



# STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

April 15, 1994

George Her-Ching Lin, M.D.  
2142 Michigan Avenue, B-110  
Ashtabula, Ohio 44004

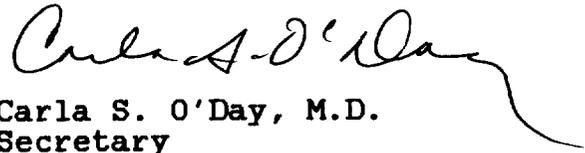
Dear Doctor Lin:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of R. Gregory Porter, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of the Minutes of the State Medical Board, meeting in regular session on April 13, 1994, including Motions approving and confirming the Findings of Fact, amending the Conclusions of Law of the Hearing Examiner, and approving and confirming the Report and Recommendation as modified as the Findings and Order of the State Medical Board.

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 of the Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO

  
Carla S. O'Day, M.D.  
Secretary

CSO:em

Enclosures

CERTIFIED MAIL RECEIPT NO. P 055 326 189  
RETURN RECEIPT REQUESTED

cc: Thomas W. Hess, Esq.

CERTIFIED MAIL RECEIPT NO. P 055 326 190  
RETURN RECEIPT REQUESTED

*Mailed 4/28/94*



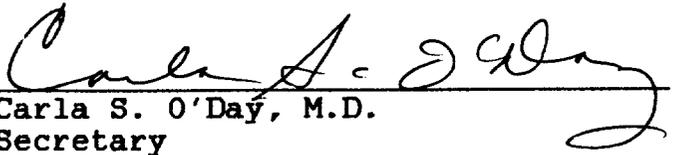
# STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

## CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; attached copy of the Report and Recommendation of R. Gregory Porter, Attorney Hearing Examiner, State Medical Board; and an excerpt of Minutes of the State Medical Board, meeting in regular session on April 13, 1994, including Motions approving and confirming the Findings of Fact, amending the Conclusions of Law of the Hearing Examiner, and approving and confirming the Report and Recommendation as modified as the Findings and Order of the State Medical Board, constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of George Her-Ching Lin, 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.

  
Carla S. O'Day, M.D.  
Secretary

(SEAL)

  
\_\_\_\_\_  
Date



# STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

\*

\*

GEORGE HER-CHING LIN, M.D.

\*

## ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on the 13th day of April, 1994.

Upon the Report and Recommendation of R. Gregory Porter, Hearing Examiner, Medical Board, in this matter designated pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the modification, 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 George Her-Ching Lin, M.D., to practice medicine and surgery in the State of Ohio shall be permanently REVOKED. Such revocation is stayed, and Dr. Lin's certificate is hereby SUSPENDED for an indefinite period of time, but not less than one (1) year.
2. The State Medical Board shall not consider REINSTATEMENT of Dr. Lin's certificate to practice unless and until all of the following minimum REQUIREMENTS are met:
  - a. Dr. Lin shall submit an application for reinstatement, accompanied by appropriate fees. Dr. Lin shall not make such application for at least one (1) year from the effective date of this Order.
  - b. Dr. Lin shall provide acceptable documentation of successful completion of a course dealing with personal and professional ethics, such course to be approved in advance by the Board or its designee.
3. Upon reinstatement, Dr. Lin's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least two (2) years:



## STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

Page 2

George Her-Ching Lin, M.D.

- a. Dr. Lin shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.
  - b. Dr. Lin shall submit quarterly declarations under penalty of falsification pursuant to Section 2921.13, Ohio Revised Code, stating whether or not there has been compliance with all the provisions of probation.
  - c. Dr. Lin shall appear in person for interviews before the full Board or its designated representative at three (3) month intervals, or as otherwise requested by the Board.
  - d. In the event that Dr. Lin should leave Ohio for three (3) consecutive months, or reside or practice outside the State, Dr. Lin must notify the State Medical Board in writing of the dates of departure and return. Periods of time spent outside of Ohio will not apply to the reduction of this probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that probationary monitoring is otherwise being performed.
4. If Dr. Lin violates probation in any respect, the Board, after giving Dr. Lin notice and the opportunity to be heard, may set aside the stay order and impose the revocation of Dr. Lin's certificate.
  5. Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Lin's certificate will be fully restored.

This Order shall become effective thirty (30) days from the date of mailing of notification of approval by the State Medical Board. In the thirty (30) day interim, Dr. Lin shall not undertake the care of any patient not already under his care.

(SEAL)

  
\_\_\_\_\_  
Carla S. O'Day, M.D.  
Secretary  
4/14/97  
\_\_\_\_\_  
Date

STATE MEDICAL BOARD  
OF OHIO

REPORT AND RECOMMENDATION 94 FEB 18 PM 2: 54  
IN THE MATTER OF GEORGE HER-CHING LIN, M.D.

The Matter of George Her-Ching Lin, M.D., came on for hearing before me, R. Gregory Porter, Esq., Hearing Examiner for the State Medical Board of Ohio on January 26, 1994.

