



State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: www.med.ohio.gov

April 14, 2004

Ahmad Shahamat, M.D.
30523 Atlanta Lane
Westlake, OH 44146

Dear Doctor Shahamat:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of R. Gregory Porter, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on April 14, 2004, 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 must be taken to the Franklin County Court of Common Pleas.

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. Any such appeal must be filed 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

Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

CERTIFIED MAIL NO. 7000 0600 0024 5150 0729
RETURN RECEIPT REQUESTED

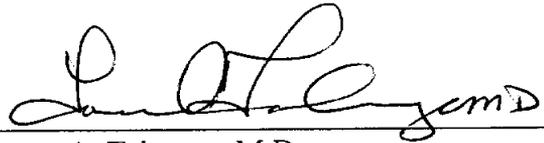
Cc: Timothy P. Haffey, Esq.
CERTIFIED MAIL NO. 7000 0600 0024 5150 0712
RETURN RECEIPT REQUESTED

Mailed 5/4/04

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of R. Gregory Porter, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on April 14, 2004, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order; constitute a true and Ahmad Shahamat, 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.



Lance A. Talmage, M.D.
Secretary

(SEAL)

April 14, 2004
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

AHMAD SHAHAMAT, M.D.

*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on April 14, 2004.

Upon the Report and Recommendation of R. Gregory Porter, 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:

- A. **SUSPENSION OF CERTIFICATE:** The certificate of Ahmad Shahamat, M.D., to practice medicine and surgery in the State of Ohio shall be SUSPENDED for a period of ninety days.
- B. **REQUIREMENTS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Shahamat's certificate to practice medicine and surgery until all of the following conditions have been met:
 1. **Application for Reinstatement or Restoration:** Dr. Shahamat shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
 2. **Professional Ethics Course:** Dr. Shahamat shall provide acceptable documentation of successful completion of a course or courses dealing with professional ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its

designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education acquisition period(s) in which they are completed.

3. **Personal Ethics Course:** Dr. Shahamat shall provide acceptable documentation of successful completion of a course or courses dealing with personal ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education acquisition period(s) in which they are completed.
4. **Certification of Compliance with the Terms of Criminal Probation:** At the time he submits his application for reinstatement or restoration, Dr. Shahamat shall submit to the Board certification from the Franklin County Court of Common Pleas, dated no earlier than sixty days prior to Dr. Shahamat's application for reinstatement or restoration, indicating that Dr. Shahamat has maintained full compliance with terms of probation in criminal case number 03CR 03-1931.
5. **Certification of Payment of Restitution to the Ohio Bureau of Workers' Compensation:** At the time he submits his application for reinstatement or restoration, Dr. Shahamat shall submit to the Board certification from the Ohio Bureau of Workers' Compensation that he has fully paid restitution to that agency pursuant to his October 3, 2003, Settlement Agreement.
6. **Additional Evidence of Fitness To Resume Practice:** In the event that Dr. Shahamat 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 or restoration, the Board may exercise its discretion under Section 4731.222 of the Revised Code to require additional evidence of his fitness to resume practice.

C. **PROBATION:** Upon reinstatement or restoration, Dr. Shahamat's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least three years:

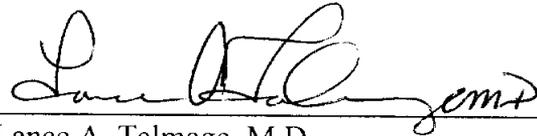
1. **Obey the Law and Terms of Criminal Probation:** Dr. Shahamat shall obey all federal, state and local laws, all rules governing the practice of medicine and surgery in Ohio, and all terms of probation imposed by the Franklin County Court of Common Pleas in criminal case number 03CR 03-1931.

2. **Declarations of Compliance**: Dr. Shahamat shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which this Order becomes effective. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
 3. **Personal Appearances**: Dr. Shahamat shall appear in person for quarterly interviews before the Board or its designated representative, or as otherwise directed by the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
 4. **Tolling of Probationary Period While Out of State**: In the event that Dr. Shahamat should leave Ohio for three consecutive months, or reside or practice outside the State, Dr. Shahamat must notify the Board in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of this probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that the purposes of the probationary monitoring are being fulfilled.
 5. **Violation of Terms of Probation**: If Dr. Shahamat violates probation in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.
- D. **TERMINATION OF PROBATION**: Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Shahamat's certificate will be fully restored.
- E. **REQUIRED REPORTING TO EMPLOYERS AND HOSPITALS**: Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Shahamat shall provide a copy of this Order to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Shahamat shall provide a copy of this Order to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments.
- F. **REQUIRED REPORTING TO OTHER STATE LICENSING AUTHORITIES**: Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Shahamat shall provide a copy of this Order

by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Dr. Shahamat shall also provide a copy of this Order by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement or restoration or restoration of any professional license. Further, Dr. Shahamat shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt, unless otherwise determined by the Board.

EFFECTIVE DATE OF ORDER: This Order shall become effective thirty days from the date of mailing of notification of approval by the Board.

(SEAL)



Lance A. Talmage, M.D.
Secretary

April 14, 2004

Date

2004 FEB 26 A 7 29

**REPORT AND RECOMMENDATION
IN THE MATTER OF AHMAD SHAHAMAT, M.D.**

The Matter of Ahmad Shahamat, M.D., was heard by R. Gregory Porter, Esq., Hearing Examiner for the State Medical Board of Ohio, on January 23, 2004.

INTRODUCTION

I. Basis for Hearing

- A. By letter dated October 8, 2003, the State Medical Board of Ohio [Board] notified Ahmad Shahamat, M.D., that it had proposed to take disciplinary action against his certificate to practice medicine and surgery in Ohio. The Board based its proposed action upon Dr. Shahamat's plea of guilty to and conviction of one felony count of Worker's Compensation Fraud, in violation of Section 2913.48, Ohio Revised Code.

The Board alleged that Dr. Shahamat's plea of guilty and/or the judicial finding of guilt constitutes "[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony," as that clause is used in R.C. 4731.22(B)(9)." (State's Exhibit 1A)

- B. By document received by the Board on November 7, 2003, Timothy P. Haffey, Esq., requested a hearing on behalf of Dr. Shahamat. (State's Exhibit 1B)

II. Appearances

- A. On behalf of the State of Ohio: Jim Petro, Attorney General, by Kyle C. Wilcox, Assistant Attorney General.
- B. On behalf of the Respondent: Timothy P. Haffey, Esq.

EVIDENCE EXAMINED

I. Testimony Heard

Ahmad Shahamat, M.D.

II. Exhibits Examined

A. Presented by the State

1. State's Exhibits 1A through 1F: Procedural exhibits.
2. State's Exhibits 2 and 3: Copies of documents maintained by the Franklin County Court of Common Pleas in *State of Ohio v. Ahmad Shahamat, M.D.*, Case No. 03CR 03-1931. (Note: The Hearing Examiner redacted a Social Security number from State's Exhibit 3 post hearing.)

B. Presented by the Respondent

1. Respondent's Exhibit A: Collection of documents relating to Dr. Shahamat's defense. (Note: This exhibit has been sealed to protect patient confidentiality.)
2. Respondent's Exhibit B: Dr. Shahamat's Mitigation Memorandum.

