



# STATE MEDICAL BOARD OF OHIO

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

February 16, 1996

Arvind M. Talati, M.D.  
6420 N. California Avenue, Suite U-8  
Chicago, IL 60645

Dear Doctor Talati:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Sharon W. Murphy, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on February 14, 1996, including Motions approving and confirming the Findings of Fact and Conclusions of Law 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 of the Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO

Thomas E. Gretter, M.D.

Secretary

TEG:em  
Enclosures

Certified Mail No. P 348 887 356  
Return Receipt Requested

cc: Joseph H. Horwitz, Esq.  
Certified Mail No. P 348 887 357

Mailed 3-4-96



# 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 Sharon W. Murphy, Attorney Hearing Examiner, State Medical Board; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on February 14, 1996, including Motions approving and confirming the Findings of Fact and Conclusions of Law 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 Arvind M. Talati, 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.

A handwritten signature in cursive script, appearing to read "T. E. Gretter", is written over a horizontal line.

Thomas E. Gretter, M.D.  
Secretary

(SEAL)

2/22/96

\_\_\_\_\_  
Date



# STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43260-0315 • 614/466-3934

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

\*

\*

ARVIND M. TALATI, M.D.

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## ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on the 14th day of February, 1996.

Upon the Report and Recommendation of Sharon W. Murphy, 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.

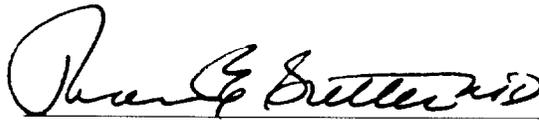
It is hereby ORDERED that:

- A. The certificate of Arvind M. Talati, M.D., to practice medicine and surgery in the State of Ohio shall be SUSPENDED for an indefinite time, but not less than one year. Such suspension is stayed, subject to the following PROBATIONARY terms, conditions, and limitations for at least three years.
1. Dr. Talati shall obey all federal, state, and local laws, and all rules governing the practice of medicine in the state in which he is practicing.
  2. Dr. Talati 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.
  3. Dr. Talati shall submit quarterly declarations, under the penalty of Board disciplinary action or criminal prosecution, stating whether he has complied with all the terms and conditions of his probation in this State and with all terms, conditions, or limitations imposed by any other state medical board.

4. Dr. Talati shall notify the Board of any action in any state taken against a certificate to practice medicine held by Dr. Talati in that state. Moreover, Dr. Talati shall provide acceptable documentation verifying the same.
5. Dr. Talati shall immediately notify the Board in writing should he fail to comply with any term, condition, or limitation of his probation or with any term, condition, or limitation imposed by any other state medical board.
6. Dr. Talati shall immediately notify the Board in writing of any modification or change to any term, condition, or limitation imposed by any other state medical board.
7. Dr. Talati shall refrain from commencing practice in Ohio without prior written Board approval. Moreover, should he commence practice in Ohio, the Board may place Dr. Talati's certificate under additional terms, conditions, or limitations, including the following:
  - a. Dr. Talati shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.
  - b. Dr. Talati shall submit to the Board and receive its approval for a plan of practice in Ohio which, unless and until otherwise determined by the Board, shall be limited to a supervised structured environment in which Dr. Talati's activities will be directly supervised and overseen by another physician approved by the Board.
  - c. Dr. Talati shall refrain from the practice of bariatric, dietary, or weight loss management.
  - d. Within thirty days of commencement of practice in Ohio, Dr. Talati shall submit for the Board's prior approval the name of a monitoring physician, who shall review Dr. Talati's patient charts and shall submit a written report of such review to the Board on a quarterly basis. Such chart review may be done on a random basis, with the number of charts reviewed to be determined by the Board. It shall be Dr. Talati's responsibility to ensure that the monitoring physician's quarterly reports are submitted to the Board on a timely basis. If the approved monitoring physician becomes unable or unwilling to serve, Dr. Talati shall immediately notify the Board in writing and shall arrange another monitoring physician as soon as practicable.
  - e. Dr. Talati shall provide a copy of this Order to all employers and the Chief of Staff at each hospital where he has, applies for, or obtains privileges.
  - f. In the event that Dr. Talati has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to commencement of practice in Ohio, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of Dr. Talati's fitness to resume practice.
8. If the Maryland Board should terminate Dr. Talati's probationary terms, conditions, and limitation before Dr. Talati completes a three year probationary period in that state, the Board may place Dr. Talati's certificate under additional terms, conditions, or limitations as set forth in paragraph 7, above.

9. If Dr. Talati violates probation in any respect, the Board, after giving Dr. Talati notice and the opportunity to be heard, may institute any disciplinary action it deems appropriate, up to and including the permanent revocation of Dr. Talati's certificate to practice.
- B. Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Talati's certificate will be fully restored.

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



Thomas F. Gretter, M.D.  
Secretary

(SEAL)

2/27/96

Date

STATE MEDICAL BOARD  
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## REPORT AND RECOMMENDATION IN THE MATTER OF ARVIND M. TALATI, M.D.

The Matter of Arvind M. Talati, M.D., was heard by Sharon W. Murphy, Esq., Hearing Examiner for the State Medical Board of Ohio, on December 15, 1995.

