State Medical Board of Ohio
77 S. High Street, 17th Floor • Columbus, Ohio 43266-0315 • 614/ 466-3934 • Website: www.state.oh.us/med/

October 14, 1998

Harold Blumberg, M.D.
1 Pine Street
Poughkeepsie, NY 12601

Dear Doctor Blumberg:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Sharon W. Murphy, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on October 14, 1998, including motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

Section 119.12, Ohio Revised Code, may authorize an appeal from this Order. Such an appeal may be taken to the Franklin County Court of Common Pleas only.

Such an appeal setting forth the Order appealed from and the grounds of the appeal must be commenced by the filing of a Notice of Appeal with the State Medical Board of Ohio and the Franklin County Court of Common Pleas within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12, Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO

Anand G. Garg, M.D.
Secretary

AGG:jam
Enclosures

CERTIFIED MAIL RECEIPT NO. Z 233 840 098
RETURN RECEIPT REQUESTED

cc: James G. Eberz, Esq.
CERTIFIED MAIL RECEIPT NO. Z 233 840 155
RETURN RECEIPT REQUESTED

Mailed 10/16/98

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Sharon W. Murphy, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on October 14, 1998, including motions approving and confirming the Findings of Fact, Conclusions and Proposed Order of the Hearing Examiner as the Findings and Order of the State Medical Board of Ohio; constitute a true and complete copy of the Findings and Order of the State Medical Board in the Matter of Harold Blumberg, M.D., as it appears in the Journal of the State Medical Board of Ohio.

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

Anand G. Garg, M.D.
Secretary

(SEAL)

October 14, 1998
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF *

*

HAROLD BLUMBERG, M.D. *

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on October 14, 1998.

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

It is hereby ORDERED that:

1. The certificate of Harold Blumberg, M.D., to practice medicine and surgery in the State of Ohio shall be SUSPENDED for an indefinite term of at least thirty days.

2. Further, the Board shall not consider reinstatement of Dr. Blumberg's certificate unless all of the following minimum requirements are met:

    a. Dr. Blumberg shall submit an application for reinstatement, accompanied by appropriate fees.

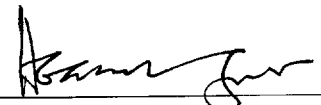
    b. Dr. Blumberg shall provide documentation acceptable to the Board of his satisfactory completion of 100 hours of Continuing Medical Education [CME] credits for the July 1, 1994-June 30, 1996, CME acquisition period, at least forty hours of which shall be in Category I. It shall be the responsibility of Dr. Blumberg to work with appropriate Board staff to ascertain what will be considered as satisfactory documentation and to obtain same.

c. Dr. Blumberg shall provide acceptable documentation of his satisfactory completion of 100 hours of CME credits for the July 1, 1996-June 30, 1998, CME acquisition period, at least forty hours of which shall be in Category I. Further, Dr. Blumberg shall supply documentation acceptable to the Board of satisfactory completion of 100 hours of approved CME, at least forty (40) hours of which shall be in Category I, for each complete CME acquisition period, if any, during which his certificate remains suspended after the 1996-1998 biennium.

d. In the event that Dr. Blumberg has not been engaged in the active practice of medicine for a period of more than two years prior to his application for reinstatement, Dr. Blumberg shall take and pass the SPEX examination or any similar written examination which the Board may deem appropriate to assess his clinical competency.

3. Subsequent to reinstatement, for two additional CME acquisition periods, the certificate of Dr. Blumberg to practice medicine and surgery in Ohio shall be subject to mandatory audits of compliance with CME requirements. Dr. Blumberg shall submit documentation acceptable to the Board of satisfactory completion of the requisite hours of CME. This documentation shall be due in the Board's offices within thirty days of the conclusion of each CME acquisition period.

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



Anand G. Garg, M.D.
Secretary

(SEAL)

October 14, 1998
Date

REPORT AND RECOMMENDATION
IN THE MATTER OF HAROLD BLUMBERG, M.D.

