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FILED  
COURT OF APPEALS  
IN THE COURT OF APPEALS OF OHIO FRANKLIN CO. OHIO  
TENTH APPELLATE DISTRICT 2006 DEC 21 PH 2:53  
CLERK OF COURTS

John Michael Lonergan, M.D., :  
Appellant-Appellant, :  
v. :  
State Medical Board of Ohio, :  
Appellee-Appellee. :

No. 06AP-800  
(C.P.C. No. 06CVF01-0022)  
(ACCELERATED CALENDAR)

JUDGMENT ENTRY

For the reasons stated in the opinion of this court rendered herein on December 21, 2006, appellant's assignment of error is overruled, and it is the judgment and order of this court that the judgment of the Franklin County Court of Common Pleas is affirmed. Costs assessed against appellant.

KLATT, P.J., PETREE & TRAVIS, JJ.

By William A. Klatt  
Judge William A. Klatt, Presiding Judge

ON COMPUTER 12

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SERVICES SECTION

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

FILED  
COURT OF APPEALS  
FRANKLIN CO OHIO  
2006 DEC 21 PM 12:30  
CLERK OF COURTS

John Michael Lonergan, M.D.,	:	
	:	
Appellant-Appellant,	:	
	:	No. 06AP-800
v.	:	(C.P.C. No. 06CVF01-0022)
	:	
State Medical Board of Ohio,	:	(ACCELERATED CALENDAR)
	:	
Appellee-Appellee.	:	

O P I N I O N

Rendered on December 21, 2006

*Kevin P. Byers Co., LPA, and Kevin P. Byers, for appellant.*

*Jim Petro, Attorney General, and Kyle C. Wilcox, for appellee.*

APPEAL from the Franklin County Court of Common Pleas

KLATT, P.J.

{¶1} Appellant, John Michael Lonergan, M.D., appeals from a judgment of the Franklin County Court of Common Pleas affirming the order of the appellee, State Medical Board of Ohio ("board"), permanently revoking his medical license. For the following reasons, we affirm that judgment.

{¶2} Appellant was licensed to practice medicine in Ohio. However, in 2004, appellant was convicted of eight felonies in the United States District Court for the Northern District of Ohio. Two of those convictions, mail fraud and health care fraud, arose directly out of appellant's medical practice. Specifically, appellant engaged in a

scheme to defraud Medicare and Medicaid by billing for services that were either not rendered or were not eligible for payment. The other felonies involved appellant's income taxes. On August 12, 2004, appellant was sentenced to 24 months in federal prison.

{¶3} On September 8, 2004, the board mailed appellant a notice of opportunity for hearing ("Notice"). In the Notice, the board informed appellant that it intended to sanction his medical license as a result of his criminal convictions in accordance with R.C. 4731.22(B)(9). The Notice further informed appellant that he was entitled to a hearing in this matter and that if he desired a hearing, he had to request one within 30 days. By letter dated September 16, 2004, appellant requested a hearing concerning his medical license. The board scheduled a hearing for November 16, 2004. At that hearing, appellant's son appeared and requested a continuance of the hearing, informing the board that his father was now incarcerated and was unable to appear at the hearing or consult with an attorney. Without objection, the board continued the hearing until December 23, 2004.

{¶4} An attorney tentatively representing appellant filed a request for continuance on December 14, 2004 because he had only recently been contacted by appellant's family and was not able to prepare for the hearing. Without objection, the board continued the hearing until April 18, 2005. On April 4, 2005, appellant's attorney requested another continuance, this time claiming that he had been unable to prepare for the hearing because he could not communicate with appellant due to his incarceration. The board, over the state's objection, granted appellant's request, but notified the parties that no further continuances would be allowed on the basis that additional time was needed to prepare a defense. A hearing was scheduled for June 22, 2005.