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. Ahmad Shahamat, M.D., testified that he had been born in Iran in 1942, and finished medical school in Iran in 1969. Dr. Shahamat further testified that he took and passed the ECFMG examination to enter the United States and, in 1970, was accepted as an intern at Edgewater Hospital in Chicago, Illinois. Dr. Shahamat testified that, after twelve months of internship, he moved to Boston, Massachusetts, and spent two years as a resident in internal medicine at hospitals affiliated with Tufts Medical School. Dr. Shahamat further testified that, after completing his residency, he spent "one year of fellowship and research in cardiology" at the same institutions. Dr. Shahamat completed his fellowship in 1974. (Respondent's Exhibit [Resp. Ex.] A at 32; Hearing Transcript [Tr.] at 10-11)

Dr. Shahamat testified that, after he finished his fellowship, he moved to Cleveland, Ohio, and worked at various hospitals as a house physician. Dr. Shahamat further testified that, around May 1977, he opened his own solo practice in Cleveland, where he is still practicing. Dr. Shahamat testified that he has always practiced as a solo practitioner, and added, "I believe my practice is the way I like. I like to treat my patients the way I want, and I realize that the partners don't do the things which I do." (Tr. at 12)

Dr. Shahamat testified that he has approximately 1,500 active charts, and sees about 25 to 30 patients per day, plus about half that number on Saturdays. Moreover, Dr. Shahamat

testified that he holds privileges at Deaconess Hospital in Cleveland, which Dr. Shahamat stated is within walking distance of his office. (Tr. at 9-10)

2. On July 30, 2003, in the Franklin County Court of Common Pleas in Columbus, Ohio, in Case Number 03CR 03-1931, Dr. Shahamat pled guilty to one count of Workers' Compensation Fraud, in violation of Section 2913.48, Ohio Revised Code, a felony of the fifth degree. The court found Dr. Shahamat guilty, ordered a pre-sentence investigation, and scheduled sentencing for a later date. (State's Exhibit [St. Ex.] 2 at 4)

A Bill of Particulars dated June 3, 2003, described the offense for which Dr. Shahamat had been charged:

During the period from on or about April 26, 1999, to on or about March 21, 2001, the Defendant, Dr. Ahmad Shahamat, in Franklin County, with purpose to defraud, or knowing that he was facilitating a fraud, did receive payments or compensation from the Ohio Bureau of Workers' Compensation (BWC) to which he was not entitled. He submitted records, including [treatment] notes, to Managed Care Organizations (MCO), for alleged services rendered to [his] patients that were BWC claimants with multiple claims. The submitted records reflected that the Defendant saw and/or treated the BWC claimants on separate dates for each separate claim, pursuant to BWC policy. Defendant was paid for seeing the patients on separate dates. However, the Defendant did not see and/or treat the patients on separate dates, as he reported. He saw and/or treated the patients' multiple claims during one office visit. The MCOs paid Defendant, on behalf of the BWC, for the services alleged by Defendant in the submitted records. The BWC in turn reimbursed the MCOs.

(St. Ex. 3 at 3)

On September 12, 2003, the court sentenced Dr. Shahamat to two years of Community Control under basic supervision. The court further ordered Dr. Shahamat to pay restitution to the State of Ohio in the amount of \$12,962.76; to pay a fine of \$5,000.00; and to pay court costs in the amount of \$2,211.77. (St. Ex. 2 at 4-5)

Dr. Shahamat testified that he has paid the restitution, fine, and court costs as ordered by the court. (Tr. at 21-22)

3. Dr. Shahamat testified that he had first learned that he was under investigation by BWC in January 2002, when his office was visited by investigators from BWC who asked to see his patient files and billing records. Dr. Shahamat testified that, after having reviewed his records, the investigators talked to 25 of his patients, and asked that their medical records be sent to BWC. Dr. Shahamat further testified that the investigators had also talked to him and to his secretaries. Moreover, Dr. Shahamat testified that the investigators had not told

him why he was being investigated; rather, they had told him that it was “routine.”
(Tr. at 12-14)

4. Dr. Shahamat testified that, on March 20, 2003, he had first learned that criminal charges were being filed against him. Dr. Shahamat testified that, at that time, he had received a package from the Ohio Attorney General’s office informing him that he was being accused of overbilling BWC. (Tr. at 14-15)
5. Dr. Shahamat testified that, of the 25 patients of Dr. Shahamat’s that BWC had become suspicious of during their investigation, BWC had found violations concerning three.
(Tr. at 20)
6. Dr. Shahamat described how his overbilling of BWC had occurred. Dr. Shahamat testified that, for example, he had a patient who had had two claims before BWC—a back sprain and a shoulder injury. Dr. Shahamat stated that during one visit, the patient had come to his office concerning her back. Dr. Shahamat testified that, while he had been seeing the patient, his secretary informed him that BWC had approved three injections of cortisone that had been requested for her shoulder. Dr. Shahamat testified that he had informed the patient at that time that she would have to come back to his office for the cortisone injection. However, Dr. Shahamat testified that the patient had pleaded with him to give her the injection during that visit. She told him that she had no transportation and that her neighbor had brought her to Dr. Shahamat’s office. Dr. Shahamat testified, “So here I made a poor judgment,” and gave the patient the cortisone injection during that visit.
(Tr. at 15-17)

Dr. Shahamat stated that “that was [his] downfall,” because he had been required to see the patient on two occasions in order to bill for the cortisone injection. Instead, he saw the patient on one occasion for both claims, and then billed BWC for having seen the patient on two occasions. Dr. Shahamat acknowledged that both the bill to BWC and his patient chart had incorrectly stated that the patient had come to his office on two occasions.
(Tr. at 17)

Dr. Shahamat testified that he had repeated this scenario with three or four of his patients “over a period of years.” Dr. Shahamat further testified that BWC had calculated that his overbilling for those three or four patients had amounted to about \$12,000, and that Dr. Shahamat had agreed with BWC’s calculation. (Tr. at 17-18)

7. Dr. Shahamat testified that employees in his office had been aware that Dr. Shahamat’s billing practices had been wrong. (Tr. at 18-19)
8. Dr. Shahamat testified that he had cooperated with the investigators, and had given them free access to his office. (Tr. at 25-26)

A letter dated January 21, 2004, to Dr. Shahamat's attorney from the Ohio Attorney General's office states that "Dr. Shahamat cooperated in the [BWC] investigation by giving statements, providing special agents with requested information and permitting special agents to review claimant files." The letter further states that Dr. Shahamat has paid "the full criminal fraud restitution amount of \$12,962.76." (Resp. Ex. A at 33)

9. In addition to his criminal penalties and the \$12,962.76 restitution that the court had ordered him to pay, Dr. Shahamat entered into a separate Settlement Agreement with BWC, dated October 3, 2003, to repay \$49,487.72 to BWC. Dr. Shahamat testified that he had entered into that agreement so that BWC would not pursue any further penalty against him, and so that he could remain a medical service provider under the BWC program. Dr. Shahamat testified that, pursuant to the agreement, he has paid half that amount, and will pay the remaining half in April 2004. (Resp. Ex. A at 22-28; Tr. at 27-29)
10. Dr. Shahamat testified that, of his approximately 1,500 active charts, approximately 1,000 of them are BWC patients. Dr. Shahamat testified that that represents about 60 to 75 percent of his practice. (Tr. at 29)
11. Dr. Shahamat acknowledged that he had committed a fraud. Dr. Shahamat testified that he had done so to accommodate his patients. However, Dr. Shahamat also acknowledged that he had received a benefit as well. Dr. Shahamat stated that he had "made a poor judgment," and had placed his patients and himself "in front of the law." Moreover, Dr. Shahamat stated that his patients were not injured physically or financially by his conduct. Dr. Shahamat also stated that, in his mind, he had believed that he had provided a service for which he had been entitled to payment. Finally, Dr. Shahamat testified that he has learned what he had done wrong, and has learned how to properly bill for such situations. (Tr. at 33-35)
12. Dr. Shahamat testified that, when the BWC investigation began, he immediately took steps to correct the problem. (Tr. at 36)
13. Dr. Shahamat testified that he had had to take out "a big second mortgage" to repay the BWC. (Tr. at 35)
14. Dr. Shahamat testified that he has never before been in trouble with a medical board or been cited with criminal violations. (Tr. at 35-36)
15. Dr. Shahamat testified that he is very sorry for what he did. (Tr. at 37)
16. Dr. Shahamat presented several letters of support from fellow physicians and from patients. These letters characterize Dr. Shahamat as a competent and compassionate physician, and as a person of good character. (Resp. Ex. A at 3-12)