The Matter of Harold Blumberg, M.D., was heard by Sharon W. Murphy, Attorney Hearing Examiner for the State Medical Board of Ohio, on August 14, 1998.

INTRODUCTION

I. Basis for Hearing

A. By letter dated June 10, 1998, the State Medical Board of Ohio [Board] notified Harold Blumberg, M.D., that it proposed to take disciplinary action against his certificate to practice medicine and surgery in Ohio. The Board's action was based on the following allegations:

1. In applying for registration of his certificate to practice medicine and surgery for the current registration period, Dr. Blumberg certified that he had completed the requisite hours of Continuing Medical Education [CME] as required by Section 4731.281, Ohio Revised Code, during the previous CME acquisition period (July 1, 1994-June 30, 1996).

2. By a certified mail letter for which Dr. Blumberg's agent signed on April 15, 1997, the Board informed Dr. Blumberg that he was required to complete a log listing his CME for the 1994-1996 period and to provide documentation that he had actually completed at least forty hours of Category I CME credits. By certified mail letter dated January 16, 1998, the Board again requested that Dr. Blumberg submit documentation of his CME credits for the 1994-1996 period.

   On or about February 18, 1998, the Board received from Dr. Blumberg a CME Log which listed more than the required 40 hours of Category I CME credits for the above audit period. However, Dr. Blumberg failed to submit the required documentation. By certified mail letters dated February 25 and March 31, 1998, the Board again requested that Dr. Blumberg submit documentation of his Category I CME credits for the 1994-1996 period. To date, Dr. Blumberg has not submitted any documentation of Category I CME credits for the above period.

3. Dr. Blumberg's lack of response to the notices rebuts the presumption under Rule 4731-10-08(A), Ohio Administrative Code, that he did complete the requisite hours of CME and/or demonstrates that he failed to keep detailed records of CME taken.

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The Board alleged that Dr. Blumberg's conduct in certifying to the Board that he had completed the statutorily required CME, when he had not done so, constitutes "'fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the board,' as that clause is used in Section 4731.22(A), Ohio Revised Code [and] 'publishing a false, fraudulent, deceptive, or misleading statement,' as that clause is used in Section 4731.22(B)(5), Ohio Revised Code." Additionally, the Board alleged that Dr. Blumberg's failure to obtain the requisite CME, and/or to submit documentation of same, constitutes "'violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board," as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Section 4731.281, Ohio Revised Code, and Rules 4731-10-03 and 4731-10-08, Ohio Administrative Code."

Accordingly, the Board advised Dr. Blumberg of his right to request a hearing in this matter. (State's Exhibit 1).

B. On July 6, 1998, Dr. Blumberg submitted a written hearing request. (State's Exhibit 2).

II. Appearances

A. On behalf of the State of Ohio: Betty D. Montgomery, Attorney General, by Anne B. Strait, Assistant Attorney General.

B. On behalf of the Respondent: Dr. Blumberg, having been apprised of his right to attend the hearing or to be represented by counsel, did not appear in person or by representation. Instead, Dr. Blumberg presented his contentions in writing.

EVIDENCE EXAMINED

I. Testimony Heard

Debra L. Jones

II. Exhibits Examined

A. Presented by the State:

1. State's Exhibits 1-6: Procedural exhibits.

2. State's Exhibit 7: Copy of Dr. Blumberg's application for renewal.

3. State's Exhibit 8: Copy of undated letter to Dr. Blumberg from the Board regarding CME. (2 pp.)

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4. State's Exhibit 9: Copy of January 16, 1998, letter to Dr. Blumberg from the Board. (2 pp.)