### INTRODUCTION

#### I. Basis for Hearing

- A. By letter dated October 11, 1995, the State Medical Board of Ohio [Board] notified Arvind M. Talati, M.D., that it proposed to take disciplinary action against his certificate to practice medicine and surgery in Ohio. The Board proposed this action for one or more of the following reasons:

On or about February 23, 1994, Dr. Talati entered into a Consent Order with the Maryland State Board of Physician Quality Assurance [Maryland Board]. The Consent Order set forth findings and conclusions that Dr. Talati had failed to meet the minimal standards of care in his treatment of weight loss patients. The Consent Order suspended Dr. Talati's certificate to practice medicine in that state for one year, but stayed the suspension. In addition, the Consent Order placed Dr. Talati's certificate on probation for three years.

The Board asserted that the Maryland Board action 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: Section 4731.22(B)(2), (B)(6), and (B)(20), Ohio Revised Code, to wit: 4731-11-02(D), Ohio Administrative Code." The Board further alleged that pursuant to Rule 4731-11-02(F), Ohio Administrative Code, a violation of Rule 4731-11-02(D) also constitutes violations of Sections 4731.22(B)(2) and (B)(6), Ohio Revised Code.

In addition, the Board advised Dr. Talati of his right to request a hearing in this Matter. (State's Exhibit 1).

- B. On November 13, 1995, Joseph H. Horwitz, Esq., filed a written hearing request on behalf of Dr. Talati. (State's Exhibit 2).

II. Appearances

- A. On behalf of the State of Ohio: Betty D. Montgomery, Attorney General, by Lili C. Kaczmarek, Assistant Attorney General.
- B. On behalf of Respondent: Although Dr. Talati was advised of his right to attend the hearing and to have legal representation, Dr. Talati chose not to appear either in person or by representation.

**EVIDENCE EXAMINED**

I. Testimony Heard

Neither party presented witnesses.

II. Exhibits Presented

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 Exhibit 3: A copy of the November 14, 1995, letter to Mr. Horwitz from the Board notifying him that a hearing had been scheduled for November 27, 1995, but further advising that the hearing had been postponed pursuant to Section 119.09, Ohio Revised Code.
2. State's Exhibit 4: A copy of the November 16, 1995, letter to Mr. Horwitz from the Board scheduling the hearing in this matter for December 15, 1995.
3. State's Exhibit 5: A copy of the December 12, 1995, letter to the Board from Mr. Horwitz, containing an untimely request for a continuance of the hearing so that Dr. Talati might obtain local counsel.
4. State's Exhibit 6: A copy of the December 14, 1995, Entry denying the request for a continuance.
5. State's Exhibit 7: A certified copy of the Consent Order signed February 18, 1994, by Maryland Board and Dr. Talati. (11 pp.) (Note: Pages numbered by Hearing Examiner.)

6. State's Exhibit 8: Certified copies of the Order, Application for Consent Order, Statement of Charges, and Terms of Probation between Dr. Talati and the New York State Board for Professional Medical Conduct. (14 pp.) (Note: Pages numbered by Hearing Examiner.)
7. State's Exhibit 9: A certified copy of the Consent Order signed February 24, 1995, by Dr. Talati and the State of Illinois Department of Professional Regulation. (5 pp.)
8. State's Exhibit 10: A copy of an unsigned Consent Order between Dr. Talati and the Delaware Board of Medical Practice. (11 pp.)

B. Presented by Respondent

1. Respondent's Exhibit A: A copy of the December 13, 1995, letter to the Board from Mr. Horwitz, presenting arguments on Dr. Talati's behalf.

### SUMMARY OF THE EVIDENCE

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

1. Dr. Talati presented no evidence regarding his past or current practice of medicine. However, on February 23, 1994, Dr. Talati and the Maryland State Board of Physician Quality Assurance [Maryland Board] entered into a Consent Agreement. The Consent Agreement contains Findings of Fact and Conclusions of Law which state that, at that time, Dr. Talati maintained a private practice of Ophthalmology in Maryland. Although Dr. Talati was not board certified, the Maryland Board found that he was board eligible in Ophthalmology. Dr. Talati had no formal training in the management of weight loss patients. (State's Exhibit [St. Ex.] 7 at 2, 4).
2. In the Consent Order, the Maryland Board found that, on October 13, 1992, an emergency room physician had filed a complaint with the Maryland Board regarding a patient who had been treated for weight loss by Dr. Talati and Dr. Warren J. Strowhouer. Thereafter, the Maryland Board requested a review of the incident by the Medical and Chirurgical Faculty Peer Review Committee [PRC]. After receiving the results of the incident review, the Maryland Board requested a review of Dr. Talati's overall weight loss practices. To assist in the practice review, the PRC engaged the services of two physicians who were specialists in weight loss management. The two specialists reviewed the medical records of twenty of

Dr. Talati's weight loss patients and reported deficiencies in the care provided by Dr. Talati. (St. Ex. 7 at 2-3).

After reviewing the reports of the specialists, the PRC concluded that Dr. Talati "prescribed Ionamin and Fastin without properly evaluating the patients prior to issuing such prescriptions; that in some cases [Dr. Talati] did not adequately advise the patients as to the appropriate use of the diet drugs prescribed; and that [Dr. Talati] in some instances did not make appropriate use of physical examinations and vital signs prior to prescribing." The PRC further concluded that Dr. Talati "failed to note possible side effects in some patients; failed to discontinue the diet drugs when medically indicated in some patients, and prescribed the above diet drugs for several patients for obesity who were within a normal weight range." Finally, the PRC concluded that Dr. Talati "grossly breached the standards of care in his management of these 20 weight loss patients." (St. Ex. 7 at 3-4).

