



# State Medical Board of Ohio

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

August 12, 1998

Rafic A. Amro, M.D.  
3330 Oakland Road  
Bethlehem, PA 18017

Dear Doctor Amro:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Suzanne E. Kelly, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on August 12, 1998, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order.

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

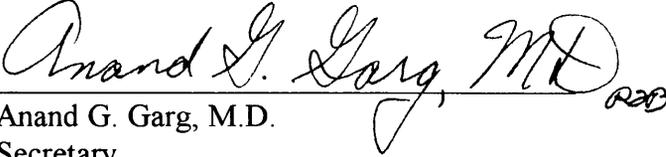
CERTIFIED MAIL RECEIPT NO. Z 233 839 127  
RETURN RECEIPT REQUESTED

*Mailed 9/1/98*

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Suzanne E. Kelly, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on August 12, 1998, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order; constitute a true and complete copy of the Findings and Order of the State Medical Board in the Matter of Rafic A. Amro, 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)

August 12, 1998 \_\_\_\_\_  
Date

**BEFORE THE STATE MEDICAL BOARD OF OHIO**

IN THE MATTER OF

\*

\*

RAFIC A. AMRO, M.D.

\*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on August 12, 1998.

Upon the Report and Recommendation of Suzanne E. Kelly, 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 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:

The certificate of Rafic A. Amro, M.D., to practice medicine and surgery in the State of Ohio shall be SUSPENDED for a period of six (6) months.

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

(SEAL)

  
Anand G. Garg, M.D.

Secretary

August 12, 1998

Date

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REPORT AND RECOMMENDATION  
IN THE MATTER OF RAFIC A. AMRO, M.D.

The Matter of Rafic A. Amro, M.D., was heard by Suzanne E. Kelly, Attorney Hearing Examiner for the State Medical Board of Ohio, on May 12, 1998.

INTRODUCTION

I. Basis for Hearing

- A. By letter dated March 11, 1998, the State Medical Board of Ohio [Board] notified Rafic A. Amro, 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:

On or about January 31, 1997, the Bureau of Professional and Occupational Affairs, Commonwealth of Pennsylvania [Pennsylvania Board], issued an Order suspending Dr. Amro's Pennsylvania license to practice medicine and surgery for six (6) months, and then stayed five months of the suspension. On or about June 24, 1997, the Pennsylvania Board, upon Dr. Amro's application for review, issued an Order affirming the January 31, 1997, Order and added certain probationary terms and conditions.

The Pennsylvania Board took these actions based on Dr. Amro's plea of nolo contendere to and sentencing on one felony count of Medicaid fraud.

The Board alleged that the Pennsylvania Board's Orders, as described above, individually and/or collectively, constitute "(t)he 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, the imposition of probation by that authority, or the issuance of an order of censure or other reprimand by that authority for any reason, other than nonpayment of fees," as that clause is used in Section 4731.22(B)(22), Ohio Revised Code.

The Board advised Dr. Amro of his right to request a hearing in this matter. (State's Exhibit 1)

- B. On March 25, 1998, Dr. Amro submitted a written hearing request. (State's Exhibit 2)

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II. Appearances

- A. On behalf of the State of Ohio: Betty D. Montgomery, Attorney General, by Rebecca Albers, Assistant Attorney General.
- B. On behalf of the Respondent: Dr. Amro, being duly advised of his right to counsel, represented himself.

EVIDENCE EXAMINED

I. Testimony Heard On Behalf of the Respondent:

- A. Rafic A. Amro, M.D.
- B. Juan Vega

II. Exhibits Examined

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

A. Presented by the State

- 1. State's Exhibits 3-4: Procedural Exhibits.
- 2. State's Exhibit 5: Copy of January 15, 1998, letter to the Board from the Pennsylvania Board enclosing a copy of Orders issued in the matter of Rafic A. Amro, M.D. (17 pp.)

B. Presented by the Respondent

- 1. Respondent's Exhibit A: Copies of selected portions from the deposition of David O. Lehtimaki, Commonwealth welfare investigator. (5 pp.)
- 2. Respondent's Exhibit B: Copy of March 2, 1992, memorandum to Cathy H. Laudermilch from Mr. Lehtimaki regarding Dr. Amro. (2 pp.)
- 3. Respondent's Exhibit C: Copy of notes from a March 19, 1992, interview between Connie Santos, and Mr. Lehtimaki. Attached is a copy of March 20, 1992, memorandum to Ms. Laudermilch from Mr. Lehtimaki. (2 pp.)
- \*4. Respondent's Exhibit D: Copy of September 5, 1995, letter to Pennsylvania Deputy Attorney General from Samuel R. Kasick, Esq., regarding *Commonwealth v. Rafic Amro, M.D.*, Case No. 1362 C.D. 1995 in the Court of

STATE OF OHIO

Common Pleas - Criminal Division, Dauphin County, Pennsylvania  
[*Commonwealth v. Amro*]. Attached are copies of patient files. (12 pp.)