INTRODUCTION AND SUMMARY OF EVIDENCE

I. Basis for Hearing

- A. By letter dated October 13, 1993 (State's Exhibit #1), the State Medical Board notified George Her-Ching Lin, M.D., that it proposed to take disciplinary action against his certificate to practice medicine and surgery in Ohio, based upon disciplinary action taken by the Tennessee Board of Medical Examiners against his license to practice in that state, and/or based on Dr. Lin's providing of false information on an application for renewal of his certificate to practice medicine and surgery in Ohio. The Board alleged that such acts, conduct, and/or omissions, individually and/or collectively, constituted "the limitation, revocation, or suspension by another state of a license or certificate to practice issued by the proper licensing authority of that state, the refusal to license, register, or reinstate an applicant by that authority, or the imposition of probation by that authority, for an action that also would have been a violation of this chapter, except for nonpayment of fees," as that clause is used in Section 4731.22(B)(22), Ohio Revised Code, to wit: Sections 4731.22(B)(5) and 4731.22(B)(8), Ohio Revised Code; "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; "publishing a false, fraudulent, deceptive, or misleading statement," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code; and/or "obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice," as that clause is used in Section 4731.22(B)(8), Ohio Revised Code.

Dr. Lin was advised of his right to request a hearing in this Matter.

- B. By letter received by the State Medical Board on November 9, 1993 (State's Exhibit #2), Thomas W. Hess, Esq., requested a hearing on behalf of Dr. Lin.

94 FEB 18 PM 2:54

II. Appearances

- A. On behalf of the State of Ohio: Lee I. Fisher, Attorney General, by Anne C. Berry, Assistant Attorney General.
- B. On behalf of the Respondent: Thomas W. Hess, Esq.

III. Testimony Heard

- A. Presented by the State  
No witnesses were presented
- B. Presented by the Respondent  
George Her-Ching Lin, M.D.

IV. Exhibits Examined

In addition to State's Exhibits #1 and #2, noted above, the following exhibits were identified and admitted into evidence in this Matter:

- A. Presented by the State
  - 1. State's Exhibit #3: November 15, 1993 letter to Thomas W. Hess, Esq., advising that a hearing initially set for November 23, 1993 was postponed pursuant to Section 119.09, Ohio Revised Code.
  - 2. State's Exhibit #4: November 17, 1993 letter to Attorney Hess from the State Medical Board, scheduling the hearing for December 29, 1993. (2 pp)
  - 3. State's Exhibit #5: Respondent's December 16, 1993 motion for continuance. (2 pp.)
  - 4. State's Exhibit #6: December 20, 1993 Entry granting the Respondent's motion for continuance, and rescheduling the hearing for January 26, 1994.
  - 5. State's Exhibit #7: Dr. Lin's June 5, 1992 application for renewal of his certificate to practice medicine and surgery in the State of Ohio for the 1992-1994 biennial registration period.

94 FEB 18 PM 2: 55

6. State's Exhibit #8: Collection of documents from the Tennessee Bureau of Manpower and Facilities, Health Related Boards regarding Dr. Lin, consisting of the following: copy of letter of certification, Agreed Order of Retirement, Notice of Charges, Request for Admissions, and Agreed Order from the Circuit Court of Rhea County, Tennessee, State of Tennessee v. George Lin, Case No. 11356. (10 pp.)

B. Presented by the Respondent

1. Respondent's Exhibit A: Copy of April 25, 1991 Order from Tennessee v. Lin, dismissing all pending charges, and expunging the public records, as to the criminal case against Dr. Lin. (2 pp.)

FINDINGS OF FACT

1. On or about March 26, 1991, a Notice of Charges was filed against Dr. Lin with the State of Tennessee Board of Medical Examiners. That Notice alleged that Dr. Lin had been indicted on 23 counts of Medicaid fraud and subsequently entered into a pretrial diversion program with the Circuit Court of Rhea County, Tennessee, and that Dr. Lin had been ordered by that court to make restitution to Medicaid in the amount of \$23,538.20 for his practice of double billing Medicaid for obstetrical services.

On or about May 15, 1992, Dr. Lin executed an Agreed Order of Retirement with the Tennessee Board. This Order became effective on or about July 15, 1992. The Tennessee Board found that Dr. Lin had agreed to retire his Tennessee license as of the effective date of the Order, and had agreed never to apply for reinstatement of his license. The Order stated that if Dr. Lin should apply for reinstatement of his Tennessee license, the matters contained in the Notice of Charges would have to be resolved before the Tennessee Board would reissue his license. The Order further stated that "pursuant thereto, the Notice of Charges in this case is retired."

On or about April 29, 1991, the criminal case against Dr. Lin was dismissed and expunged by the Rhea County Circuit Court.

These facts are established by State's Exhibit #8 and Respondent's Exhibit A.

94 FEB 18 PM 2:55

2. On or about June 5, 1992, Dr. Lin signed an application for renewal of his certificate to practice medicine and surgery in Ohio, certifying, under penalty of loss of his right to practice in the State of Ohio, that the information provided on the application was true and correct in every respect.