{¶5} On June 3, 2005, appellant's attorney again filed a motion to continue the scheduled hearing. His attorney again claimed that he had been unable to communicate with appellant to prepare a defense and asserted that appellant's participation at the hearing was essential. The board denied appellant's request, noting that it had already warned the parties that no further continuances would be granted for additional time to prepare and that the hearing would not be postponed until appellant's release from prison. Accordingly, on June 22, 2005, the board held a hearing concerning appellant's medical license. Appellant's attorney did not appear at the hearing. The board admitted as evidence a five-page letter appellant wrote to explain the facts underlying his convictions. After the hearing, the board permanently revoked appellant's medical license.

{¶6} Appellant appealed the board's revocation of his license to the Franklin County Court of Common Pleas, which affirmed the board's decision. Appellant now appeals to this court and assigns the following error:

THE TRIAL COURT ABUSED ITS DISCRETION AND  
ERRED TO APPELLANT'S PREJUDICE WHEN IT FOUND  
THE ORDER OF THE STATE MEDICAL BOARD OF OHIO  
IN ACCORDANCE WITH LAW.

{¶7} In an administrative appeal pursuant to R.C. 119.12, the trial court reviews an order to determine whether it is supported by reliable, probative and substantial evidence and is in accordance with law. *Huffman v. Hair Surgeon, Inc.* (1985), 19 Ohio St.3d 83, 87. On appeal to this court, the standard of review is more limited. Unlike the court of common pleas, a court of appeals does not determine the weight of the evidence. *Rossford Exempted Village School Dist. Bd. of Edn. v. State Bd. of Edn.* (1992), 63 Ohio St.3d 705, 707. In reviewing the court of common pleas' determination as to whether the

commission's order was supported by reliable, probative and substantial evidence, this court's role is limited to determining whether the court of common pleas abused its discretion. *Roy v. Ohio State Med. Bd.* (1992), 80 Ohio App.3d 675, 680. The term "abuse of discretion" connotes more than an error of law or judgment; it implies that the court's attitude is unreasonable, arbitrary or unconscionable. *Blakemore v. Blakemore* (1983), 5 Ohio St.3d 217, 219. However, on the question of whether the commission's order was in accordance with law, this court's review is plenary. *Univ. Hosp., Univ. of Cincinnati College of Medicine v. State Emp. Relations Bd.* (1992), 63 Ohio St.3d 339, 343.

{¶8} In his sole assignment of error, appellant contends that the board violated his due process rights when it denied his June 3, 2005 motion for a continuance and proceeded with a hearing in his absence. We disagree.

{¶9} Due process rights guaranteed by the United States and Ohio Constitutions apply in administrative proceedings. *Urban v. State Med. Bd. of Ohio*, Franklin App. No. 03AP-426, 2004-Ohio-104, at ¶25. The fundamental requirement of procedural due process is notice and hearing, that is, an opportunity to be heard. *Korn v. Ohio State Med. Bd.* (1988), 61 Ohio App.3d 677, 684. Due process requires that an individual be given an opportunity for a hearing before being deprived of a significant property interest. *Id.*; *Doriott v. State Med. Bd. of Ohio*, Franklin App. No. 05AP-1079, 2006-Ohio-2171, at ¶10.

{¶10} Due process does not guarantee appellant his physical presence at hearings in civil actions. See *Shepard Grain Co. v. Creager*, 160 Ohio App.3d 377, 2005-Ohio-1717, at ¶17, citing *Mancino v. Lakewood* (1987), 36 Ohio App.3d 219, 221. An

incarcerated person does not have an absolute right to be present in a civil action such as an administrative hearing. *Id.*, citing *Kampfer v. Donnalley* (1998), 125 Ohio App.3d 359, 363; see, also, *Reed v. Ohio State Med. Bd.* (1988), 40 Ohio App.3d. 124, 126 (no violation of constitutional rights where board proceeded with hearing in physician's absence). Thus, the board satisfies appellant's due process rights by providing him with an opportunity to be heard.<sup>1</sup>

~~{¶11}~~ The board provided appellant an opportunity to be heard in this matter. The board held a hearing concerning his medical license. In lieu of his presence at the hearing, appellant provided his position to the board in writing as permitted by Ohio Adm.Code 4731-13-01(E). Appellant also could have submitted depositions of prospective witnesses, including himself, at the hearing in lieu of live testimony. Ohio Adm.Code 4731-13-20. Appellant's attorney also could have appeared at the hearing and presented arguments in support of his client's position. Appellant failed to take either of these steps and instead rested on his letter to the board. The board satisfied due process by providing appellant with an opportunity to be heard; appellant submitted a letter on his behalf but failed to take advantage of the other procedures available to him to present his case. See *Jones v. Bowens*, Ashtabula App. No. 2002-A-0034, 2003-Ohio-5224, at ¶22 (finding no due process violation where incarcerated father failed to take steps to take advantage of opportunity for hearing concerning child support obligations).