The Consent Order acknowledged that the review did not involve Dr. Talati's practice of Ophthalmology. The Consent Order further acknowledged that Dr. Talati's willingness to cease the practice of weight loss medicine, to permit peer review of his practice of Ophthalmology, and to testify as a witness during a hearing involving another physician, were mitigating factors in the Maryland Board's consideration. (St. Ex. 7 at 4-5).

Nevertheless, the Maryland Board concluded that Dr. Talati "failed to meet the standards of care as determined by appropriate peer review for the delivery of quality medical care in the field of weight loss management." (St. Ex. 7 at 5).

The Maryland Board suspended Dr. Talati's certificate to practice medicine in that state for one year, but stayed the suspension. The Maryland Board also imposed probationary terms and conditions for three years. By the terms of his probation, among other things, Dr. Talati agreed to cease all practice of dietary or bariatric medicine in the State of Maryland. In addition, Dr. Talati agreed to submit to annual peer review of his Ophthalmology practice if practicing in the that state. Dr. Talati further agreed to submit to practice supervision if the Maryland Board deemed it necessary after reviewing the peer review report. (St. Ex. 7 at 5-10).

The probationary period began on February 23, 1994. (St. Ex. 7 at 5).

3. Dr. Talati represented that the Maryland Board action arose primarily because of the conduct of Dr. Strowhouer. Dr. Talati advised that he had been working as an employee in Dr. Strowhouer's bariatric clinic because he had had difficulty finding employment in Ophthalmology. Therefore, Dr. Talati was "in the wrong place at the wrong time." Dr. Talati admitted that his name appeared on a number of the charts in question, but only because he had performed follow-up examinations on Dr. Strowhouer's patients. Dr. Talati denied having provided poor medical care, but

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agreed to settle the matter by way of Consent Order due to financial considerations. (Respondent's Exhibit [Resp. Ex.] A).

4. On October 21, 1994, the New York State Board for Professional Medical Conduct [New York Board] issued a Statement of Charges against Dr. Talati based on the Maryland Board action. The New York Board charged Dr. Talati with one specification of professional misconduct pursuant to New York law. (St. Ex. 8 at 10-12). On December 9, 1994, Dr. Talati submitted an Application for Consent Order. In the Application for Consent Order, Dr. Talati agreed to a stayed suspension of his New York license and three years probation to run only during those times in which he would be engaged in practice in New York. He also agreed to refrain from the practice of bariatric, dietary, or weight loss medicine. (St. Ex. 8 at 4-9, 13-14). The New York Board adopted the terms set forth in the Application for a Consent Order in an Order issued December 23, 1994. (St. Ex. 8 at 3).
5. On February 24, 1995, Dr. Talati entered into a Consent Order with the State of Illinois Department of Professional Regulation [Illinois Board] based on the Maryland Board action. The Illinois Consent Order provided that Dr. Talati's Illinois license would be placed on probation "until February 23, 1996, or until such time as the Maryland Probation terminates." The Illinois Consent Order further specified that Dr. Talati shall comply with the terms of the Maryland Board Consent Order and file quarterly reports to that effect with the Illinois Board. The Illinois Consent Order did not, however, prohibit Dr. Talati from practicing bariatric, dietary, or weight loss medicine. Moreover, the Illinois Consent Order did not require that Dr. Talati submit to any peer review or practice supervision. (St. Ex. 9).
6. The State also submitted a copy of an unsigned, undated Consent Order between Dr. Talati and the Delaware Board of Medical Practice. This document represents that, in April 1995, the Delaware Board received a complaint charging a violation of the Delaware Medical Practices Act. Dr. Talati waived his right to a hearing, and elected to voluntarily surrender his Delaware certificate. The Delaware Board accepted the voluntary surrender on the condition that Dr. Talati agreed not to reapply for a certificate for five years. The document does not specify the basis for the Delaware action and makes no findings of fact or conclusions of law. (St. Ex. 10).
7. Dr. Talati represents that he has relocated to Illinois, and maintains a private practice there. Because he left Maryland, Dr. Talati did not participate in the peer review or practice supervision required by the Maryland Consent Order. (St. Ex. 2). Dr. Talati further states he is pleased with the terms of the Illinois Consent Order and has no immediate plans to commence practice in Ohio. (Resp. Ex. A).

## FINDINGS OF FACT

1. On or about February 23, 1994, Dr. Talati entered into a Consent Agreement with the Maryland Board. The Maryland Board based its actions on its conclusion that Dr. Talati had "failed to meet the standards of care in the field of weight loss management."

The Maryland Board imposed a stayed suspension of one year, and probationary terms and conditions for three years. By the terms of his probation, among other things, Dr. Talati agreed to cease all practice of dietary or bariatric medicine in the state of Maryland. In addition, Dr. Talati agreed to submit to annual peer review of his Ophthalmology practice, if practicing in the that state. Dr. Talati further agreed to submit to practice supervision if the Maryland Board deemed it necessary after reviewing the peer review report. The probationary period began on February 23, 1994.