LEGAL ISSUES

In a document entitled Dr. Shahamat's Mitigation Memorandum (Respondent's Exhibit B), and during the hearing, Counsel for Dr. Shahamat presented arguments concerning which of the Board's Disciplinary Guidelines should be applied to this matter, and argued that a guideline concerning conduct not in the course of practice would be appropriate. Counsel for the State objected, and argued that Dr. Shahamat's criminal conduct had been committed in the course of his practice. Counsel for the Respondent expressed concern that the minimum Disciplinary Guideline penalty concerning convictions for felonies committed in the course of practice is permanent revocation. The Hearing Examiner noted at hearing that the Disciplinary Guidelines place no limitation of the Board, and that the Board is at all times free to vary from its guidelines.

FINDINGS OF FACT

On July 30, 2003, in the Franklin County Court of Common Pleas in Columbus, Ohio, Ahmad Shahamat, M.D., pled guilty to one count of Workers' Compensation Fraud, in violation of Section 2913.48, Ohio Revised Code, a felony of the fifth degree.

CONCLUSIONS OF LAW

The plea of guilty of Ahmad Shahamat, M.D., and/or the judicial finding of guilt, as set forth in the Findings of Fact, constitute "[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony," as that clause is used in Section 4731.22(B)(9), Ohio Revised Code.

* * * * *

The evidence is undisputed that Dr. Shahamat pled guilty to, and was convicted of, a fifth degree felony offense of Workers' Compensation Fraud. The conduct that had given rise to this plea and conviction had been Dr. Shahamat's inappropriate billing and recording of multiple office visits to treat multiple workers' compensation claims, when in fact those multiple claims had been addressed at single office visits. This is a serious offense for which the Board would be well justified in permanently revoking Dr. Shahamat's license to practice in Ohio.

However, mitigating evidence was presented in Dr. Shahamat's favor as well. Dr. Shahamat has practiced medicine in Ohio for over 25 years with no prior history of Board disciplinary action or criminal complaint. Further, Dr. Shahamat cooperated fully with the investigation, and acknowledged his wrongdoing at this hearing. Moreover, Dr. Shahamat is making complete restitution to the Ohio Bureau of Workers' Compensation [BWC], and remains a provider for that agency. Furthermore, although Dr. Shahamat has a significant number of patients who are BWC claimants, the offense evidently involved only three or four of those patients. Finally,

Dr. Shahamat expressed remorse for his conduct, and it appears very unlikely that he will commit any such offenses in the future.

PROPOSED ORDER

It is hereby ORDERED that:

- A. **SUSPENSION OF CERTIFICATE:** The certificate of Ahmad Shahamat, M.D., to practice medicine and surgery in the State of Ohio shall be SUSPENDED for an indefinite period of time, but not less than one year.
- B. **REQUIREMENTS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Shahamat's certificate to practice medicine and surgery until all of the following conditions have been met:
 1. **Application for Reinstatement or Restoration:** Dr. Shahamat shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
 2. **Professional Ethics Course:** Dr. Shahamat shall provide acceptable documentation of successful completion of a course or courses dealing with professional ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education acquisition period(s) in which they are completed.
 3. **Personal Ethics Course:** Dr. Shahamat shall provide acceptable documentation of successful completion of a course or courses dealing with personal ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education acquisition period(s) in which they are completed.
 4. **Certification of Compliance with the Terms of Criminal Probation:** At the time he submits his application for reinstatement or restoration, Dr. Shahamat shall submit to the Board certification from the Franklin County Court of Common Pleas, dated no earlier than sixty days prior to Dr. Shahamat's application for reinstatement or restoration, indicating that Dr. Shahamat has maintained full compliance with terms of probation in criminal case number 03CR 03-1931.
 5. **Certification of Payment of Restitution to the Ohio Bureau of Workers' Compensation:** At the time he submits his application for reinstatement or

- restoration, Dr. Shahamat shall submit to the Board certification from the Ohio Bureau of Workers' Compensation that he has fully paid restitution to that agency pursuant to his October 3, 2003, Settlement Agreement.
6. **Additional Evidence of Fitness To Resume Practice:** In the event that Dr. Shahamat 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 or restoration, the Board may exercise its discretion under Section 4731.222 of the Revised Code to require additional evidence of his fitness to resume practice.
- C. **PROBATION:** Upon reinstatement or restoration, Dr. Shahamat's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least three years:
1. **Obey the Law and Terms of Criminal Probation:** Dr. Shahamat shall obey all federal, state and local laws, all rules governing the practice of medicine and surgery in Ohio, and all terms of probation imposed by the Franklin County Court of Common Pleas in criminal case number 03CR 03-1931.
 2. **Declarations of Compliance:** Dr. Shahamat shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which this Order becomes effective. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
 3. **Personal Appearances:** Dr. Shahamat shall appear in person for quarterly interviews before the Board or its designated representative, or as otherwise directed by the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
 4. **Tolling of Probationary Period While Out of State:** In the event that Dr. Shahamat should leave Ohio for three consecutive months, or reside or practice outside the State, Dr. Shahamat must notify the Board in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of this probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that the purposes of the probationary monitoring are being fulfilled.
 5. **Violation of Terms of Probation:** If Dr. Shahamat violates probation in any respect, the Board, after giving him notice and the opportunity to be heard, may institute

whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.

- D. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Shahamat's certificate will be fully restored.
- E. **REQUIRED REPORTING TO EMPLOYERS AND HOSPITALS:** Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Shahamat shall provide a copy of this Order to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Shahamat shall provide a copy of this Order to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments.
- F. **REQUIRED REPORTING TO OTHER STATE LICENSING AUTHORITIES:** Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Shahamat shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Dr. Shahamat shall also provide a copy of this Order by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement or restoration of any professional license. Further, Dr. Shahamat shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt, unless otherwise determined by the Board.

EFFECTIVE DATE OF ORDER: This Order shall become effective thirty days from the date of mailing of notification of approval by the Board.



