STATE MEDICAL BOARD OF OHIO
77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

May 10, 1996

Todd W. Estroff, M.D.
627 Old Ivy Road
Atlanta, GA 30342

Dear Doctor Estroff:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Suzanne E. Kelly, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on May 8, 1996, including Motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

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 a copy of that Notice of Appeal with 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 Receipt No. P 152 983 525
Return Receipt Requested

cc: Robert P. Sherman, Esq.

Certified Mail No. P 152 983 526
Return Receipt Requested

Mailed 5-9-96

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 Suzanne E. Kelly, Attorney Hearing Examiner, State Medical Board; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on May 8, 1996, including Motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio, constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Todd W. Estroff, 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.

(SEAL)

Thomas E. Gretter, M.D.
Secretary

5/8/96
Date

STATE MEDICAL BOARD OF OHIO
77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF *

*

TODD W. ESTROFF, M.D. *

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on the 8th day of May, 1996.

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

The certificate of Todd W. Estroff, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED.

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

Thomas E. Gretter, M.D.
Secretary

(SEAL)

5/8/96
Date

REPORT AND RECOMMENDATION
IN THE MATTER OF TODD W. ESTROFF, M.D.

The Matter of Todd W. Estroff, M.D., came on for hearing before Suzanne E. Kelly, Esq., Hearing Examiner for the State Medical Board of Ohio, on February 16, 1996.

INTRODUCTION

I. Basis for Hearing

A. By letter dated July 12, 1995 (State's Exhibit 1), the State Medical Board [Board] notified Todd W. Estroff, M.D., that it intended to determine whether to discipline his certificate to practice medicine and surgery for one or more of the following reasons:

(1) On or about February 9, 1995, Dr. Estroff pleaded guilty and was convicted in the United States District Court, Northern District of Florida, of one (1) count of Mail Fraud in violation of 18 U.S.C. 1341.

Claims for repayment were submitted to CHAMPUS and other private insurance companies for specific medical services, on behalf of Todd W. Estroff, M.D., P.A., a Florida corporation in which Dr. Estroff was the sole officer and director. Dr. Estroff knew tht the claims were false, fictitious, and fraudulent. The acts which underlie this conviction were committed in tl e course of practice.

The Board alleged that Dr. Estroff's acts, conduct, and/or omissions as alleged in paragraph (1) above. individually and/or collectively, constituted "(t)he obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentation in the course of practice," as that clause is used in Section 4731.22(B)(8), Ohio Revised Code. Further, the Board alleged that Dr. Estroff's acts, conduct, and/or omissions as listed above in paragraph (1), individually and/or collectively, constituted "(a) plea of guilty to, or a judicial finding of guilt of, a felony," as that clause is used in Section 4321.22(B)(9), Ohio Revised Code.

The Board advised Dr. Estroff that, pursuant to Chapter 119, Ohio Revised Code, he was entitled to request a hearing in this matter.

B. On July 25, 1995, Sanford M. Estroff, Esq., submitted a written hearing request on behalf of Dr. Estroff. (State's Exhibit 2)

II. Appearances

A. On behalf of the State of Ohio: Betty D. Montgomery, Attorney General, by Lawrence D. Pratt, Assistant Attorney General.

B. On behalf of the Respondent: Robert P. Sherman, Esq.

EVIDENCE EXAMINED

I. Testimony Heard

Neither party presented witnesses.

II. Exhibits Examined

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

A. Presented by the State

1. State's Exhibit 3: July 31, 1995, letter to Sanford M. Estroff, Esq., from the Board advising that a hearing had been set for August 11, 1995, and further advising that the hearing had been postponed pursuant to Section 119.09, Ohio Revised Code.

2. State's Exhibit 4: August 4, 1995, letter to the Board from Attorney Estroff. (2 pp.)

3. State's Exhibit 5: August 7, 1995, letter to Attorney Estroff from the Board scheduling the hearing for November 7, 1995. (2 pp.)

4. State's Exhibit 6: October 16, 1995, Entry granting the Respondent's request for a continuance and rescheduling the hearing to December 8, 1995.

5. State's Exhibit 7: November 14, 1995, Respondent's Motion for Continuance. (2 pp.)

6. State's Exhibit 8: November 22, 1995, Entry granting the Respondent's Motion for Continuance and rescheduling the hearing for February 16, 1996.