2. The Maryland Board made no allegations or findings against Dr. Talati's practice of Ophthalmology.
3. The Illinois and New York Boards initiated actions against Dr. Talati's certificates to practice in those states based on the action of the Maryland Board.
4. The Delaware Board also initiated an action against Dr. Talati's certificate in that state, but the unsigned, undated Consent Order does not specify the basis for the action.

## CONCLUSIONS

1. The Maryland Board action 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: Section 4731.22(B)(2), (B)(6), and (B)(20), Ohio Revised Code, to wit: 4731-11-02(D), Ohio Administrative Code."
2. Pursuant to Rule 4731-11-02(F), Ohio Administrative Code, the violation of Rule 4731-11-02(D) also constitutes a violation of Section 4731.22(B)(2), Ohio Revised Code, "failure to use reasonable care discrimination in the administration of drugs." In addition, a violation of Rule 4731-11-02(D) constitutes a violation of Section 4731.22(B)(6), Ohio Revised Code, "a departure from, or the failure to conform to,

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minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established.”

### PROPOSED ORDER

It is hereby ORDERED that:

- A. The certificate of Arvind M. Talati, M.D., to practice medicine and surgery in the State of Ohio shall be SUSPENDED for an indefinite time, but not less than one year.
- B. The Board shall not consider reinstatement of Dr. Talati's certificate until all of the following minimum requirements are met:
  1. Dr. Talati shall submit an application for reinstatement, accompanied by appropriate fees. Dr. Talati shall not submit such application for at least one year from the effective date of this Order.
  2. Dr. Talati shall comply with all terms, conditions, and limitations imposed by the Maryland, Illinois, New York and Delaware Boards.
  3. Dr. Talati shall notify the Board of any action in any state taken against a certificate to practice medicine held by Dr. Talati in that state. Moreover, Dr. Talati shall provide acceptable documentation verifying the same.
  4. Dr. Talati shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution stating whether he has complied with all the terms, conditions, and limitations imposed by this Board and any other state medical board.
  5. Dr. Talati shall immediately notify the Board in writing of any modification or change to any term, condition, or limitation imposed by any other state medical board.
  6. In the event that Dr. Talati has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to application for reinstatement, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of Dr. Talati's fitness to resume practice.
- C. Upon reinstatement, the certificate of Dr. Talati shall be subject to the following PROBATIONARY terms, conditions, and limitations for at least three years.

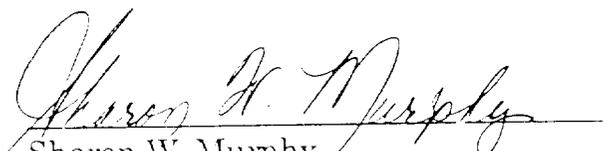
1. Dr. Talati shall obey all federal, state, and local laws, and all rules governing the practice of medicine in the state in which he is practicing.
2. Dr. Talati shall appear in person for interviews before the full Board or its designated representative at three (3) month intervals, or as otherwise requested by the Board.
3. Dr. Talati shall submit quarterly declarations, under the penalty of Board disciplinary action or criminal prosecution, stating whether he has complied with all the terms and conditions of his probation in this State and with all terms, conditions, or limitations imposed by any other state medical board.
4. Dr. Talati shall notify the Board of any action in any state taken against a certificate to practice medicine held by Dr. Talati in that state. Moreover, Dr. Talati shall provide acceptable documentation verifying the same.
5. Dr. Talati shall immediately notify the Board in writing should he fail to comply with any term, condition, or limitation of his probation or with any term, condition, or limitation imposed by any other state medical board.
6. Dr. Talati shall immediately notify the Board in writing of any modification or change to any term, condition, or limitation imposed by any other state medical board.
7. Dr. Talati shall refrain from commencing practice in Ohio without prior written Board approval. Moreover, should he commence practice in Ohio, the Board may place Dr. Talati's certificate under additional terms, conditions, or limitations, including the following:
  - a. Dr. Talati shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.
  - b. Dr. Talati shall submit to the Board and receive its approval for a plan of practice in Ohio which, unless and until otherwise determined by the Board, shall be limited to a supervised structured environment in which Dr. Talati's activities will be directly supervised and overseen by another physician approved by the Board.
  - c. Dr. Talati shall refrain from the practice of bariatric, dietary, or weight loss management.
  - d. Within thirty days of commencement of practice in Ohio, Dr. Talati shall submit for the Board's prior approval the name of a monitoring physician, who shall review Dr. Talati's patient charts and shall submit a written

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report of such review to the Board on a quarterly basis. Such chart review may be done on a random basis, with the number of charts reviewed to be determined by the Board. It shall be Dr. Talati's responsibility to ensure that the monitoring physician's quarterly reports are submitted to the Board on a timely basis. If the approved monitoring physician becomes unable or unwilling to serve, Dr. Talati shall immediately notify the Board in writing and shall arrange another monitoring physician as soon as practicable.

- e. Dr. Talati shall provide a copy of this Order to all employers and the Chief of Staff at each hospital where he has, applies for, or obtains privileges.
  - f. In the event that Dr. Talati has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to commencement of practice in Ohio, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of Dr. Talati's fitness to resume practice.
8. If the Maryland Board should terminate Dr. Talati's probationary terms, conditions, and limitation before Dr. Talati completes a three year probationary period in that state, the Board may place Dr. Talati's certificate under additional terms, conditions, or limitations as set forth in paragraph 7. above.
9. If Dr. Talati violates probation in any respect, the Board, after giving Dr. Talati notice and the opportunity to be heard, may institute any disciplinary action it deems appropriate, up to and including the permanent revocation of Dr. Talati's certificate to practice.
- D. Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Talati's certificate will be fully restored.