R. Gregory Porter, Esq.
Hearing Examiner



State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: www.med.ohio.gov

EXCERPT FROM THE DRAFT MINUTES OF APRIL 14, 2004

REPORTS AND RECOMMENDATIONS

Ms. Sloan announced that the Board would now consider the findings and orders appearing on the Board's agenda. She asked whether each member of the Board had received, read, and considered the hearing record, the proposed findings, conclusions, and order, and any objections filed in the matters of: Adel Abdullah Bakhsh, M.D.; Minakshi B. Deshmukh, M.D.; Michael Shane Gainey, M.D.; Louis A. Ling, M.D.; Brian F. McNamee, M.D.; Michael T. Salwitz, M.D.; Ahmad Shahamat, M.D.; Luke A. Siegel-Schaefer, M.T.; and Brian D. Southern, M.D. A roll call was taken:

ROLL CALL:	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Ms. Sloan	- aye

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

ROLL CALL:	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye

Dr. Steinbergh - aye
Ms. Sloan - aye

Ms. Sloan noted that, in accordance with the provision in Section 4731.22(F)(2), 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.

Ms. Sloan 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.

.....

AHMAD SHAHAMAT, M.D.

Ms. Sloan directed the Board's attention to the matter of Ahmad Shahamat, M.D. She advised that objections were filed to Hearing Examiner Porter's Report and Recommendation and were previously distributed to Board members; however, those objections were not filed in a timely manner. Ms. Sloan asked whether the Board members wished to accept the objections.

MR. BROWNING MOVED TO ACCEPT DR. SHAHAMAT'S OBJECTIONS TO THE REPORT AND RECOMMENDATION. DR. BHATI SECONDED THE MOTION. A vote was taken:

Vote:

Dr. Egner	- aye
Dr. Talmage	- abstain
Dr. Bhati	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Dr. Davidson	- aye
Dr. Robbins	- aye
Dr. Garg	- abstain
Dr. Steinbergh	- aye

The motion carried.

Ms. Sloan continued that a request to address the Board has been filed on behalf of Dr. Shahamat, but was not filed in a timely manner. She asked whether the Board wished to allow Dr. Shahamat to address it.

**DR. BHATI MOVED TO ALLOW DR. SHAHAMAT TO ADDRESS THE BOARD.
DR. ROBBINS SECONDED THE MOTION. A vote was taken:**

Vote:	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.

Ms. Sloan advised Dr. Shahamat that five minutes would be allowed for his address.

Dr. Shahamat was accompanied by his attorney, Timothy P. Haffey.

Mr. Haffey asked the Board to excuse his tardiness in the request to be heard. He stated that he and Dr. Shahamat have been thinking about this Board hearing for quite some time.

Mr. Haffey indicated that he and Dr. Shahamat have listened to the Board's previous discussions, and they are encouraged that, at least, they will be heard, and that this is a very human Board.

Mr. Haffey stated that Dr. Shahamat's misconduct is that of a Barabbas. He pled guilty to a theft. Indeed, he did steal from a community, shame the profession, and shame himself. Mr. Haffey stated that Dr. Shahamat came to him about two years ago and explained his predicament. It appears that his practice is that of an inner city practice, next to Deaconess Hospital. His clients are all very under-worked and underemployed. He has a very large caseload of approximately 1500 charts. Mr. Haffey stated that Dr. Shahamat impresses him as living the medical professional. He sleeps it, eats it, drinks it, speaks it all of the time, and he's constantly addressing medical issues with everybody with whom he comes into contact. Dr. Shahamat is a very caring, loving doctor.

Mr. Haffey commented that Dr. Shahamat's problem in this situation is not that hard to fathom. The Bureau of Workers Compensation (BWC) is Dr. Shahamat's biggest payer, and is probably 77 percent of his practice. Dr. Shahamat is a solo practitioner with three other staff and other therapists in his office. There is no other doctor in his office. Dr. Shahamat conducts all the billing himself. Mr. Haffey stated that it is his understanding that Dr. Shahamat's practice grosses anywhere from a quarter of a million down. That's what he uses to pay himself and his staff.

Mr. Haffey stated that he believes that the BWC has some very Draconian billing policies. One of them is that, if you have a client with three different claims, you see that patient on three different occasions and that's how you bill for it. Mr. Haffey stated that that can happen on Chagrin Blvd., in Beachwood, or on Mayfield Rd. Dr. Shahamat's clients oftentimes don't make appointments and are late because they don't have rides and so forth. So, when he was confronted with this issue, he solved it in a way that was inappropriate, and actually a little quick and a little easy. The easy way was to fudge a date, say the patient was there twice, but he'd treat all the claims at one visit. Mr. Haffey commented that this is a kind of self-fulfilling prophecy type of a case. Dr. Shahamat thought, to justify this wrong, and he knew it was wrong, he made sure that he put the time into the case. He deserved the money.

Mr. Haffey stated that that doesn't work. He added that that kind of an issue when it arises in the office should be dealt with in consultation with other practitioners or somebody with whom you can discuss it. Dr. Shahamat didn't have anybody to talk to and he dealt with it in his own way, and he found himself in Mr. Haffey's office. Mr. Haffey stated that he explained to the doctor that that was inappropriate and he's going to get caught, because even if he thinks de facto he did the work, it's going to come up because dates and patients and files all get called into court sooner or later; and that's what happened here.

Mr. Haffey stated that, upon finding this out, the doctor came clean to everybody. They offered up all the files. They went through the files and did a random sampling of approximately 25 to 30 files in his office of the BWC cases, and they found one to three in that sample. In order for the office to maintain the BWC clientele and certificate, they had to let them extrapolate that through all of Dr. Shahamat's clients. So they paid BWC close to \$50,000, whether they did it on those files or not, so that they could keep BWC as a provider.

Mr. Haffey stated that BWC has been paid, and Dr. Shahamat has admitted to a felony. Mr. Haffey stated that he doesn't like admitting to a felony. He knows that Dr. Shahamat's conduct was a felony; however, it could have been reduced because that's just the way the legal system works. However, it wasn't reduced because he's a doctor.

Mr. Haffey concluded by stating that they have done everything they can. They've paid all of the fines. The Court found that putting Dr. Shahamat in jail is not the answer. Mr. Haffey stated that he thinks that suspending Dr. Shahamat's license for one year is the same as putting him in jail. Mr. Haffey asked that the Board not do that. Dr. Shahamat is a plowman in his field and he's a plowman at home. He has three children. He has 1,500 different files. He trembles at the thought that these patients will not be able to be served by him. Mr. Haffey asked the Board to invoke a more personal punishment for Dr. Shahamat so it isn't more collateral to injure his children and to injure his clients.

Ms. Sloan asked whether the Assistant Attorney General wished to respond.

Mr. Wilcox stated that, basically, he thinks that this comes down to what the Board feels is the appropriate penalty. Obviously, in this case, Dr. Shahamat has admitted to his felonious conduct. He admitted it in court. Mr. Wilcox commented that it is his understanding that Dr. Shahamat was cooperative with the

investigators who work for the Attorney General's office. He has practiced medicine for 25 years and has had no other disciplinary actions. Mr. Wilcox noted that Mr. Porter has recommended a one-year suspension, and stated that, given the circumstances of this case, including no prior actions, cooperation with authorities, and the remorse Dr. Shahamat expressed at hearing, one year is appropriate in this matter. Mr. Wilcox stated that he didn't think a lesser order would be as appropriate.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF AHMAD SHAHAMAT, M.D. DR. ROBBINS SECONDED THE MOTION.

Ms. Sloan stated that she would now entertain discussion in the above matter.