Question 2 on the renewal application asked: "At any time since signing your last application for renewal of your certificate have you had a license denied by or had any disciplinary action taken or initiated against you by any state licensing board other than the State Medical Board of Ohio?" Dr. Lin answered "NO." In fact, as set forth in Finding of Fact #1, above, a Notice of Charges had been filed against Dr. Lin with the Tennessee Board of Medical Examiners on or about March 26, 1991. Dr. Lin subsequently approved, on or about May 15, 1992, an Agreed Order of Retirement, retiring his Tennessee medical license and agreeing never to apply for reinstatement.

Question 3 on the renewal application asked: "At any time since signing your last application for renewal of your certificate have you surrendered, or consented to limitation upon: a) A license to practice medicine; ...?" In fact, as set forth in Finding of Fact #1, above, Dr. Lin approved, on or about May 15, 1992, an Agreed Order of Retirement with the Tennessee Board of Medical Examiners, retiring his Tennessee medical license and agreeing never to apply for reinstatement.

These facts are established by State's Exhibit #7.

3. At the present hearing, Dr. Lin testified that he was originally licensed to practice medicine in Ohio in 1971, and that he has maintained Ohio licensure ever since. He stated that he was Board certified in OB/GYN. From 1974 to 1979, and from 1980 to 1987, Dr. Lin practiced in Dayton, Tennessee. Since 1987, he has practiced in the Cleveland, Ohio area.

Dr. Lin acknowledged that he checked the "NO" boxes for questions 2 and 3 on his 1992 Ohio biennial renewal application. Dr. Lin stated he answered "No" to question 2 because, "at the time I did not consider a retirement of my license as any disciplinary action." Similarly, Dr. Lin stated that he answered "No" to question 3 because, "I never surrendered any license, and again, I did not consider retirement of my license as a limitation upon my license to practice medicine." He testified that he believed he was answering the questions correctly when he signed the renewal application, and still believes that he answered these questions

94 FEB 18 PM 2:55

correctly. Later in his testimony, however, he acknowledged that the March 26, 1991 Notice of Charges notified him that the Tennessee Board was proposing to take action against his Tennessee license.

These facts are established by the testimony of Dr. Lin (Tr. at 18-34).

#### CONCLUSIONS

1. As set forth in Finding of Fact #1, above, an Agreed Order of Retirement was entered in the Matter of George H. Lin, M.D., by the Tennessee Board of Medical Examiners on or about July 14, 1992. Although the Order acknowledged that a Notice of Charges against Dr. Lin gave rise to the action, no finding was made by the Tennessee Board as to the veracity of the allegations contained in that Notice, nor was any finding made that Dr. Lin had committed any act that would violate Chapter 4731., Ohio Revised Code. The Notice of Charges was retired, along with Dr. Lin's Tennessee certificate, subject to Dr. Lin never applying for reinstatement. Consequently, the evidence is insufficient to support a conclusion that the action of the Tennessee Board constitutes "the limitation, revocation, or suspension by another state of a license or certificate to practice issued by the proper licensing authority of that state, the refusal to license, register, or reinstate an applicant by that authority, or the imposition of probation by that authority, for an action that also would have been a violation of this chapter, except for nonpayment of fees," as that clause is used in Section 4731.22(B)(22), Ohio Revised Code, to wit: Sections 4731.22(B)(5) and 4731.22(B)(8), Ohio Revised Code.
2. The acts, conduct, and/or omissions of Dr. Lin, as set forth in Findings of Fact #1 and #2, above, 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; and "publishing a false, fraudulent, deceptive, or misleading statement," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code. Such acts, conduct, and/or omissions, regarding Dr. Lin's response to question 2 only, constitute "the obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice," as that clause is used in Section 4731.22(B)(8), Ohio Revised Code.

94 FEB 18 PM 2:55

Dr. Lin provided false answers to two questions on his renewal application for the 1992-1994 biennial registration period. Firstly, he denied that any disciplinary action had been taken or initiated against him by another state licensing authority. The facts were otherwise. The Tennessee Board had filed a Notice of Charges against Dr. Lin in March, 1991 which alleged specific instances of misconduct. Question 2 was intended to elicit this sort of information. Dr. Lin's statement at hearing that he did not believe that a retirement of his license was a disciplinary action is not persuasive, particularly in light of his admission that the Notice of Charges notified him that the Tennessee Board proposed to take action against his Tennessee license.

Secondly, less than one month prior to signing his renewal application, Dr. Lin agreed to retire his Tennessee license and never to ask for its return. This conduct was a surrender of a medical license, regardless of the label, "retirement," attached to it by the parties to the agreement. By the very definitions offered by Dr. Lin through counsel during closing argument (Tr. at 39: 8-15), Dr. Lin's agreement to give up his Tennessee license and not ask for its return, in exchange for the Tennessee Board's conditional relinquishment of the Notice of Charges, more neatly fits the definition of "surrender" than "retirement." Dr. Lin's license did not go to bed, nor is it living at leisure on its income, savings, or pension. From the offered definitions, it appears that a physician can retire; Dr. Lin's Tennessee license was surrendered. Nevertheless, it is necessary for the state to prove intentional fraud in order to meet its burden with regard to a violation of Section 4731.22(B)(8), Ohio Revised Code. Because an argument can be made, albeit a sophisticated one, that the Agreed Order of Retirement was not a surrender or consent to a limitation upon Dr. Lin's Tennessee license, the evidence is insufficient to support a conclusion that Dr. Lin's acts, conduct, and/or omissions regarding his incorrect response to question 3 constituted violation of Section 4731.22(B)(8), Ohio Revised Code.