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

  
Sharon W. Murphy  
Attorney Hearing Examiner



EXCERPT FROM THE DRAFT MINUTES OF FEBRUARY 14, 1995

REPORTS AND RECOMMENDATIONS

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

Dr. Stienecker 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: William H. Allen, Jr., M.D.; Carolyn T. Beyer, D.O.; John B. Gardiner, D.O.; Stephen W. Gilreath, M.D.; Alexander D. Hassard, M.D.; Neal E. Holleran, M.D.; Peter M. Ilievski, M.D.; James L. Kegler, M.D.; Albert S. Miller, M.D.; Venus Navarro-Julian, M.D.; Moorthy S. Ram, M.D.; Ronald J. Richter, M.D.; Arvind M. Talati, M.D.; and Stephen J. Weiss, M.D.

A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Bhati	- aye
	Dr. Gretter	- aye
	Dr. Egner	- aye
	Dr. Agresta	- aye
	Dr. Buchan	- aye
	Ms. Noble	- aye
	Mr. Sinnott	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Stienecker	- aye

Dr. Stienecker 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. Gretter	- aye
	Dr. Egner	- aye
	Dr. Agresta	- aye
	Dr. Buchan	- aye
	Ms. Noble	- aye

Mr. Sinnott	- aye
Dr. Garg	- aye
Dr. Steinbergh	- aye
Dr. Stienecker	- 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 this matter.

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

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REPORT AND RECOMMENDATION IN THE MATTER OF ARVIND M. TALATI, M.D.

Dr. Stienecker 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. Stienecker advised that a request to address the Board has been timely filed by Dr. Talati. He would be allotted approximately five minutes for his address.

Dr. Talati stated that he would like to make certain comments concerning the report made by Ms. Murphy. First of all, the Maryland Board started disciplinary proceedings against a Dr. Strowhouer. It later added his name because of his part-time association with Dr. Strowhouer. Of the 20 patients whose records were reviewed by the physician peer review committee, he had seen only three. Dr. Talati stated that it is true that he did not do psychiatric evaluations of all the patients, nor did he do cardiograms or other tests on each and every patient. On all new patients, after reviewing their history, he did a complete physical examination from head to toe, and then he discussed diet with the patient. They provided a 1000 to 1200 calorie diet. He also discussed exercise programs and their value in weight control with the patients. He also stressed the point that medication is only 5% to 10% effective. He also suggested that the patients should walk at least 30 to 40 minutes four to five times per week. This information was not documented in the patients' charts.

Dr. Talati stated that he hopes that all Board members have had an opportunity to review his January 12, 1996 letter, outlining his objections to the Hearing Officer's Report and Recommendations. He wants to make it clear that he was not charged with any violation of any wrongdoing or malpractice in the state of Ohio. These proceedings were brought into this state only because of the Order entered originally in the state of Maryland. Dr. Talati stated that it was foolish for him to work with an osteopathic physician who

was practicing bariatric medicine. In retrospect, this mistake has cost him money, his marriage, his children and his own self-respect.

Other medical boards have brought similar proceedings as a result of the Maryland Consent Order. New York placed his license on probation for a period of three years, to run only during those times in which he engages in practice in New York. He is not to practice bariatric, diet, or weight loss medicine. This Consent Order was signed on December 23, 1994.

The Illinois Consent Order placed his license on probation from February 24, 1995 to February 23, 1996, or until the Maryland probation terminates. It also specified that he file quarterly reports. He has already applied for the restoration of his Illinois license.

Dr. Talati stated that he wants to stress one point. As far as his ophthalmology practice is concerned, there was no violation or any wrongdoing, even in the state of Maryland. Ophthalmology is what he is practicing and will practice until his last breath. He had an opportunity to review the Ohio Medical Board's disciplinary actions. Dr. Talati listed a number of other actions taken by this Board against physicians. He stated that he believes his violation falls under Category 2b of the Board's Disciplinary Policy and Guidelines, with a minimum penalty of three years' probation. This falls in line with the penalties imposed by other states.

Dr. Talati stated that he has suffered enough financially, emotionally and morally. He asked that the Board be kind and sympathetic to him in recommending a course of action.

Dr. Stienecker asked whether the Assistant Attorney General wished to respond.

Ms. Kaczmarek stated that Dr. Talati provided information about previous Board actions. In this particular case, what the Board has is an occurrence, which took place in Maryland, involving Dr. Talati's practice in weight loss and bariatrics. The Maryland Board took action, and that action was bootstrapped by New York and Illinois. She also believes that Delaware may have taken action on that as well. Ms. Kaczmarek stated that it appears that Dr. Talati is concerned that the Proposed Order is more severe than sanctions he received in other states. The other states stayed any suspension time. This Proposed Order calls for a one-year suspension.

Ms. Kaczmarek stated that the State submits that the Proposed Order is supported by the record, and she urged the Board to use its discretion in reviewing all information in making its final decision.

**DR. AGRESTA MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF ARVIND M. TALATI, M.D. MR. SINNOTT SECONDED THE MOTION.**

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

In response to Dr. Garg's questions, Dr. Talati stated that he now practices ophthalmology only. He did do some surgery in 1990, but he quit doing it. He took the job in the bariatric practice on a part-time basis due to financial problems he was having. It was a temporary thing.