5. Respondent's Exhibit E: Copy of April 4, 1995, unsigned document regarding electrocardiograms and Bronchospasmult Spirometric testing. (3 pp.)
6. Respondent's Exhibit F: Copy of March 2, 1992, letter to the Chief Deputy Attorney General from the Attorney General of Pennsylvania.
7. Respondent's Exhibit G: Copy of notes from interviews with Juan Vega by Mr. Lehtimaki. (3 pp.)
- \*8. Respondent's Exhibit H: Copy of selected portions of testimony with attached notes from an interview by Mr. Lehtimaki. (4 pp.)
9. Respondent's Exhibit I: Copies of August 28, and September 29, 1995, letters to Attorney Kasick from a Deputy Attorney General. (3 pp.)
10. Respondent's Exhibit J: Copy of one page of a August 10, 1995, multiple page letter to a Deputy Attorney General from Attorney Kasick. Attached are a Rule to Show Cause and an April 8, 1992, memorandum. (3 pp.)
- \*11. Respondent's Exhibit K: Copy of parts of correspondence between Dr. Amro and Attorney Kasick regarding *Commonwealth v. Amro*. (10 pp.)
12. Respondent's Exhibit L: Copy of questionnaire completed by Dr. Amro prior to pleading nolo contendere in *Commonwealth v. Amro*. (3 pp.)
13. Respondent's Exhibit M: Copy of excerpts of testimony from *Commonwealth v. Amro*. Attached is a copy of a Settlement Agreement. (4 pp.)
14. Respondent's Exhibit N: Copies of August 5, and July 2, 1996, letters to Attorney Kasick from Dr. Amro. Attached is an investigative report on Anna Morales Martinez, and two copies of an August 6, 1996, letter to Dr. Amro from Attorney Kasick. (8 pp.)
15. Respondent's Exhibit O: Copy of Answer filed the case of Commonwealth of Pennsylvania, Department of State, Before the State Board of Medicine, *Commonwealth of Pennsylvania Bureau of Professional and Occupational Affairs [Pennsylvania Board] v. Rafic Ahmad Amro, M.D.*, docket No. 0442-49-96, File No. 96-49-02397 [*Pennsylvania Board v. Amro*].
16. Respondent's Exhibit P: Copies of letters to Pennsylvania Board from Dr. Amro. (6 pp.)

98 JUN 16 PM 12:30

17. Respondent's Exhibit R: A tape recording of a conversation between Dr. Amro and an unidentified individual. (This exhibit will be available for review by the Board members at the Board offices.)

Note: Exhibits marked with an asterisk (\*) have been sealed to protect patient confidentiality.

### 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. Rafic Ahmad Amro, M.D., earned his medical degree from Damascus University in Syria in 1968. Dr. Amro completed a one year internship at a hospital in Schenectady, New York. After one year of a surgery residency, Dr. Amro returned to the middle east. Subsequently, Dr. Amro returned to the United States and practiced in Youngstown, Ohio for seven years. In 1977, Dr. Amro began a five year general surgery residency at St. Luke's Hospital in Bethlehem Pennsylvania. Upon the completion of his residency, Dr. Amro opened his current solo practice in Allentown, Pennsylvania. (Transcript at [Tr.] 81-84)

Dr. Amro testified that he is board certified in general surgery and board eligible in emergency medicine. However, Dr. Amro did not specify which board provided the certification. (Tr. 86-87)

2. On January 17, 1996, in the Court of Common Pleas of Dauphin County, Pennsylvania, Dr. Amro pleaded nolo contendere to one count of Medicaid fraud, a class three felony. The court accepted the plea and found Dr. Amro guilty of the single count. The court sentenced Dr. Amro to three months probation, restitution of \$21,000.00 and a fine of \$2,000.00. Dr. Amro has paid the fine and restitution. Currently, Dr. Amro is no longer on probation. (St. Ex. 5; Tr. 84)
3. On June 5, 1996, the Commonwealth of Pennsylvania, Department of State, Bureau of Professional and Occupational Affairs, State Board of Medicine [Pennsylvania Board] issued an Order to Show Cause to Dr. Amro. After a formal hearing, the hearing examiner issued Findings of Fact, Conclusions of Law, and an Order on February 5, 1997. The hearing examiner found that Dr. Amro had violated Chapter 63 Pennsylvania Statutes Section 422.41(3). The hearing examiner imposed a six month suspension, and stayed five months of the suspension. (St. Ex. 5)