7. State's Exhibit 9: December 2, 1994, Plea Agreement in the United States District Court, Northern District of Florida, Pensacola Division, Case No. 94-03151, *United States of America vs. Todd W. Estroff, M.D., and Todd W. Estroff, M.D., P.A., a Florida Corporation.* (5 pp.)

8. State's Exhibit 10: Certified copy of a December 2, 1994, Information filed in the United States [U.S.] District Court, Northern District of Florida, Pensacola Division, *United States of America vs. Estroff*, filed December 2, 1994. (7 pp.)

9. State's Exhibit 11: Certified copy of a February 9, 1995, Judgment Entry, U.S. District Court for the Northern District of Florida, Pensacola, Florida, *United States of America v. Estroff.* (6 pp.)

10. State's Exhibit 12: Certified copy of a February 9, 1995, Judgment Entry, U.S. District Court for the Northern District of Florida, Pensacola, Florida, *United States of America v. Estroff.* Attached is a copy of the Information listed above as State's Exhibit 10. (10 pp.)

B. Presented by the Respondent

1. Respondent's Exhibit A: Curriculum vitae of Todd Wilk Estroff, M.D. (13 pp.)

2. Respondent's Exhibit B: Copy of State Medical Board of Ohio Voluntary Surrender of License In Re: Todd W. Estroff, M.D., License #35-04-0893. Included with this document are: 1) Copy of the Final Order of the State of Florida, Agency for Health Care Administration, Board of Medicine; 2) Copy of State of Florida Consent Agreement; 3) Copy of Submission of Billing Plan For Plan Approval, State of Florida Board of Medicine; 4) Copy of the Plea Agreement, U.S. District Court, Northern District of Florida, Pensacola, Florida; 5) Copy of the Information filed in the U.S. District Court, Northern District of Florida, Pensacola, Florida; and 6) Copy of the Judgment in a Criminal Case, U.S. District Court of Florida, Pensacola, Florida. (54 pp.)

III. Post-Hearing Admission to the Record

By the Hearing Examiner's own motion, the following exhibits were admitted into evidence:

1. Board Exhibit A: Copy of 18 U.S.C. 1341 (4 pp.)

2. Board Exhibit B: Copy of March 11, 1996, letter to the Board from Mr. Sherman regarding Dr. Estroff's Ohio license to practice medicine and enclosing Dr. Estroff's identification card. (2 pp.)

PROCEDURAL MATTERS

1. Respondent requested an opportunity to present a brief to discuss whether intent is a required element of 18 U.S.C. 1341 Upon completing his research, Respondent's counsel withdrew his request to submit a brief and conceded that intent is a required element of 18 U.S.C. 1341. (Board Exhibits [Bd. Exs.] A & B)

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. Todd Wilk Estroff, M.D., attended Michigan State University and earned a Bachelor of Art degree with High Honors in 1971. In 1976, Dr. Estroff completed his medical degree in at Yale University Medical School. Following Dr. Estroff's internal medicine internship at the Cleveland Clinic Hospital, he completed separate residencies in Adult and Child Psychiatry. Dr. Estroff is board certified in Psychiatry, Addiction Psychiatry, and Child and Adolescent Psychiatry. Throughout his career, Dr. Estroff researched, lectured, and published on a variety of topics. (Respondent's Exhibit [Res. Ex.] A)

   Following his residency, Dr. Estroff became the Associate Director of the Neuropsychiatric Evaluation Unit II at Fair Oaks Hospital in New Jersey. Dr. Estroff rose to the position of Director of Outpatient Neuropsychiatric Evaluation at the same hospital in June 1985. In February 1987, Dr. Estroff moved his practice to Fort Walton Beach, Florida, where he served as the medical director for Harbor Oaks Hospital until September 1989. Dr. Estroff

became the medical director of the Glenbeigh Hospital of the Palm Beaches from November 1989 through January 1992. For the first nine months of 1992, Dr. Estroff maintained a private practice in Stuart, Florida. In September 1992, Dr. Estroff became the Medical Director of Psychiatric Services at the Southern Regional Medical Center in Riverdale, Georgia. He maintained this position until November 1994. (Res. Ex. A)

2. In February 1987, Dr. Estroff formed a Florida corporation known as Todd W. Estroff, M.D., P.A. [Corporation]. Dr. Estroff was the Corporation's sole officer and director. Between February 1987 and June 30, 1991, Dr. Estroff and his Corporation provided medical services under the United States Department of Defense Office of Civilian Health and Medical Program of the Uniformed Services (CHAMPUS). CHAMPUS contracted with fiscal intermediaries to help administer the CHAMPUS program and, in particular, to help process and pay claims. Dr. Estroff and his Corporation submitted claims to the fiscal intermediaries through the United States mail or by electronic means. Payments were routinely mailed from the fiscal intermediaries to the providers and beneficiaries. (State's Exhibit [St. Ex.] 10)