5. State's Exhibit 10: Copy of Dr. Blumberg's CME log for 1994-1996. (2 pp.)

6. State's Exhibit 11: Copy of February 25, 1998, letter to Dr. Blumberg from the Board. (3 pp.)

7. State's Exhibit 12: Copy of March 30, 1998, letter to the Board from Dr. Blumberg.

8. State's Exhibit 13: Copy of March 31, 1998, letter to Dr. Blumberg from the Board. (2 pp.)

B. Presented by the Respondent

1. Respondent's Exhibit A: Copy of June 17, 1998, letter to the Board from Dr. Blumberg. Attached are certificates documenting CME attendance. (15 pp.)

2. Respondent's Exhibit B: Copy of June 24, 1998, letter to the Board from Dr. Blumberg.

SUMMARY OF THE EVIDENCE

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

1. Debra L. Jones, Chief of Continuing Medical Education, Records, and Renewal, for the Board, testified at hearing on behalf of the State. Ms. Jones advised that she is responsible for the renewal of all physicians' licenses, as well as for the random audit for continuing medical education [CME] credit hours. (Hearing Transcript [Tr.] at 10-11).

   Ms. Jones testified that Harold Blumberg, M.D., submitted a license renewal application in April 1996. Upon submitting her renewal application, Dr. Blumberg certified that he had completed or would complete the requisite hours of CME during the July 1, 1994-June 30, 1996, period of CME acquisition. (Tr. at 10-11; State's Exhibit [St. Ex.] 7).

   Ms. Jones further testified that Dr. Blumberg had been randomly selected for a CME audit following the 1994-1996 CME acquisition period. Accordingly, the Board notified Dr. Blumberg, by certified mail delivered April 15, 1997, that he was required to complete

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a log listing his CME for the 1994-1996 period. The letter further advised Dr. Blumberg that he must provide documentation demonstrating that he had completed at least forty hours of Category I CME credits. Dr. Blumberg did not respond to the audit notice. (Tr. at 12-13; St. Ex. 8).

Thereafter, by certified mail letter dated January 16, 1998, the Board again requested that Dr. Blumberg submit a log and documentation of his CME credits for the 1994-1996 period. (Tr. at 13; St. Ex. 9). Ms. Jones testified that Dr. Blumberg submitted a CME log listing 62 hours of Category I CME credits completed during the 1994-1996 CME acquisition period. However, Dr. Blumberg did not submit any documentation certifying that he had attended the listed CME courses. (Tr. at 14-15; St. Ex. 10). Accordingly, by certified mail letter dated February 25, 1998, the Board again requested that Dr. Blumberg submit documentation of his CME credits for the 1994-1996 period. (Tr. at 13; St. Ex. 11).

Ms. Jones stated that she spoke with Dr. Blumberg and his wife by telephone on March 11, 1998. During that conversation, Mrs. Blumberg told Ms. Jones that Dr. Blumberg no longer wanted to maintain his Ohio license. Ms. Jones stated that she explained to Dr. Blumberg that he needed to complete the audit requirements, regardless of whether he surrendered his Ohio license. Ms. Jones further explained to Dr. Blumberg that he could request an extension of time in which to file his CME documentation. (Tr. at 17-18).

On March 30, 1998, Ms. Jones received a letter from Dr. Blumberg advising that he did not wish to renew his Ohio certificate and that he wished to have his certificate canceled immediately. With the letter, Dr. Blumberg included his renewal application for the 1998-2000 renewal period. (Tr. at 18-19; St. Ex. 12). Ms. Jones testified, however, that Dr. Blumberg's request to cancel and his decision not to renew his certificate did not relieve him of his obligation to comply with the CME audit. (Tr. at 19). By certified mail letter dated March 31, 1998, the Board again requested that Dr. Blumberg submit documentation for his Category I CME within 10 days of his receipt. (St. Ex. 13).

2. By letter dated June 17, 1998, Dr. Blumberg advised the Board that he had graduated from the University of Cincinnati Medical School in 1956. He received his certificate to practice medicine and surgery in Ohio in 1956. Subsequently, Dr. Blumberg completed a five year surgical residency program at the Bronx Municipal Hospital, Albert Einstein College of Medicine, in New York. Dr. Blumberg has been practicing in Poughkeepsie, New York, since 1965. He has never practiced in Ohio.