**DR. BHATI MOVED TO AMEND MS. MURPHY'S PROPOSED ORDER IN THE MATTER OF ARVIND M. TALATI, M.D., TO STAY THE ONE-YEAR SUSPENSION PERIOD, TO DELETE THE TERMS FOR REINSTATEMENT, AND TO PLACE DR. TALATI ON PROBATION FOR A MINIMUM OF THREE YEARS WITH THE PROBATIONARY TERMS OUTLINED IN MS. MURPHY'S PROPOSED ORDER. DR. BUCHAN SECONDED THE MOTION.**

Dr. Buchan spoke in support of the amendment, stating that he feels it is safe. It is not unreasonable for this Board to watch over Dr. Talati for three years, but a suspension is not necessary in this case.

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

VOTE:	Mr. Albert	- abstain
	Dr. Bhati	- aye
	Dr. Gretter	- abstain
	Dr. Egner	- aye
	Dr. Agresta	- aye
	Dr. Buchan	- aye
	Ms. Noble	- aye
	Mr. Sinnott	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

**DR. GARG MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF ARVIND M. TALATI, M.D. DR. EGNER SECONDED THE MOTION.** A vote was taken:

VOTE:	Mr. Albert	- abstain
	Dr. Bhati	- aye
	Dr. Gretter	- abstain
	Dr. Egner	- aye
	Dr. Agresta	- aye
	Dr. Buchan	- aye

EXCERPT FROM THE DRAFT MINUTES OF FEBRUARY 14, 1996  
IN THE MATTER OF ARVIND M. TALATI, M.D.

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 11, 1995

Arvind M. Talati, M.D.  
1108 Resden Run  
Salisbury, MD 21801

Dear Doctor Talati:

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 February 23, 1994, you entered into a Consent Order with the Maryland State Board of Physician Quality Assurance. This Consent Order suspended your license to practice medicine in the State of Maryland for one (1) year; stayed such suspension; and placed your license on probation for three (3) years subject to certain specified conditions. This action was based upon the Maryland Board's conclusion that you failed to meet the standards of care in the field of weight loss management and its findings including, but not limited to, that you failed to properly evaluate patients prior to prescribing Ionamin and Fastin; failed to make appropriate use of physical examinations and vital signs prior to prescribing; failed to discontinue diet drugs when medically indicated; and prescribed the above diet drugs for patients for obesity who were within a normal weight range. A copy of the aforementioned Consent Order is attached hereto and fully incorporated herein.

The Consent Order, as alleged in paragraph 1 above, constitutes "(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, 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)(2), (B)(6), and (B)(20), Ohio Revised Code, to wit: 4731-11-02(D), Ohio Administrative Code. Pursuant to Rule 4731-11-02(F), Ohio Administrative Code, violation of Rule

Mailed 10/12/95

10/11/95

4731-11-02(D), Ohio Administrative Code, also violates Sections 4731.22(B)(2) and (B)(6), Ohio Revised Code.

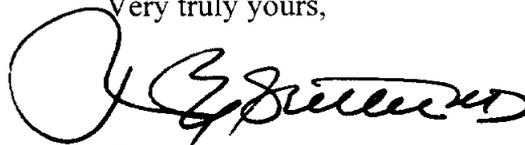
Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty (30) days of the time of mailing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

You are further advised that 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 'T. E. Gretter', written over a large, stylized circular flourish.

Thomas E. Gretter, M.D.  
Secretary

TEG/bjm  
Enclosures

CERTIFIED MAIL # P 348 886 954  
RETURN RECEIPT REQUESTED

rev.2/15/95

IN THE MATTER : BEFORE THE  
ARVIND M. TALATI, M.D. : STATE BOARD OF PHYSICIAN  
Respondent : QUALITY ASSURANCE  
License Number: D32896 : Case Number: 92-0132

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CONSENT ORDER

BACKGROUND

Based on the information received by the State Board of Physician Quality Assurance (the "Board"), the Board, pursuant to its authority under Maryland Health Occupations Code Annotated §14-404 and State Government §10-226(c)(2), charged Arvind Talati, M.D. (the "Respondent") (D.O.B. 8/3/37, License No. D32896), under the Maryland Medical Practice Act, Maryland Health Occupations Code Annotated §14-404(a)(22) (1991 Repl. Vol.) and filed a Show Cause Order with regard to a summary suspension of the Respondent's Maryland medical license.

The pertinent provisions of §14-404(a) provide:

Subject to the hearing provisions of §14-405 of this subtitle, the Board on the affirmative vote of a majority of its full authorized membership may reprimand any licensee, place any licensee on probation, or suspend or revoke a licensee, if the licensee:

- (22) Fails to meet appropriate standards as determined by appropriate peer review for the delivery of quality medical care performed in an office in this state.

On January 26, 1994, a hearing was scheduled on the Show Cause Order as to whether or not the Respondent's Maryland medical license should be summarily suspended. At the show cause hearing,

the Administrative Prosecutor and the Respondent's counsel proposed that the summary suspension and the charges in this case be resolved through a consent order. The Board authorized resolution of this case through this Consent Order during its meeting on Wednesday, January 26, 1994.

On an affirmative vote of the majority of its full authorized membership, the Board decided to enter into the following Consent Order.

