was going on for the past years – what was
12 happening to other licensees- information which might have helped him avoid the OMB rather
13 than assume he would be treated honestly and legally.

14 [886] Prescription medication which worked to some degree, but tended to dull affect so that no
15 progress could be made on the effort to defend civil rights with this complaint.

16 [887] Little hope that the future will be different, because it is unlikely that I will be able to find a
17 path through the laws that seem to make it very difficult to even tell the story, much less achieve
18 honesty. The individuals who are alleged to have violated civil rights seem very very
19 comfortable that they will not have to explain why they did this, and are expected to make up
20 disingenuous explanations that may not be recognized as false unless examined.

21 [888] The emotional distress caused by violations of civil rights increased with each violation,
22 whether the individual responsible was identified or not. This distress totally changed life,

1 destroying plans and enjoyment, derailing efforts to find employment, efforts to find enjoyment,
2 or to create value for family and society,

3 [889] Any involvement with "medicine" was made difficult because intrusive thoughts about the
4 falsifications and violations of civil rights tended to take over any other matter being considered,
5 even scientific matter that would seem to have no connection to social or political problems.

6 [890] Work on a book about the history of medicine ceased entirely, and any effort to continue it
7 became focused on physicians in history (such as I.Semmelweis) who had been mistreated by
8 authority or by peers, with the result that the same identical rant-like questions and complaints
9 displaced any useful effort.

10 [891] Humiliation at knowing anyone could discover falsifications such as the one regarding
11 dismissal of a charge of "animal cruelty" was so great that social contacts were cut back and new
12 ones were avoided, despite encouragement by family to "get past it." The 50th Blake High
13 School reunion, which had been anticipated for years, was not attended because of the
14 predictable problem of trying to explain away falsifications that were available to read in OMB
15 documents on the internet.

16 [892] Plan to present "radiology" information to High School students was abandoned.
17 Reading with elementary school children (SMART program) was not renewed, although changes
18 in the program were partly responsible for that.

19 [893] Inability to discuss situations which involved mistreatment of individuals by authority,
20 without "tearing up" and becoming so upset that he could not continue or finish discussion.

21 [894] The lack of more than 4 hours of sleep at night caused fatigue that occasionally would
22 seem to stop brain function in the middle of the day, but attempts to sleep then did not allow

1 more than an hour of sleep before the same repeated thought circles took over and prevented
2 sleep.

3 [895] Some hope that successful proof that falsifications had occurred would somehow end this
4 ceaseless worry and distress, but recognition that this was a daydream that could not displace the
5 annoying cycles of repeated false statements and malicious actions that he believed he had
6 experienced.

7 [896] All emotional distress is made worse by the recognition that most people simply do not
8 want to make an effort to know truth that they will not be able to deal with- it will disrupt their
9 feelings of security and comfort. Recognition of some truths can logically indicate that there is
10 much more to discover, similar but different problems that have been ignored, and it is easier to
11 just hope that everyone was doing what they were supposed to do, doing the “right thing”, and
12 that any problem was simply an innocent error that anyone might make from time to time, a
13 mistake that would not be repeated, and thus there was no reason to be concerned.

14 IV. RELIEF REQUESTED

15 [897] This also identified in the sections above describing injury and damages.

16 [898] For loss of property and liberty values of the active license: nominal and compensatory
17 damages of \$2 million from each individual responsible, and punitive damages of \$2 million
18 from each individual responsible.

19 [899] For denial of due process by falsifications which caused intense emotional distress:
20 nominal and compensatory damages of \$4 million from each individual responsible, and \$4
21 million punitive damages from each individual responsible.

22

1

2 I declare under penalty of perjury that I believe the foregoing is true and correct, including my
3 reasonable conclusions and allegations based on the identified truth that supports them.

4 Signed this 9 day of Nov, 2012

5

Ralph Lewis Read

6

Ralph Lewis Read, plaintiff