\* \* \* \* \*

Dr. Lin had an affirmative duty to provide accurate information on his renewal application. He failed to do so. Misrepresentations on renewal applications impede this Board's ability to fulfill its duty to protect the citizens of Ohio, and merit disciplinary action.

94 FEB 18 PM 2:55

PROPOSED ORDER

It is hereby ORDERED that:

1. The certificate of George Her-Ching Lin, M.D., to practice medicine and surgery in the State of Ohio shall be permanently REVOKED. Such revocation is stayed, and Dr. Lin's certificate is hereby SUSPENDED for an indefinite period of time, but not less than one (1) year.
2. The State Medical Board shall not consider REINSTATEMENT of Dr. Lin's certificate to practice unless and until all of the following minimum REQUIREMENTS are met:
  - a. Dr. Lin shall submit an application for reinstatement, accompanied by appropriate fees. Dr. Lin shall not make such application for at least one (1) year from the effective date of this Order.
  - b. Dr. Lin shall provide acceptable documentation of successful completion of a course dealing with personal and professional ethics, such course to be approved in advance by the Board or its designee.
3. Upon reinstatement, Dr. Lin's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least two (2) years:
  - a. Dr. Lin shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.
  - b. Dr. Lin shall submit quarterly declarations under penalty of falsification pursuant to Section 2921.13, Ohio Revised Code, stating whether or not there has been compliance with all the provisions of probation.
  - c. Dr. Lin shall appear in person for interviews before the full Board or its designated representative at three (3) month intervals, or as otherwise requested by the Board.
  - d. In the event that Dr. Lin should leave Ohio for three (3) consecutive months, or reside or practice outside the State, Dr. Lin must notify the State Medical Board in writing of the dates of departure and return. Periods of time spent outside of Ohio will not apply to the reduction of this probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that probationary monitoring is otherwise being performed.

94 FEB 18 PH 2:55

4. If Dr. Lin violates probation in any respect, the Board, after giving Dr. Lin notice and the opportunity to be heard, may set aside the stay order and impose the revocation of Dr. Lin's certificate.
5. Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Lin's certificate will be fully restored.

This Order shall become effective thirty (30) days from the date of mailing of notification of approval by the State Medical Board. In the thirty (30) day interim, Dr. Lin shall not undertake the care of any patient not already under his care.



R. Gregory Porter  
Attorney Hearing Examiner



# STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

EXCERPT FROM THE MINUTES OF APRIL 13, 1994

## REPORTS AND RECOMMENDATIONS

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

Dr. Heidt 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: Ray Carroll, M.D.; Roger Allen Esper, D.O.; George Her-Ching Lin, M.D.; Grandell A. Taylor, D.P.M.; and Joseph C. Ward, M.D. A roll call was taken:

ROLL CALL:	Dr. O'Day	- aye
	Mr. Albert	- aye
	Dr. Stienecker	- aye
	Dr. Gretter	- aye
	Dr. Stephens	- aye
	Dr. Agresta	- aye
	Dr. Buchan	- aye
	Ms. Noble	- aye
	Mr. Sinnott	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Heidt	- aye

Dr. Heidt 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:	Dr. O'Day	- aye
	Mr. Albert	- aye
	Dr. Stienecker	- aye
	Dr. Gretter	- aye
	Dr. Stephens	- aye
	Dr. Agresta	- aye
	Dr. Buchan	- aye
	Ms. Noble	- aye
	Mr. Sinnott	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Heidt	- aye



# STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

EXCERPT FROM THE MINUTES OF APRIL 13, 1994  
IN THE MATTER OF GEORGE HER-CHING LIN, M.D.

Page 2

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 this matter.

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

.....

All Assistant Attorneys General and all Enforcement Coordinators left the meeting at this time.

.....

## REPORT AND RECOMMENDATION IN THE MATTER OF GEORGE HER-CHING LIN, M.D.

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

**DR. GARG MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF GEORGE HER-CHING LIN, M.D. DR. STEPHENS SECONDED THE MOTION.**

Dr. Heidt asked whether there were any questions concerning the proposed findings of fact, conclusions, and order in the above matter.

Dr. Garg asked whether it was correct that Dr. Lin's retirement is not equivalent to a surrender of his Tennessee license.

Dr. Steinbergh stated that she feels Dr. Lin's Tennessee license was definitely limited. Dr. Lin could no longer practice in Tennessee, where he had previously held license. Dr. Steinbergh disagreed with Mr. Porter's Conclusion #1, stating that she feels there was sufficient evidence to support the fact that Dr. Lin's not having a Tennessee license was a limitation. She didn't understand how anyone could interpret the surrender of a license following a notice of charges as being insufficient to support that conclusion.