Dr. Amro applied for review of the hearing examiner's order. On June 27, 1997, the Pennsylvania Board affirmed the hearing examiner's Findings of Fact and Conclusions of Law. However, the Pennsylvania Board added a term of probation to the suspension

98 JUN 16 PM 12:30

imposed by the hearing examiner. The term of probation ended on August 25, 1997. (St. Ex. 5; Respondent's Exhibit [Res. Ex.] O)

4. Dr. Amro testified that his conviction resulted from inept legal counsel, strong arm investigative techniques, and corruption by one of his office workers, Anna Morales Martinez. Dr. Amro denied that he charged for services that he did not perform. However, Dr. Amro could not prove that he performed electrocardiograms because Ms. Martinez threw out the electrocardiogram strips in a spring cleaning. Dr. Amro suspected that Ms. Martinez was working with the state investigator to create evidence of wrongdoing. Dr. Amro based this suspicion on Ms. Martinez's friendship with Connie Santos, an Income Maintenance Worker for the Pennsylvania welfare system. (St. Ex. 2; Res. Ex. A-C, Tr. 11-12, 17-24)

In his testimony, Dr. Amro related a series of allegations that included improper entries in his patient records, the robbery of his office, the passing of a forged prescription, interviewing of patients, inadequate investigation of his defenses by his criminal attorney, and his misunderstanding of the plea of nolo contendere. (Res. Ex. D, F-P; Tr. 11-39) Dr. Amro testified that his effort to appeal his criminal case have failed because he has been unable to find an attorney to represent him. (St. Ex. 2; Tr. 39-42, 77-81)

5. Juan Vega, a medical assistant, worked for Dr. Amro beginning in 1991 through 1994. Mr. Vega testified that if he had observed Dr. Amro doing something wrong or cheating the Medicaid system, he would have given the information to the authorities. Mr. Vega had been interviewed four times by the state welfare investigator. (Res. Ex. G; Tr. 45-47, 49-50, 55-65)
6. Mr. Vega testified that Ms. Martinez threw out all the electrocardiogram records during a spring cleaning of the office. This occurred prior to the Medicaid investigation. Additionally, Mr. Vega knew that Ms. Martinez and Ms. Santos were friends. (Tr. 50-52) Mr. Vega testified that he did not observe Dr. Amro taking money without giving services. Further, Mr. Vega saw that Dr. Amro frequently offered free medical care to patients without insurance or Medicaid. (Tr. 48-49) Dr. Amro's attorney did not call Mr. Vega to testify before the Pennsylvania Board. (Tr. 65-69)
7. Dr. Amro is currently practicing medicine, although he cannot treat Medicaid patients until 2001. Dr. Amro holds a current DEA certificate. The hearing examiner for the Pennsylvania Board found that Dr. Amro practices in an underserved area of Allentown, Pennsylvania. (St. Ex. 5; Tr. 85)

#### FINDINGS OF FACT

1. On or about January 31, 1997, the Bureau of Professional and Occupational Affairs, Commonwealth of Pennsylvania [Pennsylvania Board], issued an Order suspending

Dr. Amro's Pennsylvania license to practice medicine and surgery for six (6) months. The Pennsylvania Board stayed five months of the suspension. 98 JUN 16 PM 12:30

2. On or about June 24, 1997, the Pennsylvania Board, upon Dr. Amro's application for review, issued an Order affirming the January 31, 1997, Order and added probationary terms and conditions. Dr. Amro's probation ended on August 25, 1997.
3. The Pennsylvania Board based its actions on Dr. Amro's plea of nolo contendere to and sentencing on one felony count of Medicaid fraud in the Dauphin County, Pennsylvania, Court of Common Pleas.

### CONCLUSIONS OF LAW

The actions of the Pennsylvania Board, as described in Findings of Fact 1-3, individually and/or collectively, constitute "(t)he 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, the imposition of probation by that authority, or the issuance of an order of censure or other reprimand by that authority for any reason, other than nonpayment of fees," as that clause is used in Section 4731.22(B)(22), Ohio Revised Code.

\* \* \* \* \*

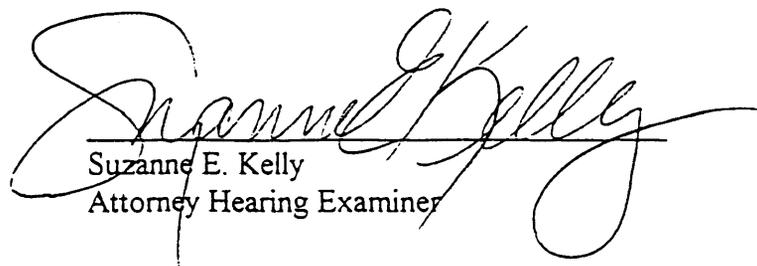
The evidence presented indicates that the Pennsylvania Board imposed a minor penalty for Dr. Amro's felony conviction of Medicaid fraud. Nevertheless, this Board is not bound by the Pennsylvania Board's decision on sanctions. In the past, the Board has imposed the severest sanction on physicians who use their medical licenses to defraud Medicaid.