#### FINDINGS OF FACT

1. The Respondent is a physician licensed to practice medicine in the State of Maryland.
2. The Respondent presently maintains offices for the private practice of ophthalmology at 1108 Resden Run, Salisbury, Maryland.
3. The Respondent has no hospital privileges.
4. The Respondent has medical licenses from Maryland, New York, Ohio, Illinois and Delaware.
5. The Respondent has no national board certification or specialty board certification, but is board eligible in the specialty of Ophthalmology.
6. On October 13, 1992, the Maryland Board of Physician Quality Assurance received a complaint regarding a weight loss patient of the Respondent's and another physician. Based upon the complaint filed by an emergency room physician from Prince George's Hospital Center, the Board requested an incident review be conducted by the Medical and Chirurgical Faculty of Maryland ("Med

Chi") Peer Review Committee ("PRC") into the weight loss practice of Respondent at the Offices of Warren J. Strowhouer located at 810 Beaglin Park Drive, Suite 6, Salisbury, Maryland.

7. After receiving the incident review from Med Chi PRC, the Board requested a review of Respondent's weight loss practice.

8. On December 13, 1993, the Board received the Peer Review Report from Med Chi PRC concerning the weight loss practice of the Respondent and another physician.

9. The complaint and the peer review did not deal with the Respondent's practice of Ophthalmology.

10. The PRC engaged the services of two physicians who specialist in weight loss to assist in the practice review. The two specialists reported deficiencies in the treatment of the 20 weight loss patients whose records they reviewed. The specialists found that the records were inadequate and fell below the standards of care for the treatment of patients seeking to lose weight.

11. The Med Chi PRC upon reviewing the reports of the specialist concluded unanimously, that the Respondent failed to meet the standards of care in his management and treatment of all 20 of the patients referred to above that were the subject of the peer review.

12. The PRC reported and concluded that they found in the records of the weight loss patients that the Respondent prescribed Ionamin and Fastin without properly evaluating the patients prior to issuing such prescriptions; that in some cases the Respondent did not adequately advise the patients as to the appropriate use of

the diet drugs prescribed; and that the Respondent in some instances did not make appropriate use of physical examinations and vital signs prior to prescribing. The reviewers reported that the Respondent failed to note possible side affects in some patients; failed to discontinue the diet drugs when medically indicated in some patients, and prescribed the above diet drugs for several patients for obesity who were within a normal weight range.

13. The PRC unanimously concluded that the Respondent had grossly breached the standards of care in the treatment of these 20 weight loss patients.

14. Prior to beginning work at the weight loss clinic where the Respondent was an employee, the Respondent had no specialized training in the management of patients who desired to lose weight, other than his general medical training in medical school and in internship and residency.

15. The Respondent has a background and training in ophthalmology and presently works in an ophthalmology practice. As stated above, no part of his ophthalmology practice was the subject of the complaint or review.

16. The Board acknowledges that the Respondent's willingness to cease practicing bariatric, diet or weight loss medicine and his willingness to undergo peer review in his field of ophthalmology are significant factors in reaching this Consent Order.

17. The Board further acknowledges that the Respondent's willingness to appear and testify as a witness in the hearing regarding violations of the standards of care by another health

care provider in the State of Maryland is a significant factor in reaching this Consent Order. The identity of this other health care provider is presently known to both the Board and the Respondent.

#### CONCLUSIONS OF LAW

Based upon the above Findings of Fact and in reaching this Consent Order, the Board concludes as a matter of law that the Respondent failed to meet the standards of care as determined by appropriate peer review for the delivery of quality medical care in the field of weight loss management in the State of Maryland.

#### ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is this 23<sup>rd</sup> day of February, 1994.

ORDERED that the Respondent's license to practice medicine in the State of Maryland is hereby:

1. SUSPENDED for a period of one year beginning on 23<sup>rd</sup>, 1994; it is further

ORDERED that the suspension shall be immediately STAYED, provided that the Respondent complies with all aspects of this Consent Order and that probation shall be part of this Consent Order; and it is further

ORDERED that any publication by the Board of the terms of the Order will make it clear, as does this Consent Order, that the complaint and peer review did not deal with the Respondent's practice of ophthalmology.

ORDERED that the Respondent is subject to the following

conditions of probation for three years:

1. The Respondent may only practice medicine pursuant to the terms and conditions of this probation; and
2. The Board has full power to suspend the Respondent's license to practice medicine should the Respondent fail to abide by the conditions of probation.

#### PEER REVIEW

1. The Respondent will be subject to an annual peer review of his ophthalmology practice, administrative cost to be paid by the Respondent. The Respondent will be subject to the first peer review within six months of the date of this Order.

2. The purpose of the peer review described in #1 above is to determine whether the Respondent's practice of ophthalmology, meets the standards of care to the Board's satisfaction. The Board has complete discretion to select which PRC will conduct the review and prepare the reports for the Board's consideration. The selected PRC will submit a report, to the Board, once each year on setting forth the results of the peer review of the Respondent's practice so long as Respondent remains on probation, the first report being due on or before October 1, 1994. The Respondent will receive a copy of each report and must follow the recommendations made by the PRC and endorsed by the Board. The annual peer review may include a practice review of all aspects of the Respondent's ophthalmology practice.