{¶12} Appellant also argues that the board's denial of his June 3, 2005 motion for a continuance was an abuse of discretion. We disagree. An administrative agency's decision regarding a motion for continuance is within the sound discretion of the agency.

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<sup>1</sup> Appellant does not contest the sufficiency of the board's notice in this case.

*F & F, Inc. of Cincinnati v. Ohio Liquor Control Comm.*, Franklin App. No. 03AP-914, 2004-Ohio-5259, at ¶17; *Bivins v. Bd. of Emergency Med. Servs.*, 165 Ohio App.3d 390, 2005-Ohio-5999, at ¶19. Thus, a decision denying a motion for continuance will not be reversed absent an abuse of discretion. *F & F, Inc.* An abuse of discretion connotes more than an error of law or judgment, it implies that the agency's attitude is unreasonable, arbitrary, or unconscionable. *Id.*, citing *Blakemore v. Blakemore* (1983), 5 Ohio St.3d 217, 219.

{¶13} In *State v. Unger* (1981), 67 Ohio St.2d 65, the court identified certain factors that should be considered in determining whether a continuance is appropriate.

These factors are:

The length of the delay requested; whether other continuances have been requested and received; the inconvenience to litigants, witnesses, opposing counsel and the court; whether the requested delay is for legitimate reasons or whether it is dilatory, purposeful, or contrived; whether the defendant contributed to the circumstance which gives rise to the request for a continuance; and other relevant factors, depending on the unique facts of each case.

*Id.* at 67-68; *F & F, Inc.* at ¶18.

{¶14} Applying these factors to the present case, we note that appellant, in essence, requested a continuance until his release from prison. Appellant, however, does not have an absolute right to be present at the board's hearing, and the board is entitled to timely move forward with its cases to effectively manage its docket. The board had previously granted appellant three continuances, totaling more than seven months, of the hearing originally scheduled for November 14, 2004. The continuances were granted to allow appellant additional time to retain counsel and to allow counsel time to prepare for the hearing. Appellant's counsel had more than adequate time to prepare for the

hearing. The board did not abuse its discretion when it denied appellant's June 3, 2005 request for continuance.

{¶15} Appellant's lone assignment of error is overruled and the judgment of the Franklin County Court of Common Pleas is affirmed.

*Judgment affirmed.*

PETREE and TRAVIS, JJ., concur.

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IN THE COURT OF APPEALS OF OHIO  
TENTH APPELLATE DISTRICT

FILED  
COURT OF APPEALS  
FRANKLIN CO. OHIO  
2006 AUG -3 PM 4:07  
CLERK OF COURTS

John Michael Lonergan, MD  
3303 West 111<sup>th</sup> Street  
Cleveland, Ohio 44111  
Appellant-Appellant,

:  
:  
: Case No. \_\_\_\_\_

v.

State Medical Board of Ohio  
77 South High Street, 17<sup>th</sup> Floor  
Columbus, Ohio 43215-0315  
Appellee-Appellee.

: Accelerated Calendar  
:  
: CPC No. 06CVF-01-0022  
:

Appeal from the common pleas court of Franklin County, Ohio

NOTICE OF APPEAL

Notice is hereby given that Appellant, John Michael Lonergan, MD, hereby appeals to the Court of Appeals of Ohio, Tenth Appellate District for Franklin County, from the judgment entry and decision (attached hereto) filed in this action by the lower court on July 6, 2006.