Dr. Blumberg further advised that he has decided to surrender his certificate to practice in Ohio because licensure fees are a financial burden. Moreover, Dr. Blumberg stated that he is 68 years old and will soon retire; therefore, he will never practice medicine or surgery in this state. Dr. Blumberg added that because he had made the decision to surrender his certificate to practice in Ohio, he did not respond to the Board's audit notices.

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In addition, Dr. Blumberg explained that:

> Because the calendar year for CME credits is different in New York State, I cannot adjust my CME credits to Ohio State's time frame of July 11, 1994, to June 30, 1996, since meetings are held at times beyond my control in any one year.

Finally, Dr. Blumberg asked that his "long, clean record remain so." (Respondent's Exhibit A).

3. In the June 17, 1998, letter to the Board, Dr. Blumberg attached certificates documenting that he had completed 26 hours of Category I CME credit during the 1994-1996 CME acquisition period. In the CME log which Dr. Blumberg had submitted to the Board in February 1998, Dr. Blumberg had listed the same 26 hours. However, the February log also listed two 18 hour conferences, for which Dr. Blumberg did not send certificates of attendance with the June 1998 letter. (St. Ex. 10; Resp. Ex. A).

FINDINGS OF FACT

1. In applying for registration of his certificate to practice medicine and surgery for the current registration period, Harold Blumberg, M.D., certified that he had completed the requisite hours of Continuing Medical Education [CME] as required by Section 4731.281, Ohio Revised Code, during the previous CME acquisition period (July 1, 1994-June 30, 1996).

2. In April 1997 and January 1998, the Board notified Dr. Blumberg that he had been selected for a random audit of the CME credits he had obtained during the 1994-1996 CME acquisition period, including at least 40 hours of Category I CME. The Board further advised Dr. Blumberg that he must submit a log and documentation certifying the CME credits.

3. On February 18, 1998, Dr. Blumberg submitted a CME Log which listed 62 hours of Category I CME credits for the above audit period. However, Dr. Blumberg failed to submit the required documentation. On February 25, 1998, the Board again requested that Dr. Blumberg submit documentation of his Category I CME credits for the 1994-1996 period of CME acquisition.

4. On March 11, 1998, Dr. Blumberg advised Board staff that he wished to surrender his certificate to practice in Ohio. Dr. Blumberg was advised that he needed to complete the audit requirements, regardless of whether he surrendered his Ohio license.

5. By letter dated June 17, 1998, Dr. Blumberg admitted that he had not obtained the requisite hours of CME during the 1994-1996 CME acquisition period.

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6. In the CME log which Dr. Blumberg submitted to the Board in February 1998, Dr. Blumberg falsely certified that he had attended two 18 hour conferences which he had not attended.

CONCLUSIONS OF LAW

1. The conduct of Harold Blumberg, M.D., in certifying to the Board that he had completed the statutorily required CME, when he had not done so, constitutes "fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the board," as that clause is used in Section 4731.22(A), Ohio Revised Code.

2. The conduct of Dr. Blumberg, in certifying to the Board that he had completed the statutorily required CME, when he had not done so, constitutes "publishing a false, fraudulent, deceptive, or misleading statement," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

3. Dr. Blumberg's failure to obtain the requisite CME, and/or to submit documentation of same, constitutes "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board," as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Section 4731.281, Ohio Revised Code, and Rules 4731-10-03 and 4731-10-08, Ohio Administrative Code.

* * * * *

Dr. Blumberg asked that his record remain unblemished. Nevertheless, Dr. Blumberg blatantly ignored the Board's repeated audit notices. Moreover, in June 1998, Dr. Blumberg acknowledged that he had not completed the requisite CME hours during the 1994-1996 CME acquisition period. Nevertheless, in February 1998, Dr. Blumberg had submitted a false and fraudulent CME log to the Board, and certified its authenticity. Such conduct warrants sanction by the Board.

