

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

JONATHAN H. HEAD, M.D.,

FINAL APPEALABLE ORDER

Plaintiff,

: CASE NO. 00CVF07-6726

vs.

: JUDGE MILLER

STATE MEDICAL BOARD OF OHIO,

TERMINATION NO. 18
BY _____

Defendant.

DECISION AND JUDGMENT ENTRY GRANTING THE MOTION TO DISMISS FILED BY THE APPELLEE, STATE MEDICAL BOARD OF OHIO, FILED ON AUGUST 16, 2000

Rendered this 17th day of February 2001.

MILLER, J.

This case is an administrative appeal from a decision of the State Medical Board of Ohio, permanently revoking the appellant's license to practice medicine and surgery in Ohio. After the filing of the notice of appeal, counsel for the appellant sought to withdraw from their representation of the appellant. The appellant was served with a copy of counsel's motion. Further counsel provided the last known addresses for the appellant so that court papers could be served directly on the appellant. One of the reasons cited by counsel in seeking to withdraw from their representation of the appellant was their inability to communicate with the appellee. The Court has granted that motion.

However, before granting counsel's motion on, August 16, 2000, the appellee, State Medical Board of Ohio ("Medical Board") filed a motion to dismiss. The motion was served both on the appellant and upon his counsel. The motion was served on the

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FRANKLIN COUNTY
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CLERK OF COURTS

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last two known addresses for the appellant. The appellant did not respond to the Medical Board's motion to dismiss.

In its motion to dismiss, the Medical Board recites the actions taken by the Medical Board leading to the revocation of Appellant's license. Pursuant to Chapter 119 of the Revised Code, the Administrative Procedures Act, the Appellant was notified of his opportunity for hearing on the charges pending before the Medical Board.¹ He failed to timely request a hearing and the Medical Board is not required to hold one.² Absence evidence to the contrary, the Medical Board adopted its findings and imposed its sanctions which included permanent revocation of Appellant's license to practice medicine and surgery in Ohio.³ By failing to request an adjudicatory hearing, the appellant has failed to exhaust his administrative remedies which precludes his right to appeal pursuant to R.C.119.12 and thus deprives this Court of jurisdiction over the subject matter of the appeal.⁴ Therefore, this Court grants appellee's motion to dismiss.

This is a final appealable order. There is no just cause for delay.

So Ordered.

 2-13-01

NODINE MILLER, JUDGE

¹ R.C. 119.07

² R.C. 4731.22(J)

³ 4731.22(A) or (B)

⁴ State of Ohio, State Medical Board v. Fiorica (Nov. 3, 1988) Franklin App. No. 88AP-526, unreported and Harrison v. Ohio State Medical Bd. (1995), 103 Ohio App.3d 317.

COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

JONATHAN H. HEAD, M.D.
741 Milford Hills Drive, Suite 1
Milford, Ohio 45150-1446

Plaintiff-Appellant,

vs.

STATE MEDICAL BOARD OF OHIO
77 S. High Street, 17th Floor
Columbus, Ohio 43266-0315

Defendant-Appellee.

Case No. _____

Judge _____

**NOTICE OF APPEAL
FROM DECISION OF
STATE MEDICAL
BOARD OF OHIO**

Now comes Plaintiff-Appellant, Jonathan H. Head, M.D., by and through counsel, and hereby gives notice of his appeal from the Findings, Order and Journal Entry of Defendant-Appellee State Medical Board of Ohio ("Board") rendered on July 12, 2000, a copy of which is attached hereto as Exhibit A and incorporated herein, wherein the Board permanently revoked the license of Plaintiff-Appellant to practice medicine and surgery in the State of Ohio.

This appeal is taken by Plaintiff-Appellant pursuant to Ohio Revised Code Section 119.12 on the grounds that there was not a full and fair hearing on the issues ultimately determined by the Board.

STATE MEDICAL BOARD
OF OHIO
2000 JUL 27 P 2:21

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing Notice of Appeal was served upon the Office of the Ohio Attorney general, Health and Human Services Section, 30 East Broad Street, 26th Floor, Columbus, Ohio 43215-3428, by regular United States mail this 27 day of July, 2000.


Michael R. Barrett (0018159)
Attorney for Plaintiff-Appellant

Karri K. Haffner
Michael R. Barrett

Michael R. Barrett (0018159)
Karri K. Haffner (0063830)
Attorneys for Plaintiff-Appellant
BARRETT & WEBER
105 East Fourth Street, Suite 500
Cincinnati, Ohio 45202
(513) 721-2120 - telephone
(513) 721-2139 - facsimile

PRAECIPE

TO: State Medical Board of Ohio
77 S. High Street, 17th Floor
Columbus, Ohio 43266-0315

Please prepare and file with the Clerk of the Court of Common Pleas of Franklin County, Ohio a complete transcript of all original papers, testimony, documents, exhibits, reports and evidence offered, heard, and taken into consideration by the State Medical Board of Ohio in making its decision in the matter of Jonathan H. Head from which this appeal is taken.