Dr. Stienecker referred to Dr. Lin's contention that Ohio Revised Code Section 4731.22(A), which grants the Board the authority to take action against a physician's license, only pertains to initial licensure. Dr. Stienecker stated that he disagrees with that objection, adding that it's inane to suggest the initial licensing of a physician would involve revocation. He does not believe that the



# **STATE MEDICAL BOARD OF OHIO**

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

EXCERPT FROM THE MINUTES OF APRIL 13, 1994  
IN THE MATTER OF GEORGE HER-CHING LIN, M.D.

Page 3

Revised Code section pertains only to action against the initial license. Dr. Stienecker stated that the objection is a smoke screen and the Board does have jurisdiction to do as it wishes in this case.

Concerning the surrender of Dr. Lin's Tennessee license, Dr. Stienecker stated that he believes that Tennessee allowed Dr. Lin to surrender in order to save Tennessee the cost of pursuing a hearing after Dr. Lin's case was expunged. The Board still must face the situation because Dr. Lin is still licensed in Ohio. Dr. Stienecker spoke in favor of the Proposed Order.

Mr. Sinnott stated that he concurs with Dr. Stienecker's statements regarding the objection relating to the application of Section 4731.22(A), but asked that the Board look at the objection relating to Section 4731.22(B)(5). Mr. Hess argues that if the Board looks at the (B)(5) allegation and its prohibition against publishing a false statement in the full context of (B)(5), it is confronted with making a decision about what meaning to assign to "publish" or "publication." Mr. Sinnott stated that this is an interesting legal point. When you talk about the tort of defamation or slander, there is an element of that tort that talks about the statement having to be published. This means it needs to be related to another person. That can be through conversation. That is one legal meaning of the word "publish," but it is not the common meaning of "publish." The common meaning is putting something into widespread circulation, usually by having it printed and disseminated in some mass fashion. Thinking about the context in which "publishing a false statement" appears in (B)(5), it is preceded by a prohibition against soliciting patients. Mr. Sinnott stated that he believes Mr. Hess makes a good point about the proper meaning there being the more common one; that is, putting a statement into wide circulation. If a doctor misrepresents himself on an application to the Medical Board, it seems as though he is not putting into wide circulation a misstatement. It certainly has nothing to do with solicitation of patients or trying to boost his practice. Mr. Sinnott stated that for this reason it is appropriate to exclude references to (B)(5) in the Conclusions. He added that there are ample reasons in the remaining Conclusions to adopt the Hearing Officer's Proposed Order. Mr. Sinnott stated that the Board's Order may be more defensible if reference to violation of (B)(5) is omitted.

**MR. SINNOTT MOVED TO EXCLUDE REFERENCES TO VIOLATION OF SECTION 4731.22(B)(5) FROM THE CONCLUSIONS IN MR. PORTER'S REPORT AND RECOMMENDATION IN THE MATTER OF GEORGE HER-CHING LIN, M.D., SPECIFICALLY IN PARAGRAPHS 1 AND 2 OF THE CONCLUSIONS. DR. STIENECKER SECONDED THE MOTION.**

Dr. Stienecker stated that he seconded the motion for purposes of discussion. He disagrees with Mr. Sinnott's contention that publication means wide dissemination of information. When a physician signs his licensure application, it becomes a public document, which is accessible to the entire public. The license attests to the fact



## STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

EXCERPT FROM THE MINUTES OF APRIL 13, 1994  
IN THE MATTER OF GEORGE HER-CHING LIN, M.D.

Page 4

that a public document was signed, and therefore the document is published. However, if Mr. Sinnott feels that the case would be better served by omitting references to the violation, he will vote for the motion. He does, however, disagree with Mr. Sinnott's argument.

Mr. Sinnott stated that he has regard for Dr. Stienecker's opinion, but he can picture a defense along the line of "how did I publish it? All I did was mail it to the Medical Board."

Dr. Stienecker stated that he hung it on his wall.

Mr. Sinnott stated that he hung the license on the wall; he didn't hang the misrepresentation on the wall.

Dr. Stienecker stated that if the license is on the wall, that is a misrepresentation.

Dr. Gretter stated that, with regard to the (B)(5) issue, one of the things the Board is concerned about is interpreting how one responds to the Board in its questionnaire. He asked what would happen if the (B)(5) aspect were removed. Would that allow the Board to note that Dr. Lin did, indeed, respond to the Board inappropriately?

Mr. Sinnott stated that that seems to be fully covered by paragraph (A). He added that the argument in the objections about paragraph (A) only applying to initial applications is just ludicrous. It seems that paragraph (A) is what speaks to lying on the application.

Dr. Stienecker stated that the thing that occurs to him about removing the (B)(5) finding and narrowly interpreting "publishing" is when the Board talks about such things as prescriptions. They talk about publishing a fraudulent document when talking about writing a bad prescription. That is certainly hidden away by Mr. Sinnott's definition in that these prescriptions go into the files of a pharmacy never to see the light of day again. You can't say such prescriptions are widely distributed, and yet it is publishing a fraudulent document. Dr. Stienecker stated that he would hate to see the Board remove from consideration all prescription situations to support a licensure situation.

Mr. Sinnott stated that there are other portions of the practice act that speak to the substance of the act being performed when a physician signs a false prescription.