### PROPOSED ORDER

It is hereby ORDERED that:

The certificate of Rafic A. Amro, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED.

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

  
Suzanne E. Kelly  
Attorney Hearing Examiner



# State Medical Board of Ohio

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

## EXCERPT FROM THE DRAFT MINUTES OF AUGUST 12, 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: Rafic A. Amro, M.D.; David T. Gilliam, M.D.; Marion Ob/Gyn, Inc.; Linda D. Metzler, P.A.; John T. Namey, Jr., D.O.; and Reinhard A. W. Westphal, 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. Sinnott	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- 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. Sinnott	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- 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.

RAFIC A. AMRO, M.D.

Dr. Buchan directed the Board's attention to the matter of Rafic A. Amro, M.D. He advised that objections were filed to Hearing Examiner Kelly's Report and Recommendation and were previously distributed to Board members.

Dr. Buchan stated that he would now entertain discussion in the above matter.

Dr. Steinbergh stated that this was a very difficult case to read and to understand. Dr. Amro was convicted of one felony count of Medicaid fraud in Pennsylvania, although he was initially charged on five counts. He pled "no contest" to one count. The Pennsylvania Board suspended his license for 30 days, imposed a fine, and required that he make restitution to Medicaid, which he did.

Dr. Steinbergh continued that Dr. Amro is about 60 years old. She stated that she is not sure that Dr. Amro was properly defended. She noted that he defended himself in Ohio, and added that she has some concerns about that defense. Dr. Steinbergh added that she also has some concern that Ohio's revoking his license would trigger a change in the Pennsylvania Order. Would Pennsylvania then revoke his license as well? Dr. Steinbergh indicated that she feels uncomfortable about this case.

Dr. Heidt stated that Dr. Amro's problems did not occur in the care of his patients. His bookkeeping led to problems which were addressed by the Pennsylvania Board through fines and suspension. Dr. Heidt noted that Dr. Amro is 60 years old and has indicated that he intends to never practice in Ohio again. Ohio's revoking Dr. Amro's license will have a bearing on his ability to practice in Pennsylvania, which will probably revoke his licensed based on Ohio's revocation. Dr. Heidt stated that he doesn't think that that is necessary.

**DR. HEIDT MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF RAFIC A. AMRO, M.D., BY SUBSTITUTING A SIX-MONTH SUSPENSION, WITH REINSTATEMENT AUTOMATIC AFTER SIX MONTHS. DR. SOMANI SECONDED THE MOTION.**

Dr. Somani stated that he has the same concerns that Dr. Steinbergh and Dr. Heidt have. Pennsylvania has

gone through the details of this case and didn't revoke Dr. Amro's license. His Pennsylvania license was suspended. Dr. Somani stated that Ohio does an injustice to Dr. Amro if it bases its case on the Pennsylvania case and then permanently revokes the license. Permanent revocation is too harsh in this case. Dr. Somani spoke in support of Dr. Heidt's motion to amend.

Mr. Bumgarner stated that it is up to this Board to decide what type of penalty it feels is appropriate. He added that, in anticipation of the Board's concerns, he contacted the Pennsylvania Board about that Board's policies on recirculated decisions. For instance, if Ohio takes an action against a physician's license, and another state bootstraps Ohio's action and imposes a harsher penalty, Ohio does not then bring the case back for another action. Pennsylvania has indicated that it would not either. Mr. Bumgarner stated that Ohio should be free to make what it feels to be the appropriate decision, based upon the record.

Mr. Sinnott stated that the fact is that Dr. Amro was convicted of Medicaid fraud. Apparently the size of his theft was in the neighborhood of \$21,000 because that's the amount in which he was ordered to provide restitution. Under the Board's disciplinary guidelines, the minimum penalty for felony conviction is revocation. It is significant that when Dr. Amro was charged with the crime before the Pennsylvania criminal court, he responded with "no contest." He did not contest the allegations being made against him. Mr. Sinnott continued that Dr. Amro has not objected to the Report and Recommendation's Proposed Order. Since Dr. Amro has not objected to Ms. Kelly's proposed penalty, and in light of the fact that he is a convicted Medicaid fraud, and in light of the fact that the Board has established a rather consistent principle of responding to convictions of fraud committed in the course of practice with the harshest penalty, the Report and Recommendation is right on the mark when it calls for permanent revocation.