Respectfully submitted,

KEVIN P. BYERS CO., LPA

*KPByers*

Kevin P. Byers 0040253  
The 107 Building  
107 South High Street, Suite 400  
Columbus, Ohio 43215-3456  
614.228.6283 Facsimile 228-6425  
[Kevin@KPByersLaw.com](mailto:Kevin@KPByersLaw.com)

FILED  
COMMON PLEAS COURT  
FRANKLIN CO. OHIO  
06 AUG -3 PM 4:03  
CLERK OF COURTS

HEALTH & HUMAN

AUG 07 2006

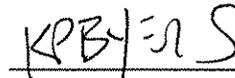
SERVICES

Attorney for Appellant,  
John Michael Lonergan, MD

06APE -- 8 - 800

Certificate of Service

I certify that a true copy of the foregoing Notice of Appeal was deposited in first class US mail this 3<sup>rd</sup> day of August, 2006, addressed to Senior AAG Kyle C. Wilcox, Health & Human Services Section, 30 East Broad Street, 26<sup>th</sup> Floor, Columbus, Ohio 43215-3428.

  
\_\_\_\_\_  
Kevin P. Byers

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

JOHN MICHAEL LONERGAN, M.D.,

Appellant,

vs.

STATE MEDICAL BOARD OF OHIO

Appellee

CASE NO. 06CVF-01-0022

JUDGE PFEIFFER

TERMINATION NO. 10  
BY JG

**DECISION AND JUDGMENT ENTRY**  
**AFFIRMING ORDER OF THE STATE MEDICAL BOARD**  
**AND**  
**NOTICE TO CLERK**

Rendered this 5<sup>th</sup> day of July, 2006

PFEIFFER, J.

FILED  
COMMON PLEAS COURT  
FRANKLIN CO., OHIO  
2006 JUL -6 AM 9:19  
CLERK OF COURTS

This case is before the Court on an appeal pursuant to R.C. 119.12. The relevant facts and procedural history are as follows.

On September 8, 2004, the Board notified Appellant that it proposed to take disciplinary action against his medical license. The Board alleged that Appellant had violated R.C. 4731.22(B)(9), in that he had been convicted of eight felonies involving health care fraud, mail fraud, and tax evasion.

Appellant requested a hearing on the charges. Appellant, who was serving a federal prison term, repeatedly requested continuances of the hearing. The Board denied Appellant's fourth request for a continuance and held the hearing on June 22, 2005.

On November 17, 2005, the Hearing Examiner issued a Report and Recommendation concluding that Appellant had committed the violation charged, and recommending permanent revocation of Appellant's medical license.

The Board considered this matter at its December 14, 2005 meeting. On the same date, the Board entered its Order permanently revoking Appellant's medical license.

On January 3, 2006, Appellant filed this appeal of the Board's Order.

Appellant was indicted on five felony counts of Filing False Tax Returns, one felony count of Income Tax Evasion, one felony count of Mail Fraud, and one felony count of Health Care Fraud. (State Exhibits 2 and 4). On May 26, 2004, Appellant entered into a plea agreement in which he agreed to plead guilty to the eight felony counts. (State Exhibit 3). The plea agreement set forth stipulations of fact including the following:

- Appellant established a corporation which he used to conceal assets from the IRS. (St. Ex. 3, ¶12e).
- As of December, 1996, Appellant owed approximately \$422,089.00 in unpaid federal income tax for 1980 through 1993. In December, 1996, he entered into a compromise agreement with the IRS based on income information he provided for 1995 and 1996. However, he knowingly understated his income for those two years. Then, for the years 1997 through 2000, he knowingly understated his income, failing to pay \$102,487 owed under the agreement. (St. Ex. 3, ¶12b-d, 12g).
- In a further effort to conceal his true income from the IRS, Appellant caused approximately \$155,000 of his income to be falsely reported as income received by two other individuals. (St. Ex. 3, ¶12f).
- From 1999 through 2001, Appellant engaged in a scheme to defraud the Medicare and Medicaid programs by billing for services that either were not rendered or were not eligible for payment. (St. Ex. 3, ¶14b).