PROPOSED ORDER

It is hereby ORDERED that:

1. The certificate of Harold Blumberg, M.D., to practice medicine and surgery in the State of Ohio shall be SUSPENDED for an indefinite term of at least thirty days.

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2. Further, the Board shall not consider reinstatement of Dr. Blumberg's certificate unless all of the following minimum requirements are met:

   a. Dr. Blumberg shall submit an application for reinstatement, accompanied by appropriate fees.

   b. Dr. Blumberg shall provide documentation acceptable to the Board of his satisfactory completion of 100 hours of Continuing Medical Education [CME] credits for the July 1, 1994-June 30, 1996, CME acquisition period, at least forty hours of which shall be in Category I. It shall be the responsibility of Dr. Blumberg to work with appropriate Board staff to ascertain what will be considered as satisfactory documentation and to obtain same.

   c. Dr. Blumberg shall provide acceptable documentation of his satisfactory completion of 100 hours of CME credits for the July 1, 1996-June 30, 1998, CME acquisition period, at least forty hours of which shall be in Category I. Further, Dr. Blumberg shall supply documentation acceptable to the Board of satisfactory completion of 100 hours of approved CME, at least forty (40) hours of which shall be in Category I, for each complete CME acquisition period, if any, during which his certificate remains suspended after the 1996-1998 biennium.

   d. In the event that Dr. Blumberg has not been engaged in the active practice of medicine for a period of more than two years prior to his application for reinstatement, Dr. Blumberg shall take and pass the SPEX examination or any similar written examination which the Board may deem appropriate to assess his clinical competency.

3. Subsequent to reinstatement, for two additional CME acquisition periods, the certificate of Dr. Blumberg to practice medicine and surgery in Ohio shall be subject to mandatory audits of compliance with CME requirements. Dr. Blumberg shall submit documentation acceptable to the Board of satisfactory completion of the requisite hours of CME. This documentation shall be due in the Board's offices within thirty days of the conclusion of each CME acquisition period.

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

Sharon W. Murphy
Attorney Hearing Examiner

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State Medical Board of Ohio

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EXCERPT FROM THE DRAFT MINUTES OF OCTOBER 14, 1998

REPORTS AND RECOMMENDATIONS

Dr. Buchan announced that the Board would now consider the findings and orders appearing on the Board's agenda.

Dr. Buchan asked whether each member of the Board had received, read, and considered the hearing record, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Harold Blumberg, M.D.; Michael L. Herman, M.D.; Waymon D. Jerkins, D.P.M.; Gary Ray Lutz, D.O.; Robert Starr, M.D.; Usha Sudindranath, M.D.; Felix A. Wickremasinghe, M.D.; and Robert A. Williams, M.D. A roll call was taken:

ROLL CALL:

Mr. Albert	- aye
Dr. Bhati	- aye
Dr. Heidt	- aye
Dr. Somani	- aye
Dr. Egner	- aye
Mr. Browning	- aye
Ms. Noble	- aye
Dr. Stienecker	- aye
Dr. Garg	- aye
Dr. Steinbergh	- aye
Dr. Buchan	- aye

Dr. Buchan asked whether each member of the Board understands that the disciplinary guidelines do not limit any sanction to be imposed, and that the range of sanctions available in each matter runs from dismissal to permanent revocation. A roll call was taken:

ROLL CALL:

Mr. Albert	- aye
Dr. Bhati	- aye
Dr. Heidt	- aye
Dr. Somani	- aye
Dr. Egner	- aye
Mr. Browning	- aye
Ms. Noble	- aye
Dr. Stienecker	- aye
Dr. Garg	- aye
Dr. Steinbergh	- aye

Dr. Buchan - aye

In accordance with the provision in Section 4731.22(C)(1), Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of these matters.

Dr. Buchan stated that if there were no objections, the Chair would dispense with the reading of the proposed findings of fact, conclusions and orders in the above matters. No objections were voiced by Board members present.