Mr. Sinnott stated that he agrees with Mr. Bumgarner's statements that it would be unlikely for Pennsylvania to bootstrap on the Ohio action in light of the fact that Pennsylvania has already reviewed the facts of this matter and has passed what it felt was an appropriate sanction. Here in Ohio, the Board takes fraud committed in the course of practice a little differently than Pennsylvania apparently does.

Dr. Steinbergh disagreed with Mr. Sinnott's statement, noting that Dr. Amro did write a letter of objection to the Proposed Order, dated June 29, 1998. Dr. Steinbergh added that, although she absolutely agrees that permanent revocation is appropriate for convictions of Medicaid fraud, after reading the letters sent to the Pennsylvania Board and others in Pennsylvania, she is not convinced that Dr. Amro understood what was happening to him. The fraud conviction stemmed from his performing EKGs, recording the results and then some office person throwing out the EKG strips themselves. He never incorporated those strips into the patient record, but kept them in a separate drawer. At some point prior to Medicaid's investigation, someone cleaned his office and threw them out. Dr. Steinbergh stated that she is not convinced that Dr. Amro was guilty of Medicaid Fraud, or that he understood to what he was agreeing. Dr. Amro had driven seven hours in a snow storm, he describes his inability to communicate, his attorney made him go during this big storm, and then he gets to Harrisburg and the Judge has no staff. It was so disruptive that she's not convinced that he understood. According to all of the letters Dr. Amro has written, she appreciates his struggle. She stated that she is not defending him if, in fact, he was guilty of this, but she

finds it difficult to permanently revoke the license in this particular case. She is more in favor of imposing a suspension and letting it go at that.

Dr. Egner stated that the Board cannot second guess at this point whether or not Dr. Amro understood, or whether he had proper representation, nor can it evaluate Dr. Amro's attorney or lack of one. That is not the Board's place. It has physicians before it every month, and never does the Board look at who represents the physicians, although there may be differences in each physician's representation. The Board has to go with what the fact is, and the fact is that Dr. Amro has a felony conviction for fraud. The Board's standard has been permanent revocation, and she favors that in this case. The Board's penalty must be based on the facts it has. Other circumstances should not be considered.

Mr. Sinnott acknowledged Dr. Amro's letter of June 28, but stated that that letter consists of a few sentences hand written on a single page. He stated that he would change his earlier comment to state that Dr. Amro filed no substantive objections.

Mr. Sinnott continued that the Board has heard physicians blame their attorneys and the courts before. The Board cannot accept that in the case of a felony conviction. It is clear when individuals plead "no contest" that the judge takes steps to guarantee that the plea is made knowledgeably and voluntarily. He cannot accept the argument that Dr. Amro didn't know what he was doing when he pled "no contest" to criminal fraud.

A vote was taken on Dr. Heidt's motion to amend:

VOTE:	Mr. Albert	- abstain
	Dr. Bhati	- aye
	Dr. Heidt	- aye
	Dr. Somani	- aye
	Dr. Egner	- nay
	Mr. Sinnott	- nay
	Dr. Stienecker	- nay
	Dr. Agresta	- nay
	Dr. Steinbergh	- aye
	Dr. Buchan	- aye

The motion carried.

**DR. HEIDT MOVED TO APPROVE AND CONFIRM MS. KELLY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF RAFIC A. AMRO, M.D. DR. STEINBERGH SECONDED THE MOTION.**

Dr. Buchan asked whether there was further discussion in the above matter.

Dr. Steinbergh called the question.

A vote was taken on Dr. Heidt's motion:

VOTE:	Mr. Albert	- abstain
	Dr. Bhati	- aye
	Dr. Heidt	- aye
	Dr. Somani	- aye
	Dr. Egner	- nay
	Mr. Sinnott	- nay
	Dr. Stienecker	- aye
	Dr. Agresta	- nay
	Dr. Steinbergh	- aye
	Dr. Buchan	- aye

The motion carried.



# State Medical Board of Ohio

100 North High Street, Columbus, Ohio 43260 • (614) 467-3321 • [www.smb.state.oh.us](http://www.smb.state.oh.us)

March 11, 1998

Rafic A. Amr, M.D.  
3330 Oakland Rd.  
Bethlehem, PA 18017

Dear Doctor Amr:

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 January 31, 1997, the Bureau of Professional and Occupational Affairs, Commonwealth of Pennsylvania, issued an Order suspending your Pennsylvania license to practice medicine and surgery for six (6) months, then staying all but one (1) month of the suspension. On or about June 24, 1997, the State Board of Medicine, Commonwealth of Pennsylvania, upon your application for review, issued an Order affirming the January 31, 1997 Order and adding certain probationary terms and conditions. Copies of the January 31 and June 24, 1997, Orders are attached hereto and fully incorporated herein.