Michael R. Barrett

Michael R. Barrett (0018159)
Attorney for Plaintiff- Appellant

CERTIFICATE OF FILING

I hereby certify that an original of the foregoing Notice of Appeal was filed with the State Medical Board of Ohio on July 27, 2000 and that a copy of the foregoing Notice of Appeal was filed with the Clerk of the Court of Common Pleas of Franklin County, Ohio on July 27, 2000.

Michael R. Barrett

Michael R. Barrett (0018159)
Attorney for Plaintiff-Appellant

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

JONATHAN H. HEAD, M.D.

*

FINDINGS, ORDER AND JOURNAL ENTRY

By letter dated May 10, 2000, notice was given to Jonathan H. Head, M.D., that the State Medical Board intended to consider disciplinary action regarding his license to practice medicine and surgery in Ohio, and that he was entitled to a hearing if such hearing was requested within thirty (30) days of the mailing of said notice. In accordance with Section 119.07, Ohio Revised Code, said notice was sent via certified mail, return receipt requested, to the address of record of Dr. Head, that being 741 Milford Hills Drive, Suite 1, Milford, OH 45150-1446.

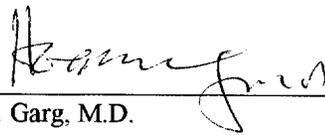
A signed certified mail receipt was returned to the Medical Board offices, documenting proper service of the notice. However, no hearing request has been received from Dr. Head and more than thirty (30) days have now elapsed since the mailing of that notice.

WHEREFORE, for the reasons outlined in the May 10, 2000 letter of notice, which is attached hereto and incorporated herein, it is hereby ORDERED that the license of Jonathan H. Head, M.D., to practice medicine and surgery in the State of Ohio be PERMANENTLY REVOKED

This Order shall become effective IMMEDIATELY.

This Order is hereby entered upon the Journal of the State Medical Board of Ohio for the 12TH day of JULY 2000, and the original thereof shall be kept with said Journal.

(SEAL)



Anand G. Garg, M.D.
Secretary

JULY 12, 2000

Date



State Medical Board of Ohio

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

May 10, 2000

Jonathan H. Head, M.D.
741 Milford Hills Drive
Suite 1
Milford, OH 45150-1446

Dear Doctor Head:

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, permanently 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 October 3, 1997, you caused to be faxed an insurance coverage summary to Mercy Hospital Anderson indicating that you had malpractice insurance coverage for the term September 15, 1997, through September 15, 1998, and you, or someone at your direction, altered the years of coverage on that summary to reflect current coverage when in fact you had no malpractice insurance coverage.
- (2) Further, you admitted during investigatory interviews conducted by an Investigator of the State Medical Board of Ohio on January 21, 2000, and March 20, 2000, that, after the lapse of your malpractice insurance coverage, you failed to provide any written notice of your lack of malpractice insurance coverage to any patient seeing you. As a result, you failed to obtain patients' signatures acknowledging receipt of the written notice and you failed to maintain the signed notice in patients' files as required by Section 4731.143 of the Ohio Revised Code.
- (3) On or about March 11, 1999, you pled guilty in the Court of Common Pleas for Clermont County, Ohio, to six (6) felony counts of Passing Bad Checks, in violation of Section 2913.11(A), Ohio Revised Code.

Your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute "publishing a false, fraudulent, deceptive, or misleading

Mailed 5-11-00

statement,” as that clause is used in Section 4731.22(B)(5), Ohio Revised Code, as in effect prior to March 9, 1999.

Further, your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute a “[f]ailure to provide notice to, and receive acknowledgment of the notice from, a patient when required by section 4731.143 of the Revised Code prior to providing nonemergency professional services, or failure to maintain that notice in the patient’s file,” as that clause is used in Section 4731.22(B)(31), Ohio Revised Code.

Further, your pleas of guilty or the judicial finding of guilt as alleged in paragraph (3) above, individually and/or collectively, constitute “[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for treatment in lieu of conviction for, a felony,” as that clause is used in Section 4731.22(B)(9), 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.

You are further advised that, if you timely request a hearing, 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, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand or place you on probation.

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, effective March 9, 1999, provides that “[w]hen the board refuses to grant a certificate to an applicant, revokes an individual’s certificate to practice, refuses to register an applicant, or refuses to reinstate an individual’s certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.”

Jonathan H. Head, M.D.

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Copies of the applicable sections are enclosed for your information.

Very truly yours,

A handwritten signature in black ink, appearing to read "Anand G. Garg". The signature is fluid and cursive, with a prominent initial "A" and a long, sweeping underline.

Anand G. Garg, M.D.
Secretary

AGG/bjs
Enclosures

CERTIFIED MAIL #Z 395 591 190
RETURN RECEIPT REQUESTED