Dr. Gretter stated that when he reads the statute, there is another thing added to it that is not included in the objections. (B)(5) goes on to say, "(a)s used in



# STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

EXCERPT FROM THE MINUTES OF APRIL 13, 1994  
IN THE MATTER OF GEORGE HER-CHING LIN, M.D.

Page 5

this division, 'false, fraudulent, deceptive, or misleading statement' means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived."

Mr. Sinnott stated that he doesn't see this as being an issue having to do with whether there was a misrepresentation. He believes the definition tells the Board what a misrepresentation is within this context. His concern has to do with the circulation of the document. When a physician signs an application for renewal or initial licensure and sends the application to the Medical Board, it is a publication in the sense that you have now related a falsehood to someone else, but does that represent the kind of publication ordinarily thought of when one hears the term "publication" used? When he looks at the way "publishing" is used in the context of (B)(5), it seems as though the Legislature had in mind the solicitation of patients, the expansion of the practice, by false and fraudulent claims. It doesn't appear as though the Legislature was trying to create a penalty in that particular paragraph for lying to the Medical Board. That is covered in Paragraph (A). It is certainly a subject about which honest men and women could disagree.

A roll call vote was taken on Mr. Sinnott's motion to amend:

ROLL CALL VOTE:	Dr. O'Day	- abstain
	Mr. Albert	- abstain
	Dr. Stienecker	- aye
	Dr. Gretter	- aye
	Dr. Stephens	- aye
	Dr. Agresta	- aye
	Dr. Buchan	- aye
	Ms. Noble	- aye
	Mr. Sinnott	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- nay

The motion carried.

Dr. Buchan noted that the Proposed Order requiring Dr. Lin to take an ethics course does not specify a number of hours required. He asked whether that needed to be made more clear. He noted that usually when the Board requires a course, a number of hours is specified.

Dr. Stienecker stated that the course must be approved by the Board, and approval would depend more on content than number of hours. Dr. Stienecker spoke in favor of



# **STATE MEDICAL BOARD OF OHIO**

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

EXCERPT FROM THE MINUTES OF APRIL 13, 1994  
IN THE MATTER OF GEORGE HER-CHING LIN, M.D.

Page 6

keeping the language as it is.

DR. GARG MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT,  
CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF GEORGE HER-CHING LIN, M.D. DR.  
BUCHAN SECONDED THE MOTION. A roll call vote was taken:

ROLL CALL VOTE:	Dr. O'Day	- abstain
	Mr. Albert	- abstain
	Dr. Stienecker	- aye
	Dr. Gretter	- aye
	Dr. Stephens	- aye
	Dr. Agresta	- aye
	Dr. Buchan	- aye
	Ms. Noble	- aye
	Mr. Sinnott	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.



# STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

October 13, 1993

George Her-Ching Lin, M.D.  
P.O. Box 29023  
Parma, OH 44129

Dear Doctor Lin:

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) On or about July 14, 1992, the Tennessee Board of Medical Examiners issued an Agreed Order of Retirement, permanently retiring your license to practice medicine, in resolution of the Notice of Charges issued against you on or about March 26, 1991. Copies of the Agreed Order of Retirement and the Notice of Charges are attached hereto and fully incorporated herein.

Your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively constitute "the limitation, revocation or suspension by another state of a license or certificate to practice issued by the proper licensing authority of that state, the refusal to license, register, or reinstate an applicant by that authority, or the imposition of probation by that authority, for an action that would also have been a violation of this chapter, except for nonpayment of fees," as that clause is used in Section 4731.22(B)(22), Ohio Revised Code, to wit: Sections 4731.22(B)(5) and 4731.22(B)(8), Ohio Revised Code.

- (2) On or about June 5, 1992, you signed the application for renewal of your certificate to practice medicine and surgery in Ohio, certifying that the information provided on the application was true and correct in every respect.

- (a) In response to the question:

At any time since signing your last application for renewal of your certificate have you

...

2. Had a license denied by or had any disciplinary action taken or initiated against you by any state licensing board other than the State Medical Board of Ohio?

MAILED 10/14/93

October 13, 1993

You stated "No."

In fact, on or about March 26, 1991, the Board of Medical Examiners, Department of Health and Environment, State of Tennessee issued a Notice of Charges, initiating disciplinary action against you.

(b) In response to the question:

At any time since signing your last application for renewal of your certificate have you

...

3. Surrendered, or consented to limitation upon: a) A license to practice medicine; OR b) State or federal privileges to prescribe controlled substances?

You stated "No."

In fact, on or about May 15, 1992 in resolution of the Notice of Charges issued March 26, 1991, you signed an Agreed Order of Entry with the Tennessee Board of Medical Examiners, in which you agreed to retire your license to practice medicine in Tennessee and agreed not to apply for reinstatement of that license.

Your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, 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 as alleged in paragraph (2) above, individually and/or collectively, 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 acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute "obtaining of, or attempting to obtain money or anything of value by fraudulent misrepresentations in the course of practice," as that clause is used in Section 4731.22(B)(8), Ohio Revised 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.