These actions were taken based on your having pleaded nolo contendere to and having been sentenced on one felony count of Medicaid fraud.

The Orders, as alleged in paragraph (1) above, individually and/or collectively, constitute "[t]he 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, the imposition of probation by that authority, or the issuance of an order of censure or other reprimand by that authority for any reason, other than nonpayment of fees," as that clause is used in Section 4731.22(B)(22), 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.

*Mailed 3/12/98*

Rafic A. Amr, M.D.

Page 2

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,

A handwritten signature in black ink, appearing to read 'Anand G. Garg', written in a cursive style.

Anand G. Garg, M.D.  
Secretary

AGG/bjs  
Enclosures

CERTIFIED MAIL #P 152 984 760  
RETURN RECEIPT REQUESTED

**ORIGINAL**

PROTHONOTARY COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
STATE BOARD OF MEDICINE

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BUREAU OF PROFESSIONAL

Commonwealth of Pennsylvania  
Bureau of Professional and  
Occupational Affairs

vs.

Rafic Ahmad Amro

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: Docket No. 0442-49-96  
: File No. 9646-02397  
:

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ADJUDICATION AND ORDER

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DATE DISTRIBUTED 2-5-97  
PROSECUTION ✓  
COUNSEL ✓  
HRG EXAM ✓

Date of Hearing: October 29, 1996  
Date Record Closed: November 7, 1996

Cheré Winnek-Shawer, Ph.D., J.D  
Administrative Hearing Examiner  
124 Pine Street, Suite 200  
Harrisburg, Pennsylvania 17122

ATTACHMENT "A"

## HISTORY

This matter comes before the Hearing Examiner for the State Board of Medicine on an Order to Show Cause issued against Respondent Rafic Ahmad Amro, M.D. The Order to Show Cause was filed with the Prothonotary of the Bureau of Professional and Occupational Affairs on June 5, 1996. On June 5, 1996, a copy of the Order was sent by certified mail to the Respondent at 4402 North Second Street, Allentown, Pennsylvania 18102. Respondent filed an Answer to the Order to Show Cause on August 8, 1996.

The Order to Show Cause charged the Respondent with one (1) violation of the Medical Practice Act of 1985, the Act of December 20, 1985, P.L. 457, No. 112, as amended, 63 P.S. §422.1, et seq. (hereinafter referred to as the Act), at 63 P.S. §422.41(3), being guilty of a felony which involves fraud in the practice of medicine. This act, if proven, gives authority for the imposition of disciplinary or corrective measures.

Notice of a formal hearing was sent to Respondent on August 5, 1996. A formal administrative hearing was held on October 29, 1996 in Harrisburg, Pennsylvania. Respondent was present and was represented by counsel, Richard J. Makoul, Esquire. The Commonwealth was represented by Elena Morgan, Esquire. Neither party filed briefs. The record was closed on November 7, 1996.

## FINDINGS OF FACT

1. At all times relevant to this proceeding, Respondent Rafic Ahmad Amro, M.D. has been the holder of license number MD-038449-L which is current through December 31, 1996. [See: Prothonotary's file Order to Show Cause, para. 1]

2. An Order to Show Cause was filed by the Commonwealth on June 5, 1996, and sent to the Respondent on June 5, 1996 to 402 North Second Street, Allentown, Pennsylvania 18105, by certified mail. [See: Prothonotary's file Order to Show Cause, Certificate of Service]

3. On August 8, 1996, Respondent filed an Answer to the Order to Show Cause. [Exhibit C-2]

4. Notice of Hearing was sent to all parties on August 5, 1996. [See: Prothonotary's file Notice of Hearing]

5. A formal hearing was held on October 29, 1996, in Harrisburg, Pennsylvania. [Notes of Testimony, hereinafter referred to as H.T., cover page]

6. Respondent and counsel were present at the hearing. [N.T., cover page, p. 3]

7. On February 21, 1995, Respondent was charged with five (5) counts of Medicaid fraud at 62 P.S. §1407(a)(1) and (4). All charges are graded as class 3 felonies. [Exhibit C-6]

8. On January 17, 1996 in the Court of Common Pleas of Dauphin County at Docket number 1362 CD 95, Respondent pleaded nolo contendere to one count of Medicaid fraud. [Exhibits C-5, C-6]

9. Respondent was sentenced to three months probation,

restitution of \$21,000.00 and a fine of \$2,000.00. [Exhibit C-5]