3. Between 1987 and 1991, Dr. Estroff submitted claims for reimbursement from CHAMPUS for specific medical services which he knew had not been rendered. A post-payment audit of selected CHAMPUS claims conducted in 1990 disclosed that the Corporation had billed for the following services:

- Comprehensive follow-up hospital visits which were not performed as contemplated by the "Physicians' Current Procedural Terminology (CPT)." Specifically, Dr. Estroff billed for a CPT code of 90280 when he did not perform that level of service. This practice is known as "up-coding."

- Medical services which were not rendered because the patient was on furlough, or had been discharged from the hospital.

- Medical services which had been rendered by a provider other than by Dr. Estroff or the Corporation.

- Medical services which were included in the cost of hospitalization and which were not subject to separate billing by a member of the hospital's staff, or by a patient's treating physician.

Subsequent audits performed by CHAMPUS and Wisconsin Physicians Services (WPS), a fiscal intermediary, of all claims submitted by the Corporation for reimbursement, revealed that the Corporation had engaged in these practices frequently. (St. Ex. 10)

4. An investigation by the Federal Bureau of Investigation (FBI) identified approximately forty-nine private insurance companies who had received claims for the reimbursement of medical services from the Corporation. The FBI investigation found most of these claims were false, fictitious and fraudulent in the manner described above. (State Ex. 10)

5. On February 9, 1995, Dr. Estroff appeared in the United States District Court for the Northern District of Florida, Pensacola Division. Pursuant to the plea agreement, he pleaded guilty to one count of Mail Fraud, a violation of 18 U.S.C. 1341, as described in an Information. Section 1341 provides in pertinent part:

> Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious coin, obligation, security, or other article, for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail or such carrier according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing, shall be fined under this title or imprisoned not more than five years, or both....

(St. Exs. 9, 10, & 11; Bd. Ex. A)

6. On February 9, 1995, the Court sentenced Dr. Estroff to a term of seven and one-half (7 1/2) months imprisonment. Dr. Estroff served his term of imprisonment and was released on October 23, 1995. Following his imprisonment, Dr. Estroff began serving a three year term of supervised release, the first seven and one-half months to be served in a home detention

program. Dr. Estroff must pay a fine of $25,000.00, restitution to CHAMPUS in the amount of $202,035.58, and restitution to forty-two (42) private insurance companies in the amount of $163,675.56. (St. Ex. 11, Res. Ex. B at 6)

7. On August 31, 1995, the State of Florida Agency for Health Care Administration, Board of Medicine [Florida Board] filed an administrative complaint based on Dr. Estroff's felony conviction in federal court. On December 28, 1995, the Florida Board formally entered into a consent agreement with Dr. Estroff. The consent agreement imposes the following penalties.

- The Florida Board reprimanded Dr. Estroff.
- The Florida Board suspended Dr. Estroff's license until such time as he appeared before the Florida Board and demonstrated that he can practice medicine with reasonable skill and safety to patients, and until he submitted to the Florida Board a proposed billing practice plan, which shall be approved by the Florida Board prior to reinstatement.
- Upon reinstatement, Dr. Estroff's license will be placed on five years of probation.
- The Florida Board imposed an administrative fine of $10,000.00, to be paid within three years.
- Dr. Estroff must perform forty (40) hours of community service per year of probation.

Dr. Estroff attached his proposed billing plan. He stated that the Florida Board had approved his billing plan with a minor modification. However, Dr. Estroff did not submit an order from the Florida Board. (Res. Ex. B)

8. Dr. Estroff submitted a statement entitled "Voluntary Surrender of License," which summarized the actions taken against him by the Florida Board and the federal government. Dr. Estroff also explained the circumstances that lead to his guilty plea. In 1988, the CHAMPUS local representative and hospital officials informed Dr. Estroff how to properly use of the CPT code 90280. He

stated that he used the code as told. Dr. Estroff stated that the CHAMPUS representative reviewed his billing practices on a regular basis, and he implemented any changes suggested. All billing denials were appealed and overturned by CHAMPUS. Dr. Estroff did not provide an explanation of claims for medical services which were not actually rendered. Dr. Estroff does not intend to practice in Ohio in the future and offered to voluntarily surrender his license. (Res. Ex. B)

FINDINGS OF FACT

1. Between 1987 and 1991, Dr. Estroff made claims for repayment to CHAMPUS and other private insurance companies for specific medical services, on behalf of Todd W. Estroff, M.D., P.A., a Florida corporation. Dr. Estroff knew these claims were false, fictitious, and fraudulent. Dr. Estroff made these claims for repayment in the course of his practice.