Dr. Steinbergh commented that her heart breaks for this physician. She commented that the Board has seen cases of Medicaid Fraud, and BWC fraud is the same issue. As a primary care physician, she certainly understands the issues with which Dr. Shahamat deals: The issue of the patient coming with two or more claims. What Mr. Haffey said is correct, you can't see the patient on the same day for different claims. Sometimes the patient will come to the office with a complaint about neck pain, and then while there, will complain about shoulder pain, as well. The physician has to make a decision at that time. Dr. Steinbergh stated that the social issue about the inner city practice, the fact that they don't always come, they don't always have a ride, are very real issues with which physicians such as herself do not have to deal. She stated that she works in a suburban practice and pretty much everything goes as scheduled. But she has covered clinic practices in inner cities, and she knows that this is exactly what happens. She's observed physicians making the same decision time and time again. Is it legitimate? She stated that it absolutely is not.

Dr. Steinbergh stated that she thinks that Dr. Shahamat clearly understands what he did. She added that she's very convinced that Dr. Shahamat is a man devoted to his practice and that he knew that this was an error. Dr. Steinbergh added that she thinks Mr. Haffey draws a good point in the sense that, had Dr. Shahamat been in a group practice, he would have talked to someone. He should have talked to someone; he should not have done what he did. He should have taken a look to see if he couldn't do it a little differently. Dr. Steinbergh stated that Dr. Shahamat did what he did, he's admitted it, he's been very cooperative, he's very sorry for what he did, and he paid BWC back. Dr. Steinbergh stated that she understands the extrapolation of the cost of this, and the way they do the negotiations for the financial remuneration.

Dr. Steinbergh stated that she finds the Proposed Order absolutely in order. She would like to stay his suspension and reduce the suspension, because she does think that Dr. Shahamat needs to stay in practice. She added that there does need to be a short time out – she's not going to say how many months – but she thinks that the Board should stay a large portion of the proposed suspension. She stated that she doesn't disagree with anything in the Proposed Order. She thinks that taking the courses are appropriate and the probationary time is appropriate, and so forth, but she thinks that the Board should use some compassion, as Dr. Shahamat has used compassion in his practice. He's made restitution to the BWC, and this will

forever be a mark on him. He knows that. Dr. Steinbergh stated that she doesn't think that Dr. Shahamat needs to be out for very long.

Dr. Robbins agreed with Dr. Steinbergh. The difficulty he sees here in this situation is that when faced with the conundrum he was facing, there were only two things to do: The first was to try to convince BWC that the policy was not an effective policy and was not fair. Dr. Robbins stated that, having dealt with situations like that, he knows how difficult that is. The second was to treat the complaint and not bill for it. Dr. Robbins stated that he wishes that Dr. Shahamat would have chosen the latter, which is what BWC counts on the physician doing. Dr. Robbins stated that he understands the stresses involved. He continued that his practice is very much like Dr. Steinbergh's: His patients don't have transportation difficulties; but it is incredibly annoying to find something but then have to tell someone that they have to come back in 48 hours to have it done because if you do it now, you're going to be responsible for the bill, the insurance won't cover it. Dr. Robbins stated that you do what you have to do, and you have to have the patient come back, or you just do the procedure and not charge for it.

Dr. Robbins stated that he also has a hard time seeing where a year's suspension would be valuable in this situation. He's a little surprised that BWC allowed the settlement that they did and allowed him back into practice. It's kind of forward-thinking in a way, but he's a little surprised. He's happy for Dr. Shahamat and his patients that BWC did settle. He stated that he, too, would be in favor of the Order with a lower suspension period, as low as 90 days.

Dr. Bhati stated that, having heard how cooperative Dr. Shahamat was, how remorseful and sorry he is, this does not diminish the fact that Dr. Shahamat pled guilty and was convicted of a fifth degree felony offense. That's a very significant offense. He would not be in favor of allowing Dr. Shahamat to return to work without any suspension. Dr. Bhati stated that he thinks that Dr. Shahamat needs some time out to recognize that a fifth degree felony is a significant felony.

Dr. Davidson stated that she agrees with Dr. Bhati. The Proposed Order is outside the Board's disciplinary guidelines already in that it doesn't even invoke the minimum penalty, which is permanent revocation for a felony in the course of practice. The fact that you don't like BWC's rules doesn't change anything. She agrees totally with Dr. Robbins that there were other courses that Dr. Shahamat could have taken. She remarked on the fact that Dr. Shahamat knew that he was breaking the rules. She stated that every once in a while the Board sees a physician who blundered into something and who can convince the Board that he really didn't realize that this arcane rule applied to him, and it constitutes a felony in the course of practice. From the testimony, it's pretty clear that Dr. Shahamat knew what he was doing.

Dr. Davidson stated that, having said all of that, she would not speak for a permanent revocation, but would agree to a somewhat lesser suspension, but not as little as 90 days. She suggested a six-month suspension.

DR. BHATI MOVED TO AMEND THE SUSPENSION PERIOD OF THE PROPOSED ORDER TO 180 DAYS. DR. ROBBINS SECONDED THE MOTION.

Ms. Sloan stated that she would now entertain further discussion in the above matter.

Concerning Dr. Shahamat's conviction, Dr. Steinbergh stated that the Board has to respect that. That's what makes this discussion so difficult. The Board had the same exact issue in a previous Medicaid fraud case. That physician had the same conviction, but he lost his privileges with Medicaid. However, that physician came before the Board and still believed that he did the right thing. He knew that it was wrong, but he believed that they owed him the money, and he felt that he only billed for what he really did. He saw the patients for more than two conditions on a day and made out the paperwork and billed for the next day. The Board suspended that physician for a year and imposed pretty much the same Order as is being proposed here. The big difference she sees here is not in what they did. Dr. Shahamat knew he was doing wrong, and he should have made a different decision. He should have made the decision to just simply treat the patient on that date, do what he had to do, and bill it. She noted that probably all physicians do that at times. They simply take care of the case, knowing that they aren't going to be paid what they deserve. They have to follow the rules.

Dr. Steinbergh stated that she really does believe that the Board has to be compassionate in this case. She doesn't know why BWC agreed to settle with Dr. Shahamat, but she thinks the big issue is that 70 percent of Dr. Shahamat's practice is BWC, and he meets a need in that community. That's her interpretation of this. This has been his practice, and so many physicians do not do BWC cases, so those doctors who are doing them are overburdened and they run into these kinds of issues.

Dr. Egner stated that she has really changed her mind. Personally, her feeling was that Dr. Shahamat was given a break with a year's suspension and three years of probation because the minimum penalty is permanent revocation. After the Board's discussion, she has changed her mind. She is not in favor of six months out. She thinks that six months is the same as a year out. If the Board feels that Dr. Shahamat needs to take care of these patients and these patients need him, to not be available for six months is a very long time.

Dr. Egner stated that she thinks everyone on the Board who is in practice faces these situations every day, but on a different scale. She gives care every day for which she doesn't get paid. She knows it, she doesn't like it, she complains about it, but it's not the majority of her practice. That's how she rationalizes it – at least she's not doing this for everybody. Dr. Shahamat's situation is different. BWC cases are his practice, but he's chosen that kind of practice. He's chosen to live within a system that is very difficult in which to live. In terms of determining how much time Dr. Shahamat should be out of practice, the Board should look at why it's putting him out of practice. If there's a punishment part of it, six months may be appropriate; or the year is probably appropriate. If it's to learn a lesson, Dr. Shahamat has probably already learned a lesson. If the Board feels that Dr. Shahamat really is a vital part of his community in giving medical service, then it probably should be less.

Dr. Bhati stated that a fifth degree felony deserves at least six months out of practice.

Dr. Steinbergh asked why the Board couldn't simply use the same language but stay the suspension.