10. Respondent is no longer on probation and his fine and restitution has been paid. [N.T., p. 12]

11. Respondent practices in a poor area of Allentown where most of his patients are on Medicare/Medicaid. [N.T., p. 10]

12. Respondent lost most of his patients and all of his staff. [N.T., pp. 13, 22]

13. Respondent has five children, several of whom are in college. [N.T., pp. 21, 24]

### CONCLUSIONS OF LAW

1. The Medical Board has jurisdiction in this matter. [Finding of Fact 1-3]

2. Respondent was afforded reasonable notice of a hearing and an opportunity to be heard in this proceeding. [Findings of Fact 2-6]

3. Respondent violated the Act at 63 P.S. §422.41(3) in that he entered a plea of Nolo Contendere to one class three felony of Medicaid fraud. [Findings of Fact 7-9]

## DISCUSSION

This case came before the Hearing Examiner on an Order to Show Cause filed on June 5, 1996 charging Respondent with a violation of 63 P.S. §422.41(3), which states:

The Board shall have the authority to impose disciplinary or corrective measures on a board-regulated practitioner for any or all of the following reasons:

(3) Being convicted of a felony or being convicted of a misdemeanor relating to a health profession or receiving probation without verdict, disposition in lieu of trial or an Accelerated Rehabilitative Disposition in the disposition of felony charges, in the courts of this Commonwealth, a Federal court or a court of any other state, territory or country.

On February 21, 1995, Respondent was charged with five (5) counts of Medicaid fraud at 62 P.S. §1407(a)(1) and (4). All charges are graded as class 3 felonies. On January 17, 1996 in the Court of Common Pleas of Dauphin County at Docket number 1362 CD 95, Respondent pleaded nolo contendere to one count of Medicaid fraud. Respondent was sentenced to three months probation, restitution of \$21,000.00 and a fine of \$2,000.00.

For mitigation Respondent testified that he practices in a poor area of Allentown where most of his patients are on Medicare/Medicaid. Respondent has lost most of his patients and all of his staff. He has five children, several of whom are in college.

## CONCLUSION

Respondent pleaded Nolo Contendere to one count of Medicaid fraud, a class three felony. Respondent was placed on probation for three (3) months or until such time as he paid his fine and restitution. The fine and restitution were paid and he is no longer on probation.

Crimes of Medicaid fraud go directly to the heart of the medical profession. Even though Respondent was sentenced to only three months probation, his crime was serious. Based on the findings of fact, conclusions of law and discussion, the following order will be issued.



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

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BEFORE THE STATE BOARD OF MEDICINE

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COMMONWEALTH OF PENNSYLVANIA,  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

v.

RAFIC AHMAD AMRO, M.D.,  
LICENSE NO. MD-038449-L,  
Respondent

DOCKET NO. 0442-49-96  
FILE NO. 96-49-02397

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ADJUDICATION AND ORDER

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DOROTHY CHILDRESS, COMMISSIONER  
BUREAU OF PROFESSIONAL AND  
OCCUPATIONAL AFFAIRS

DANIEL B. KIMBALL, JR., M.D., CHAIRMAN  
STATE BOARD OF MEDICINE

116 Pine Street  
Post Office Box 2649  
Harrisburg, Pennsylvania 17105-2649

GSS/ddw

### HISTORY

This case comes before the State Board of Medicine (Board) on an Application for Review filed by the Respondent on February 24, 1997, from the Adjudication and Order of a Board hearing examiner dated February 5, 1997. The application was filed pursuant to Section 905 of the Health Care Services Malpractice Act (Malpractice Act), Act of October 15, 1975, P.L. 390, 40 P.S. §1301.905. The application seeks the Board's review of the Order of the Hearing Examiner which found that Respondent violated Section 41(3) of the Medical Practice Act (Act), Act of December 20, 1985, P.L. 457, as amended, 63 P.S. §422.41(3), in that Respondent pled nolo contendere to one count of Medicaid fraud. The Hearing Examiner imposed a one month active suspension and a five month stayed suspension upon Respondent. The Respondent seeks a lesser sanction. The prior history of this matter is fully discussed in the Hearing Examiner's Adjudication and Order (appended as Attachment "A"). A stay was not requested from or granted by the Board.

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND DISCUSSION**

Section 905(a) of the Malpractice Act, 40 P.S. §1301.905(a), provides that if an application for review of a hearing examiner's decision is filed, the Board shall review the evidence and, if deemed advisable by the Board, hear argument and additional evidence. Section 905(b) of the Malpractice Act, 40 P.S. §1301.905(b), further directs that when an application for review is filed, the Board "shall make a decision and file the same with its findings of fact on which it is based...."

It is consistent with the Board's responsibility and its authority as set forth in Section 905 of the Malpractice Act to adopt the findings of fact and conclusions of law of its hearing examiner if it determines that they are complete and are supported by the evidence and the law. The Board reaches that conclusion in this case. Accordingly, the findings of fact, conclusions of law and discussion contained in the Hearing Examiner's February 5, 1997 Adjudication and Order are hereby adopted by the Board and are incorporated herein by reference as fully set forth.