3. In addition, the Board, upon receipt of the Peer Review Report, may, in its discretion, determine that the Respondent has

failed to meet the standards of care and may issue charges and/or issue a new show cause order on a potential summary suspension of the Respondent's license, based upon the information obtained in the annual peer reviews required under this Consent Order.

#### PRACTICE SUPERVISION

1. Following the receipt of the peer review report, the Respondent agrees that if requested and upon appropriate notice he shall return to the Board to meet with the Case Resolution Conference regarding whether or not he shall obtain the services of a Board approved physician to serve as a supervisory physician for the remainder of the three years of probation or any term of probation if such term is shortened by the Board upon the granting of a Petition of Respondent.

2. In the event that the Case Resolution Conference concludes that the Respondent should engage the services of the supervisor, the Respondent should engage the services of supervisor, the Respondent shall meet once every three months with the Board approved supervisor to review charts of patients treated by the Respondent. The charts to be reviewed will be at the selection of the supervisor. The Respondent is required to provide the supervising physician with a list, each month, of all patients treated by him. The supervising physician may elect any or all of the listed cases for review.

The Respondent will be responsible for all reasonable costs associated with this supervision.

The supervisor shall provide to the Board reports as to his

meeting with and reviewing Respondent's cases on a quarterly basis.

3. If applicable the Respondent will provide the Board with the name of a proposed supervisory physician. The Board must approve the supervisory physician, in advance. The supervisory physician shall be given an opportunity to read all materials related to the Board's file on the Respondent, prior to commencing with the supervision. In the event that the Respondent and the approved supervising physician cannot agree to supervision, the Respondent must notify the Board, in writing, immediately that the supervisor has terminated the supervision. In the event that the supervising physician, once approved, can no longer provide supervision to the Respondent during the course of the probation, the Respondent shall have sixty days in which to obtain a new approved supervisory physician, unless Respondent can show good cause why he has been unable to obtain such a supervisor.

4. The approved supervising physician must advise the Board, in writing, that he will comply with the terms of this Consent Order. The supervising physician shall inform the Board of the quality of care being provided by the Respondent in his patients as well as whether the Respondent is accurately recording the care and treatment of his patients in the medical records.

#### GENERAL PROVISION

1. The Respondent shall not violate any of the provisions of the Maryland Medical Practice Act.

2. In the event the Respondent moves from his current address, the Respondent shall notify the Board, in writing, of his

new address and telephone number, immediately.

3. The Respondent shall not engage in the conduct that led to the charges by the Board.

4. The respondent shall practice in accordance with the laws governing the practice of medicine in Maryland.

5. The Respondent, by his agreement, shall not practice dietary medicine, bariatric medicine, weight loss medicine or provide any weight loss or dietary counseling in any form in the State of Maryland.

6. The Respondent shall comply with the agreement made between him and the Office of the Attorney General, regarding his cooperation and testimony in a related case, as memorialized in a letter of January 26, 1994.

#### VIOLATION OF PROBATION

1. Failure on the part of the Respondent to comply with any of the foregoing conditions of probation constitutes a violation of probation.

2. If the Respondent violates any of the foregoing conditions of probation, the STAY of suspension may be lifted by the Board, after notification of the basis therefore and a hearing. The Board may impose any additional disciplinary sanctions, through the procedures provided by the law which include a full evidentiary hearing and right to operate.

3. If the Respondent presents a danger to the public health, safety or welfare, the Board, without prior notice to the Respondent or any opportunity for the Respondent to be heard, may

vacate the STAY of suspension and reinstate the suspension provided that the Respondent is given notice of the basis of the Board's action and an opportunity for a hearing within 30 days after the Respondent requests a hearing; it is further

ORDERED that the Respondent shall be responsible for all costs incurred in this Consent Order; and be if further

ORDERED that this Consent Order is considered a public document pursuant to Maryland State Government Code Annotated §10-611.

2/23/94  
Date

  
\_\_\_\_\_  
J. Michael Compton  
Executive Director  
Board of Physician Quality  
Assurance

CONSENT

I, Arvind Talati, M.D., acknowledge that I am represented by Charles E. Channing, Jr., Esquire. By this consent, I hereby admit the truth of the Findings of Fact, Conclusions of Law and accept and submit to the foregoing Consent Order, consisting of ten (10) pages.

I acknowledge the validity of this Consent Order as if entered after the conclusion of a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections provided by the laws of the State of Maryland. I acknowledge the legal authority and the

jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I also affirm that I am waiving my right to appeal any adverse ruling of the Board that might have followed any such hearing.

I sign this Consent Order without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order.

Feb. 18th 1994  
Date

Arvind Talati  
Arvind Talati, M.D.

STATE OF MARYLAND  
CITY/COUNTY OF:

I HEREBY CERTIFY that on this 18th day of FEBRUARY, 1994, a Notary Public of the State of Maryland and (City/County) aforesaid, personally appeared Arvind Talati, M.D., and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed.

AS WITNESSETH my hand and notarial seal.

Susan Sherman  
NOTARY PUBLIC

My commission Expires: 1-17-95

I HEREBY ATTEST AND CERTIFY UNDER PENALTY OF PERJURY ON July 29, 1995 THAT THE FORGOING DOCUMENT IS A FULL, TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE IN MY OFFICE AND IN MY LEGAL CUSTODY.

Maryann Ryzalinski  
DEPUTY DIRECTOR  
MARYLAND STATE BOARD OF  
PHYSICIAN QUALITY ASSURANCE