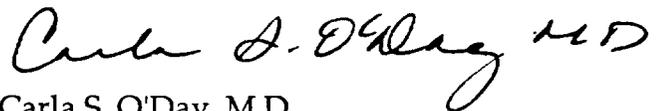
October 13, 1993

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,



Carla S. O'Day, M.D.  
Secretary

CSO:jmb

Enclosures:

CERTIFIED MAIL #P 348 885 288  
RETURN RECEIPT REQUESTED

STATE OF TENNESSEE  
DEPARTMENT OF HEALTH

IN THE MATTER OF: )  
 ) BEFORE THE BOARD OF  
 ) MEDICAL EXAMINERS  
GEORGE H. LIN, M.D. )  
RESPONDENT ) DOCKET NO. 17.18-01-0218A

---

AGREED ORDER OF RETIREMENT

---

This matter came to be heard before the Board of Medical Examiners on the 19th day of May, 1992, pursuant to a Notice of Charges issued against the Respondent. The State was represented by John D. Fitzgerald, Assistant General Counsel. The Respondent was not present. After consideration of the Notice of Charges, and presentation of counsel, the Board found as follows:

---

FINDINGS OF FACT

---

1. The Respondent has, by signature on this Order, waived the right to a contested case hearing and any and all rights to judicial review in this matter.
2. The Respondent has agreed to retire his license to practice medicine in Tennessee, as shown in the attached notarized statement, as of the effective date of this order.
3. The Respondent further agrees not to apply for reinstatement of his license, and if he does, the matters contained in the Notice of Charges filed against him would have to be resolved before the Board would reissue his license.
4. Pursuant thereto, the Notice of Charges in this case is retired.

CONCLUSIONS OF LAW

The facts as found in the Findings of Fact in this Order are sufficient to warrant compliance with the Tennessee Medical Practice Act (T.C.A. §63-6-101 et seq.)

REASONS FOR DECISION

The Respondent has agreed never to apply for a license to practice medicine in Tennessee.

Therefore, it is ORDERED as follows:

1. The Respondent's license is hereby retired.

So ORDERED this 14<sup>th</sup> day of July, 1992 by the Tennessee Board of Medical Examiners.

W.W. Cloud, MD  
W. W. Cloud, Chairman  
Tennessee Board of Medical Examiners

Approved for entry by:

George Lin, MD  
GEORGE LIN, M.D., RESPONDENT

5/15/92  
DATE

John D. Fitzgerald, Jr.  
John D. Fitzgerald, Jr.  
Assistant General Counsel  
Office of General Counsel  
300 Cordell Hull Building  
Department of Health  
Nashville, Tennessee 37247-0120  
(615) 741-1611

This Order was received for filing in the Office of the Secretary of State, Administrative Procedures Division, and became effective on the 15<sup>th</sup> day of July, 1992.

Charles C. Sullivan II  
Charles C. Sullivan, II, Director  
Administrative Procedures Division

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this document has been served upon all interested parties, or their counsel, by delivering same to their offices or by placing a true and correct copy of same in the United States mail, postage prepaid.

This \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

BY: \_\_\_\_\_  
Assistant General Counsel  
Tenn. Dept. of Health

JDF/A2012080/D4/OGC-JDF/CHB



STATE OF TENNESSEE  
BUREAU OF MANPOWER AND FACILITIES  
HEALTH RELATED BOARDS  
283 PLUS PARK BLVD.  
DEPARTMENT OF HEALTH AND ENVIRONMENT  
NASHVILLE, TENNESSEE 37247-1010  
BOARD OF MEDICAL EXAMINERS

RETIREMENT OR MILITARY STATUS

I, GEORGE HER-CHING LIN of  
9230 INDEPENDENCE BLVD #333  
ADDRESS  
PARMA HTS. CUYAHOGA OHIO 44130  
CITY COUNTY STATE ZIP

who is licensed to practice MEDICINE AND SURGERY  
in Tennessee, holding Tennessee License/Certificate Number MD008859  
solemnly swear that I retired or entered the military from the practice of  
MEDICINE AND SURGERY on \_\_\_\_\_

George Herching Lin  
SIGNATURE

Subscribed and sworn before me  
this 23rd day of Nov, 19 91.

SEAL  
DIANE D. STEIGLER  
NOTARY PUBLIC STATE OF OHIO  
CUYAHOGA COUNTY  
MY COMMISSION EXPIRES JULY 16, 1996  
Diane D. Steigler  
NOTARY PUBLIC

My commission expires: 7-15-96

NOTE: Under the provisions of the Medical Practice Act, if you have filed an affidavit of retirement from practice or are entering the military, you are not required to register annually with the Tennessee Board of Medical Examiners, provided that if such person reengages in the practice of medicine, such person shall apply for registration with the board.