Respondent has been charged with violating Section 41(3) of the Act, 63 P.S. §422.41(3), in that he pled nolo contendere to one felony count of Medicaid fraud. The evidence presented at hearing demonstrated conclusively that Respondent violated the Act as charged. The only question before the Board is the appropriateness of the sanction imposed by the Hearing Examiner.

Upon review of the record the Board concludes that the Hearing Examiner's determination is correct. Respondent committed

a felony related to the practice of medicine. The crime has serious consequences on the availability of medical resources for the poor and brings into question the integrity necessary for Respondent to practice medicine. The Hearing Examiner took into consideration that Respondent practices in an underserved area in fashioning an appropriate sanction. However, specific terms of probation will be imposed. Accordingly, the Board enters the following Order into the record:

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BEFORE THE STATE BOARD OF MEDICINE

Commonwealth of Pennsylvania, :  
Bureau of Professional and :  
Occupational Affairs :  
v. : Docket No. 0442-49-96  
Rafic Ahmad Amro, M.D., :  
Respondent : File No. 96-49-02397

ORDER

AND NOW, this 24<sup>th</sup> day of June, 1997,  
the State Board of Medicine hereby **AFFIRMS** the Adjudication and  
Order of the Hearing Examiner issued February 5, 1997.

The Board affirms the active suspension of Respondent's  
license, License No. MD-038499-L, for the period February 25, 1997  
through March 17, 1997. Respondent's license shall remain on  
suspension, stayed in favor of probation, until August 25, 1997,  
subject to the following terms and conditions:

GENERAL

(1) Respondent shall abide by and obey all laws of  
the United States, the Commonwealth of Pennsylvania and  
its political subdivisions and all rules and regulations  
and laws pertaining to the practice of medicine in this  
Commonwealth or any other state or jurisdiction in which  
Respondent holds a license to practice medicine and  
surgery. Provided, however, summary traffic violations  
shall not constitute a violation of this Order;

(2) Respondent shall at all times cooperate with  
the Bureau of Professional and Occupational Affairs

("Bureau"), any of its agents or employees and the Bureau of Enforcement and Investigation ("BEI") and its agents and employees, in the monitoring, supervision and investigation of Respondent's compliance with the terms and conditions of this Order, including Respondent causing to be submitted at his own expense written reports, records and verifications of actions that may be required by the Bureau, BEI or any of its agents or employees;

(3) Respondent's failure to fully cooperate with and successfully comply with the terms and conditions of this probation shall be deemed a violation of this Order;

(4) Respondent shall not falsify, misrepresent or make material omission of any information submitted pursuant to this Order;

(5) Respondent shall notify BEI, in writing, within twenty (20) days of the filing of any criminal charges, the initiation of any other legal action pertaining to the practice of Respondent's profession, the initiation, action, restriction or limitation relating to Respondent by the professional licensing authority of any state or jurisdiction or any investigation, action, restriction or limitation relating to Respondent's privileges to practice a health care profession at any health care facility;

(6) Respondent shall notify BEI by telephone within 72 hours and in writing within ten (10) days of the

change of his home address, phone number, place(s) of employment and/or practice;

COSTS

(7) Respondent shall bear the responsibility of all costs incurred by Respondent in complying with the terms of this Order, including production of records;

VIOLATION OF THIS ORDER

(8) Notification of a violation of the terms or conditions of this Order shall result in the **IMMEDIATE VACATING** of the stay order, **TERMINATION** of the period of probation, and **ACTIVATION** of the entire period of suspension of Respondent's license.

(9) Upon successful completion of probation, Respondent's license will be restored to unrestricted, non-probationary status without further action;

This Order shall take effect immediately.

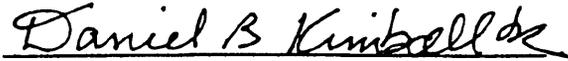
BY ORDER:

BUREAU OF PROFESSIONAL AND  
OCCUPATIONAL AFFAIRS

STATE BOARD OF MEDICINE



DOROTHY CHILDRESS,  
COMMISSIONER



DANIEL B. KIMBALL, JR., M.D.,  
CHAIRMAN

Respondent's Address:

4402 North Second St.  
Allentown, PA 18102

Respondent's Attorney:

Richard Makoul, Esquire  
461 Linden St.  
Allentown, PA 18102

Hearing Examiner:

Cheré Winnek-Shawer, Esquire

Prosecuting Attorney:

Elena R. Morgan, Esquire

Board Counsel:

Gerald S. Smith, Esquire

Date of Mailing:

June 27, 1997