2. On or about February 9, 1995, in the United States District Court, Northern District of Florida, Dr. Estroff pleaded guilty to one (1) count of Mail Fraud in violation of 18 U.S.C. 1341. A required element of 18 U.S.C. 1341 is intent. This count is a felony.

CONCLUSIONS

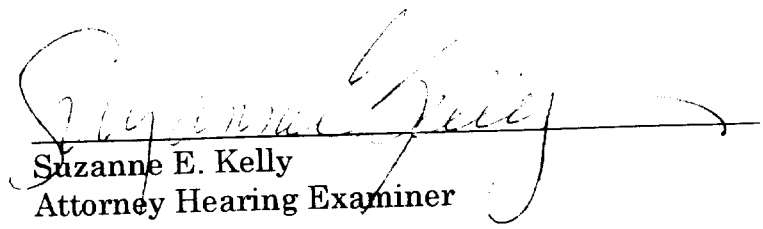
1. As supported by Findings of Fact 1 and 2, Dr. Estroff's acts, conduct, and/or omissions individually and/or collectively, constitute "(t)he obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentation in the course of practice," as that clause is used in Section 4731.22(B)(8), Ohio Revised Code.

2. As supported by Findings of Fact 1 and 2, Dr. Estroff's acts, conduct, and/or omissions individually and/or collectively, constituted "(a) plea of guilty to, or a judicial finding of guilt of, a felony," as that clause is used in Section 4321.22(B)(9), Ohio Revised Code.

PROPOSED ORDER

The certificate of Todd W. Estroff, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED.

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



Suzanne E. Kelly
Attorney Hearing Examiner

EXCERPT FROM THE DRAFT MINUTES OF MAY 8, 1996

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: Fernando C. Larach, M.D.; Todd W. Estroff, M.D.; and George L. Colvin, D.O.

A roll call was taken:

ROLL CALL:		
	Mr. Albert	- nay
	Dr. Bhati	- aye
	Dr. Heidt	- aye
	Dr. Gretter	- 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. Heidt	- aye
	Dr. Gretter	- 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 TODD W. ESTROFF, M.D.

.....

DR. GARG MOVED TO APPROVE AND CONFIRM MS. KELLY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF TODD W. ESTROFF, M.D. DR. STEINBERGH SECONDED THE MOTION.

.....

A vote was taken on Dr. Garg's motion to approve and confirm:

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

The motion carried.

STATE MEDICAL BOARD OF OHIO
77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

July 12, 1995

Todd W. Estroff, M.D.
#03535-017
Pensacola F.P.C.
110 Raby Avenue
Pensacola, FL 32509

Dear Doctor Estroff:

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 9, 1995, you pleaded guilty and were convicted in the United States District Court, Northern District of Florida, of one (1) count of Mail Fraud in violation of 18 USC 1341.

Claims for repayment were submitted to CHAMPUS and other private insurance companies for specific medical services, on behalf of Todd W. Estroff, M.D., P.A., a Florida corporation in which you were the sole officer and director, which you knew were false, fictitious, and fraudulent. The acts which underlie this conviction were committed in the course of practice.

Your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute "(t)he obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice," as that clause is used in Section 4731.22(B)(8), Ohio Revised Code.

Your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute "(a) plea of guilty to, or a judicial finding of guilt of, a felony," as that clause is used in Section 4731.22(B)(9), Ohio Revised Code.

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

Mailed 7/13/95

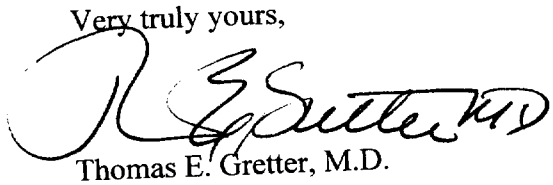
July 12, 1995

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,



Thomas E. Gretter, M.D.
Secretary

TEG/bjm
Enclosures

CERTIFIED MAIL # P 348 886 916
RETURN RECEIPT REQUESTED

rev.2/15/95