Dr. Bhati stated that Dr. Shahamat would be back in his office tomorrow morning. Dr. Bhati stated that it would be out of line with what the Board would do with a fifth degree felony.

Dr. Buchan asked Dr. Steinbergh whether she wished to stay the suspension in its entirety.

Dr. Steinbergh stated that she does.

Dr. Buchan stated that he is in favor of buying into the mitigating circumstances here, and he thinks the need about which the Board has spoken is real. The concept of actively dating claims falsely is worthy of penalty and punishment. He noted that Dr. Shahamat made restitution, and that in 25 years the quality of his care is not in question. Dr. Buchan stated that he perceives that Dr. Shahamat is not only meeting a need, but he's meeting it reasonably so. Dr. Buchan stated that he would be in favor of a lesser suspension, but he would not be in favor of staying the suspension entirely. Dr. Buchan suggested a 30-day suspension in this case.

Dr. Steinbergh asked Dr. Bhati whether he would agree to accept Dr. Buchan's suggestion.

Dr. Bhati stated that he thinks six months is the minimum he will think about.

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

Vote:	Dr. Egner	- nay
	Dr. Talmage	- abstain
	Dr. Bhati	- aye
	Dr. Buchan	- nay
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- nay
	Dr. Garg	- abstain
	Dr. Steinbergh	- nay
	Ms. Sloan	- nay

The motion failed.

**DR. BUCHAN MOVED TO AMEND THE SUSPENSION PERIOD TO 30 DAYS.
DR. STEINBERGH SECONDED THE MOTION.**

Ms. Sloan stated that she would entertain further discussion in the above matter.

Dr. Steinbergh suggested that the amended motion read as a one-year suspension with all but 30 days stayed. She stated that she thinks that the Board is staying the majority of the suspension because of the mitigating circumstances. She noted that the proposed amendment does fall below the Board's guidelines, but she added that, for her, it's a language issue and perhaps it will make other Board members more comfortable.

Dr. Bhati again asked Board members to keep in mind that this is a fifth degree felony in the course of practice.

Dr. Kumar stated that his problem with a 30-day suspension is that the Order requires Dr. Shahamat to complete a number of courses prior to reinstatement of his license.

Dr. Steinbergh stated that that language could be made part of the probationary conditions. The Board could require Dr. Shahamat to complete those courses within the first year of his probation.

Dr. Kumar stated that he wants a straightforward suspension in this case.

Mr. Browning stated that he is in support of the direction of the suspension, but feels that going from one year to one month is too far. He stated that he won't support the 30-day suspension, but he will support a 90-day suspension. He suggested a 90-day suspension as a reasonable compromise.

Dr. Davidson stated that she tends to agree with Mr. Browning. She's not sure she can go for 90 days. She stated that she hasn't heard enough discussion that, when the Board down the line looks at this discussion when the next guy who gets a felony in the course of practice wants a 30-day suspension, that the Board is going to say that this is different. Dr. Shahamat knew that he was breaking the law. Dr. Davidson stated that physicians don't like this rule, it's arcane, it's unjustified; but this isn't the way you change that. Dr. Davidson stated that by the proposed 30 days, the Board is being fairly radically inconsistent with itself and risks the future of its disciplinary guidelines.

Dr. Kumar spoke in support of Mr. Browning's suggestion of 90 days because he believes during that timeframe Dr. Shahamat can complete the required professional course and ethics course.

Dr. Egner stated that part of what lets her be more lenient, although she does think 30 days is too lenient, is that Dr. Shahamat did not bill for services he did not render. In other cases of fraud the Board has seen, many times those physicians were either upcoding, charging for services that were never rendered, lab fees were charged for and the labs were never done, unnecessary services were given to patients, those are the kinds of things she recalls most vividly of past fraud cases. That definitely is more egregious. She looks at this case and finds that Dr. Shahamat treated the patient appropriately, he gave the patient what the patient needed to have, and he wrote in the chart what he did, and they didn't find what he did to be inappropriate. That's the part of her that can go to a more lenient sanction. She indicated that she was also impressed that BWC kept Dr. Shahamat in the system. She stated that the Board has seen more Medicaid fraud cases than BWC, and she doesn't know whether they act differently, but most of the time the physician is excluded

from that system for at least some period of time, and Dr. Shahamat has not been. Even BWC was more lenient in this case.

Dr. Egner again stated that she thinks that a 30-day suspension is insufficient, but she would go with a 90-day suspension. She added that her previous comments are the mitigating circumstances that make this different from other fraud cases the Board has seen.

DR. BUCHAN MODIFIED HIS MOTION TO AMEND THE SUSPENSION PERIOD TO A 90-DAY MINIMUM SUSPENSION. DR. STEINBERGH, AS SECOND, AGREED.

Dr. Steinbergh noted that Mr. Haffey has suggested that the Board could impose community service rather than taking Dr. Shahamat out of practice. She stated that she thinks that Dr. Shahamat needs to be certain that the Board is not taking this case lightly. He committed fraud in the course of practice, and he knows he committed fraud. He was convicted of fraud. Dr. Steinbergh added, however, that the Board does consider each case individually, and she feels that the Board needs to be more compassionate with Dr. Shahamat. Although taking him out of practice suits the Board's disciplinary guidelines and allows the Board to be consistent, she just thinks that sometimes the Board needs to be thinking that maybe this is a little bit different and the Board needs to draw on other sources. She suggested using some of the thoughts that Mr. Haffey suggested in terms of more individualized punishment. Would community service be appropriate? Could the Board craft an order that would allow a short period of time out but also, in lieu of a lengthy time out, could the Board craft a certain number of hours a month in community service. She can't remember the last time the Board did that.

Dr. Kumar stated that he's already doing community service by treating BWC cases.

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

Vote:	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.

DR. BHATI MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF AHMAD

SHAHAMAT, M.D. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

Vote:	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.



State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: www.state.oh.us/med/

October 8, 2003

Ahmad Shahamat, M.D.
30523 Atlanta Lane
Westlake, Ohio 44145

Dear Doctor Shahamat:

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

- (1) On or about July 30, 2003, in the Franklin County Court of Common Pleas, Columbus, Ohio, you pleaded guilty to one count of Worker's Compensation Fraud, a violation of R.C. 2913.48, a felony of the fifth degree.

The conduct which resulted in the above plea of guilty, and adjudication of guilt, is more fully set forth in the Indictment, Entry of Guilty Plea and Judgment Entry, copies of which are attached hereto and incorporated herein.

Your plea of guilty and/or the judicial finding of guilt, as alleged in paragraph one (1) above, individually and/or collectively, constitute "[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony," as that clause is used in R.C. 4731.22(B)(9).

Pursuant to R.C. Chapter 119., 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 days of the time of mailing of this notice.

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

In the event that there is no request for such hearing received within thirty days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, permanently

Mailed 10-9-03

Ahmad Shahamat, M.D.

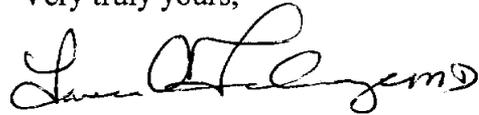
Page 2

revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand or place you on probation.