The original Reports and Recommendations shall be maintained in the exhibits section of this Journal.

HAROLD BLUMBERG, M.D.

.....

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF HAROLD BLUMBERG, M.D. DR. BHATI SECONDED THE MOTION.

.....

A vote was taken on Dr. Steinbergh's motion to approve and confirm:

VOTE:

Mr. Albert	- abstain
Dr. Bhati	- aye
Dr. Heidt	- aye
Dr. Somani	- aye
Dr. Egner	- aye
Mr. Browning	- aye
Ms. Noble	- aye
Dr. Stienecker	- aye
Dr. Garg	- abstain
Dr. Steinbergh	- aye
Dr. Buchan	- aye

The motion carried.

State Medical Board of Ohio

77 S. High Street 17th Floor • Columbus, Ohio 43266-0315 • 614/ 466 3934 • Website: www.state.oh.us/med/

June 10, 1998

Harold Blumberg, M.D.
1 Pine Street
Poughkeepsie, NY 12601

Dear Doctor Blumberg:

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

(1) In applying for registration of your certificate to practice medicine and surgery for the current registration period, you certified that you had completed during the last biennial period of acquisition of Continuing Medical Education (CME) (July 1, 1994-June 30, 1996) the requisite hours of CME as required by Section 4731.281, Ohio Revised Code.

(2) By a certified mail letter for which your agent signed on April 15, 1997, the State Medical Board of Ohio informed you that you were required to complete a log listing your CME for the July 1, 1994-June 30, 1996 period and to provide documentation that you had actually completed at least forty (40) hours of Category I CME credits. By certified mail letter dated January 16, 1998, for which your agent signed on January 26, 1998, the State Medical Board again requested that you submit documentation of your CME credits for the July 1, 1994 to June 30, 1996 period.

On or about February 18, 1998, the Board received from you a CME Log which listed in excess of the required 40 hours of Category I CME credits for the above audit period, which you had certified to be true and correct. However, you failed to submit the required documentation for Category I CME credits.

By certified mail letter dated February 25, 1998, for which your agent signed on March 2, 1998, the State Medical Board again requested that you submit documentation of your Category I CME credits for the July 1, 1994 to June 30, 1996 period and that the documentation be returned to the Board within 15 days

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of your receipt. By certified mail letter dated March 31, 1998, for which your agent signed on April 3, 1998 the State Medical Board again requested that you submit documentation for your Category I CME credits for the July 1, 1994 to June 30, 1996 period within 10 days of your receipt. To date, you have failed to submit any documentation of Category I CME credits completed for the above period.

(3) Your lack of response to the notices as detailed in the above paragraph (2), rebuts the presumption under Rule 4731-10-08(A), Ohio Administrative Code, that you did complete the requisite hours of CME, and/or demonstrates that you failed to keep detailed records of CME taken.

Your acts, conduct and/or omissions in certifying to the State Medical Board that you had completed the statutorily required CME, as set forth in the above paragraph (1), when you had not, in fact, done so, constitute "fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the board," as that clause is used in Section 4731.22(A), Ohio Revised Code.

Further, your acts, conduct and/or omissions in certifying to the State Medical Board that you had completed the statutorily required CME, as set forth in the above paragraph (1), when you had not, in fact, done so, constitute "publishing a false, fraudulent, deceptive, or misleading statement," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

Further, your failure to obtain the requisite CME, and/or to submit documentation of same, as alleged in the above paragraphs (2) and (3), constitutes "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board," as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Section 4731.281, Ohio Revised Code, and Rules 4731-10-03 and 4731-10-08, Ohio Administrative Code.

Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty (30) days of the time of mailing of this notice.

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

In the event that there is no request for such hearing received within thirty (30) days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand or place you on probation.

Copies of the applicable sections are enclosed for your information.

Very truly yours,

Anand G. Garg, M.D.
Secretary

AGG/jag
Enclosures

CERTIFIED MAIL # Z 233 895 148
RETURN RECEIPT REQUESTED