KS/G5160339

STATE MEDICAL BOARD  
OF OHIO  
93 AUG -5 AM 10:08

STATE OF TENNESSEE  
DEPARTMENT OF HEALTH AND ENVIRONMENT

STATE  
93 AUG -

IN THE MATTER OF: )  
 ) BEFORE THE BOARD OF  
GEORGE H. LIN, M.D. ) MEDICAL EXAMINERS  
 )  
RESPONDENT ) DOCKET NO. 17.18-01-0218A

NOTICE OF CHARGES

The Division of Health Related Boards, Department of Health and Environment, would show:

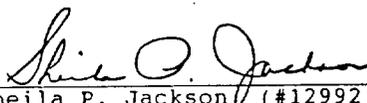
1. The Tennessee Board of Medical Examiners (hereinafter referred to as the "Board") is responsible for the regulation and supervision of the practice of medicine in the State of Tennessee. T.C.A., Section 63-6-101 et seq.
2. The Respondent, George H. Lin , M.D., has been issued a license to practice the profession of medicine in the State of Tennessee.
3. Tennessee Code Annotated, Section 63-6-214 grants the Board the power and duty to suspend or revoke or otherwise discipline a licensee who has violated the provisions of Title 63, Chapter 6 of the Tennessee Code Annotated.
4. A Respondent in a disciplinary action is entitled to be represented by legal counsel, to personally appear before the Board, to present witnesses, have subpoenas issued and receive thirty (30) days notice of the charges before being required to appear for a hearing. T.C.A. 63-6-216.

5. Proceedings for disciplinary action against a license holder are conducted in accordance with the Tennessee Uniform Administrative Procedures Act, Title 4, Chapter 5, of the Tennessee Code Annotated. T.C.A. 63-6-216.
6. The Respondent, George H. Lin, M.D., has violated the provisions of T.C.A. 63-6-101 et seq., but not limited to, the following provisions:
  - a. Unprofessional, dishonorable, or unethical conduct. T.C.A. 63-6-214(b)(1);
  - b. Making false statements or representations, being guilty of fraud or deceit in obtaining admission to practice, in being guilty of fraud or deceit in the practice of medicine. T.C.A. 63-6-214(b)(3).
7. The Respondent has violated the provisions set out in numbered paragraph six (6) of this Notice on a series of occasions. These violations include, but are not limited to, the following:
  - a. The Respondent was indicted on twenty-three (23) counts of Medicaid fraud and subsequently entered into Pre-Trial Diversion with the Circuit Court of Rhea County.
  - b. The Respondent was ordered, as part of the diversion agreement, to make restitution to Medicaid of \$23,538.20 for his practice of double billing Medicaid for obstetrical services.
8. The violations alleged in this Notice of Charges constitute grounds for the disciplining of Respondent pursuant to the authority of T.C.A. 63-8-101 et seq.

Wherefore, premises considered, the Division hereby:

1. Issues to the Respondent, George H. Lin, M.D., a copy of this Notice of Charges.
2. Gives notice to the Respondent that if he does not enter an appearance and defend, a default judgment may be entered against Respondent.
3. Gives notice that this matter will be presented to the Board of Medical Examiners at a time and place to be later determined.
4. Gives notice that at the hearing of this cause, the Board will determine whether the Respondent is guilty of violating the provisions of T.C.A. 63-7-101 et seq and 201 et seq; and, the Board will further determine, if Respondent is found guilty, whether Respondent's license should be suspended or revoked or whether other discipline should be imposed.

Respectfully submitted this the 26<sup>th</sup> day of March, 1991.



Sheila P. Jackson (#12992)  
Assistant General Counsel  
Office of General Counsel  
300 Cordell Hull Building  
Department of Health and Environment  
Nashville, Tennessee 37247-0120  
(615) 741-1611

SPJ/A7031081

#### CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this document has been served upon counsel for all interested parties by delivering copies to their offices or by placing a true and correct copy of same in the United States mail, postage prepaid.

This 26<sup>th</sup> day of March 1991

BY   
Assistant General Counsel  
Tenn. Dept. of Health and Environment

STATE OF TENNESSEE  
DEPARTMENT OF HEALTH AND ENVIRONMENT

TENNESSEE DEPARTMENT OF HEALTH AND ENVIRONMENT ) BEFORE THE BOARD OF MEDICAL  
Complainant ) EXAMINERS  
v. ) DOCKET NO. 17.18-01-0218A  
GEORGE H. LIN, M.D. ) (CASE FILE NO. 91-0056)  
Respondent )

REQUEST FOR ADMISSIONS

The Complainant requests the Respondent to admit within fourty-five days from service of the request, all in accordance with §4-5-311, Tennessee Code Annotated, and Rule 36 of the Tennessee Rules of Civil Procedure, for the purpose of this action only, and subject to all objections as to admissibility which may be interposed at the hearing, the truth of the following facts:

1. The attached document is a true and accurate copy of the agreed order entered into between the Circuit Court of Rhea County and Respondent.
2. In January 1987, the Respondent was indicted by the Grand Jurors of the Circuit Court of Rhea County, Tennessee to twenty-three (23) counts of Medicaid fraud.

Issued this 26<sup>th</sup> day of March

1991.

*Sheila P. Jackson*

Sheila P. Jackson, (#12992)  
Assistant General Counsel  
Office of General Counsel  
300 Cordell Hull Building  
Department of Health and Environment  
Nashville, Tennessee 37247-0120  
(615) 741-1611

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of this document has been served upon counsel for all interested parties by delivering copies to their offices or by mailing a true and correct copy of same in the United States mail, postage prepaid.

This 26<sup>th</sup> day of March 19 91

BY Sheila P. Jackson  
Assistant General Counsel  
Tenn. Dept. of Health and Environment

SPJ/A7041081

8