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

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Lance A. Talmage, M.D.
Secretary

LAT/jag
Enclosures

CERTIFIED MAIL # 7000 0600 0024 5150 6103
RETURN RECEIPT REQUESTED

4255 Pearl Rd.
Suite 405
Cleveland, Ohio 44109

CERTIFIED MAIL # 7000 0600 0024 5150 6097
RETURN RECEIPT REQUESTED

Timothy P. Haffey, Esq.
Bernard, Haffey & Bohnert Co., L.P.A.
P.O. Box 24005
Cleveland, Ohio 44124-0005

CERTIFIED MAIL # 7000 0600 0024 5150 6080
RETURN RECEIPT REQUESTED

IN THE COMMON PLEAS COURT
FRANKLIN COUNTY, OHIO
CRIMINAL DIVISION

42176015

CASE NO: 03CR 03-1931

STATE OF OHIO
COUNTY OF FRANKLIN, ss:

DR. AHAMAD SHAHAMAT MD
INDICTMENT FOR:
Workers' Compensation Fraud, Felony of the
Fourth Degree, O.R.C. §2913.48

FILED
FRANKLIN COUNTY
03 MAR 20 PM 2:10
CLERK OF COURT

In the Court of Common Pleas, Franklin County, Ohio, of the Special Grand Jury term beginning August 9, 2002:

COUNT ONE

The Jurors of the Special Grand Jury of the State of Ohio, duly selected, impaneled, sworn, and charged to inquire of crimes and offenses committed within the body of Franklin County, in the State of Ohio, in the name of and by the authority of the State of Ohio, upon their oath do find and present that from on or about April 26, 1999 to on or about March 12, 2001, Dr. Ahmad Shahamat MD, in Franklin County, Ohio, with purpose to defraud, or knowing that he was facilitating a fraud, did receive workers' compensation benefits to which he was not entitled, and/or did make or present, or cause to be made or presented a false or misleading statement with the purpose to secure payment for goods or services rendered under Chapter 4121., 4123., 4127., or 4131 of the Revised Code or to secure workers' compensation benefits, and/or did alter, falsify, destroy, conceal, or remove any record or document, to wit: dates on office treatment

ON COMPUTER
13

notes, that are necessary to fully establish the validity of any claim filed with, or necessary to
establish the nature and validity of all goods and services for which reimbursement or payment
was received or is requested from, the Bureau of Workers' Compensation, or a self-insuring
employer under Chapter 4121., 4123., 4127., or 4131. of the Revised Code, and the value of the
goods, services, property, or money stolen is five thousand dollars (\$5,000.00) or more, and less
than one hundred thousand dollars (\$100,000.00), in violation of Ohio Revised Code §2913.48,
Workers' Compensation Fraud, a Felony of the Fourth Degree.

Contrary to the statute in such cases made and provided and against the peace and dignity
of the State of Ohio.

COUNT TWO

COUNT THREE

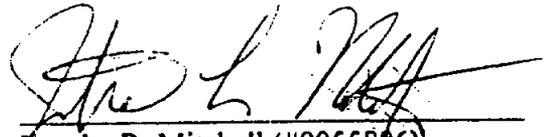
42176017

COUNT FOUR

unneeded

Jim Petro
Attorney General of Ohio

By:



~~Keesha R. Mitchell (#0055886)~~

Jonathan L. Metzler (#0063508)

Assistant Attorneys General

Health Care Fraud Section

Workers' Compensation Fraud Unit

101 E. Town Street, 4th Floor

Columbus, Ohio 43215-5148

(614) 728-2845

(614) 728-2122 (Fax)

A TRUE BILL



Foreperson of the Grand Jury

42176019

State of Ohio v. Dr. Ahmad Shahamat MD
Address: 2455 Pearl Road, Suite 404, Cleveland, OH 44109
DOB: November 5, 1942
Race/Sex: I/M
Date of Arrest: N/A
SSN:
Police Agency: N/A
Municipal Reference: N/A

Count 1: \$2913.48(F4)
Count 2:
Count 3:
Count 4:

**IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY,
CRIMINAL DIVISION - GENERAL DIVISION**

State of Ohio
Plaintiff,
vs.

Case No. 03 CR 1931
Indictment for: Workers' Compensation Fraud (F4), R.C. §2913.48,
One Count
43275105
(Total: Counts)

Ahmad Shahamat MD
Defendant.

ENTRY OF GUILTY PLEA

I, Ahmad Shahamat MD, Defendant in the above-styled case, am being represented by Timothy Haffey, as legal counsel. My Constitutional and Statutory rights have been explained to me by the Court and by my counsel. I have reviewed the facts and law of my case with my counsel. I now desire to withdraw my previously-entered general plea of "Not Guilty" and I now plead "Guilty" to the stipulated lesser included offense of count one, Workers' Compensation Fraud, a violation of R.C. §2913.48, a felony of the fifth degree.

I understand that my guilty plea(s) to the crime(s) specified constitute(s) both an admission of guilt and a waiver of any and all constitutional, statutory, or factual defenses with respect to such crime(s) and this case. I further understand that by pleading "Guilty", I waive a number of important and substantial constitutional, statutory and procedural rights, which include, but are not limited to, the right to have a trial by jury, the right to confront witnesses against me, to have compulsory subpoena process for obtaining witnesses in my favor, to require the State to prove my guilt beyond a reasonable doubt on each crime herein charged at a trial at which I cannot be compelled to testify against myself, and to appeal the verdict and rulings of the trial Court made before or during trial, should those rulings or the verdict be against my interests.

I understand the maximum prison term(s) for my offense(s) to be as follows: twelve (12) months

FILED COURT OF COMMON PLEAS OHIO
MAY 31 AM 8:18

I understand that the prosecution and defense jointly recommended to the Court sentence(s) of (R.C. 2953.08(D)) _____

Place an X in the appropriate box(es).

If the Court finds me guilty of a Repeat Violent Offender Specification (R.C. 2941.149) and the Court imposes the maximum prison term(s) for the underlying offense(s); or guilty of a violation of R.C. 2925.03, 2925.04, or 2925.11 that requires a ten-year prison term; or guilty of a Major Drug Offender Specification (R.C. 2941.1410) that requires a ten-year prison term(s) for the underlying offense(s); or guilty of R.C. 2923.32 when the most serious offense in the pattern is a first degree felony that requires a ten-year prison term; or guilty of an attempted forcible violation of R.C. 2907.02 with the victim being under 13 years of age that requires a ten-year prison term; I understand that the Court may impose an additional prison term of 1 - 10 years to each term.

I understand that R.C. 2929.13(F) requires mandatory prison term(s) for the following offenses and that I will not be eligible for community control sanctions, judicial release, or earned days of credit in relation to this/these term(s). _____

N/A

I understand that R.C. 2929.13(D) establishes a presumption in favor of a prison term for the following offense(s): _____

N/A

I understand that the court may impose community control sanctions upon me. If I violate the conditions of such community control sanctions or the condition under R.C. 2951.02(C)(1b), I understand that the Court may extend, up to five years, the time for which I am subject to community control sanctions, impose more restrictive sanctions, or imprison me for up to the maximum term(s) allowed for the corresponding offense(s) as set forth above.

DEFENDANT
PA-2-C/Rev. 1/98

Ahmad Shahamat MD

ATTORNEY FOR DEFENDANT

Timothy Haffey

If the Court imposes a prison term, I understand that the following period(s) of post-release control is/are applicable:

Place an X in the appropriate box(es).

Place an X in the appropriate box(es).

- F-1 Five Years - Mandatory
- Felony Sex Offense Five Years - Mandatory
- F-2 Three Years - Mandatory
- F-3 with Cause or Threat of Physical Harm ... Three Years - Mandatory

- F-3 without Cause or Threat of Physical Harm Up to Three Years - Optional
- F-4 Up to Three Years - Optional
- F-5 Up to Three Years - Optional

043275106

I understand that a violation of post-release control conditions or the condition under R.C. 2967.131 could result in more restrictive non-prison sanctions, a longer period of supervision or control up to a specified maximum, and/or reimprisonment for up to nine months. The prison term(s) for all post-release control violations may not exceed one-half of the prison term originally imposed. I understand that I may be prosecuted, convicted, and sentenced to an additional prison term for a violation that is a felony. I also understand that such a felony violation may result in a consecutive prison term of twelve months or the maximum period of unserved post-release control, whichever is greater. Prison terms imposed for violations or new felonies do not reduce the remaining post-release control period(s) for the original offense(s).

I understand that each felony count to which I am pleading guilty corresponds with the following fine(s) (R.C. 2929.18):

Place an X in the appropriate box(es).

Place an X in the appropriate box(es).

- Aggravated Murder up to \$25,000
- Murder up to \$15,000
- F-1 up to \$20,000
- F-2 up to \$15,000

- F-3
- F-4
- F-5

For F-1, F-2, or F-3 Drug Offenses (violations of R.C. 2925, 3719, or 4729) - Mandatory Fine of at Least One-Half of the Maximum for Underlying Offense

For Offenses Subject to R.C. 2929.25 - Optional Fine of Not More Than \$1 Million Dollars

For Offenses Subject to Organizational Penalties under R.C. 2929.31 - Mandatory Fines as Follows

2003 JUL 31 AM 8:18
 CLERK OF COURTS
 OHIO
 FEDERAL DISTRICT COURT
 CLEVELAND, OHIO

I understand that the Court may also require me to pay costs, restitution, day fines, and/or costs of all sanctions imposed upon me. I understand that the imposition of financial sanctions would constitute a civil judgment against me. (R.C. 2929.18)

I understand that I am (am not) subject to mandatory driver's license suspension for not less than six months nor more than five years

I understand that the Court upon acceptance of my plea(s) of "Guilty" may proceed with judgment and sentence. I hereby assert that no person has threatened me, promised me leniency, or in any other way coerced or induced me to plead "Guilty" as indicated above; my decision to plead "Guilty," thereby placing myself completely and without reservation of any kind upon the mercy of the Court with respect to punishment, represents the free and voluntary exercise of my own will and best judgment. I am completely satisfied with the legal representation and advice I have received from my counsel.

I am (am not) a citizen of the United States of America

DEFENDANT: *[Signature]*

I hereby certify that I have counseled my client to the best of my professional ability with respect to the facts and law of this case. I have also diligently investigated his/her cause and assertions and possible defenses. I represent my client is competent to proceed to change his/her plea(s), as indicated hereinabove, and, in my opinion, that he/she acts knowingly, voluntarily, and intelligently in such matter.

ATTORNEY FOR DEFENDANT: *[Signature]*

The Court, being fully advised as to the facts, hereby accepts the defendant's plea(s) of "Guilty," entered hereinabove, as voluntarily and intelligently made, with full knowledge of the consequences thereof, including waivers of all applicable rights and defenses and understanding of maximum penalties. Upon recommendation of the Prosecuting Attorney, in consideration of said plea(s) of "Guilty," the Court hereby enters a Nolle Prosequi as to Count(s) two (2), three (3) and four (4)

APPROVED: *[Signature]*
Assistant Attorney General Jonathan L. Metzler (#0063508)

JUDGE: *[Signature]*

[Signature]
Deputy Attorney General Keesha R. Mitchell (#0055886)

[Signature]
Attorney for the Defendant
PA-2-C/Rev. 1/98

7/30/03
Date

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO
CRIMINAL DIVISION

43-27J10

CLERK OF COURTS
BY: LG

2003 SEP 15 PM 2:51

FILED IN COURT
CLERK OF COURTS
FRANKLIN COUNTY, OHIO

STATE OF OHIO,

TERMINATED NO.

Plaintiff,

vs.

CASE NO. 03CR-03-1931

AHMAD SHAHAMAT,

JUDGE CRAWFORD

Defendant.

JUDGMENT ENTRY

On July 30, 2003, the State of Ohio was represented by the Attorney General and the Defendant was represented by Attorney Timothy Haffey. The Defendant after being advised of his rights pursuant to Crim. R. 11, entered a plea of guilty to the stipulated lesser included offense of Count One of the indictment, to-wit: **Workers' Compensation Fraud**, in violation of R.C. 2913.48, a felony of the fifth degree.

Upon application of the Prosecuting Attorney and for good cause shown, it is ORDERED that a Nolle Prosequi be entered for Counts Two, Three and Four of the indictment.

The Court found the Defendant guilty of the charges to which the plea was entered. The Court ordered and received a pre-sentence investigation.

On September 12, 2003, a sentencing hearing was held pursuant to R.C. 2929.19. The State of Ohio was represented by Attorney General Jonathan Metzler and the Defendant was represented by Attorney Timothy Haffey. The Prosecuting Attorney and the Defendant's attorney did not recommend a sentence.

The Court afforded counsel an opportunity to speak on behalf of the Defendant and addressed the Defendant personally affording him an opportunity to make a statement in his own behalf in the form of mitigation and to present information regarding the existence or non-existence of the factors the Court has considered and weighed.

The court has considered the purposes and principles of sentencing set forth in R.C. 2929.11 and the factors set forth in R.C. 2929.12. In addition, the Court has weighed the factors as set forth in the applicable provisions of R.C. 2929.13 and R.C.

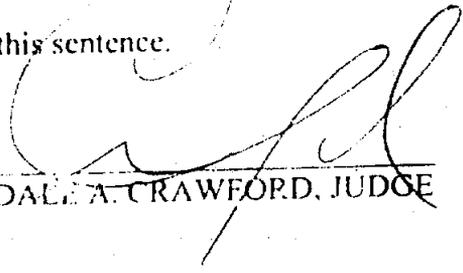
2929.14. The Court further finds that a prison term is not mandatory pursuant to R.C. 2929.13(F).

The Court hereby imposes a period of Community Control for **2 years under basic supervision**. In addition to the provisions of R.C. 2951.02 and the general requirements of the Franklin County Department of Community Control, as authorized by the Common Pleas Court and as given to the Defendant in writing, the Court imposes the following Community Control Sanctions (See R.C. 2929.15, R.C. 2929.16 and R.C. 2929.17): Defendant shall pay restitution in the amount of \$12,962.76 to the victim, the State of Ohio, through the Probation Department.

The Court has considered the Defendant's present and future ability to pay a fine and financial sanctions and, pursuant to R.C. 2929.18, renders judgment for the following fine and/or financial sanctions: Defendant shall pay Court costs in the amount of \$2,211.77 and pay a fine in the amount of \$5,000.00.

After the imposition of Community Control, the Court, pursuant to R.C. 2929.19(B)(5) notified the Defendant, orally and in writing, what could happen if he violates Community Control. The Court further indicated that if the Defendant violates Community Control he will receive a prison term of **12 months**.

The Court finds that the Defendant has **0 days** of jail time credit and hereby certifies the time to the Franklin County Corrections Center. The Defendant is to receive jail time credit for all additional jail time served while awaiting transportation to the institution from the date of the imposition of this sentence.


DALE A. CRAWFORD, JUDGE

Copies to:

Jonathan Metzler
Assistant Attorney General

Timothy Haffey
Counsel for Defendant

03CR-03-1931

PAGE 2