On August 12, 2004, the court found Appellant guilty of the offenses alleged in the plea agreement. The court imposed a prison term of 24 months. Appellant was incarcerated from late 2004 until early 2006.

The Board's September 8, 2004 letter notified Appellant of disciplinary action based on R.C. 4731.22(B)(9), which provides as follows:

(B) The board, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend an individual's certificate to practice, refuse to register an individual, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate for one or more of the following reasons:

...  
(9) 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;

Appellant's September 16, 2004 letter requested a hearing. The Board set the original hearing date on November 16, 2004. On the scheduled hearing date, the State appeared to present its case. Appellant's son, who is not an attorney, appeared, stated that Appellant was incarcerated and unable to hire counsel, and requested a continuance. The Hearing Examiner continued the hearing to December 23, 2004, to allow Appellant time to obtain counsel.

On December 14, 2004, counsel entered an appearance for Appellant and requested a continuance to allow time to prepare a defense for Appellant. The Hearing Examiner granted a second continuance, to April 18, 2005.

On April 4, 2005, counsel for Appellant requested a third continuance, citing the difficulty of communicating with his client, who was still incarcerated. The Hearing Examiner continued the hearing to June 22, 2005. The Hearing Examiner's April 8, 2005 Entry granting the third continuance notified the parties that "no further continuances shall be granted on the basis of a need for additional time to prepare a defense."

On June 3, 2005, Appellant requested a fourth continuance. The Motion for Continuance stated that counsel still could not communicate with Appellant and that Appellant's release date was "February 2006 or sooner." The Hearing Examiner denied

the continuance, citing the language in the prior Entry stating that there would be no further continuances.

There was no appearance on Appellant's behalf at the June 22, 2005 hearing. The State presented evidence including the indictments (Ex. 2 and 4), and certified copies of the plea agreement (Ex. 3) and the guilty pleas and convictions (Ex. 5 and 6). (Transcript, pg. 7).

Also submitted to the Board were a letter from Appellant received July 26, 2004 and letters of support. Appellant's letter stated that he was "grossly incompetent to be the CEO of a medical business," and that he had misplaced his trust in others who ran the business aspect of his practice. He stated that he did set up a corporation to "take monies that I earned and give them to my best friend" and described this as "bipolar wishful thinking." With respect to his tax returns, he acknowledged taking "questionable deductions" that "were foolish and beg for an audit." He stated that his "business procedures were sloppy and or completed undocumented and reflected my bipolar disorder." He stated that at the time he did not think he was breaking the law.

The Hearing Examiner's Report and Recommendation reviewed the evidence presented by the State and the written materials submitted by Appellant. The Hearing Examiner found that the eight felony convictions provided the basis for discipline under R.C. 4731.22(B)(9). The Hearing Examiner concluded that "the violations to which Dr. Lonergan pled guilty are too severe to merit committing the Board's resources toward his remediation and continued practice." The Hearing Examiner recommended permanent revocation of Appellant's medical license.

In its Order of December 14, 2005, the Board approved the findings of the Hearing Examiner.

This Court must affirm the Board's Order if it is supported by reliable, probative and substantial evidence and is in accordance with law. R.C. 119.12; Univ. of Cincinnati v. Conrad (1980), 63 Ohio St.2d 108, 111.

Appellant's brief argues that by denying his fourth request for a continuance, the Board deprived him of procedural due process. Appellant argues that a continuance should have been granted until after he was released from prison to allow him to appear at the hearing.

Due process requires that "an individual be given an opportunity for a hearing before he is deprived of any significant property interest." Boddie v. Connecticut (1971), 401 U.S. 371, 379. This concept applies to administrative proceedings. "Notice and hearing are necessary to comply with due process in an administrative proceeding which revokes an individual's license to practice a profession." Korn v. State Medical Board (1988), 61 Ohio App.3d 677, 684.

In administrative proceedings, the grant or denial of a continuance is within the discretion of the Hearing Examiner. Coats v. Limbach (1989), 47 Ohio St.3d 114. In Ungar v. Sarafite (1964) 376 U.S. 575, 589, the U.S. Supreme Court held as follows:

The matter of continuance is traditionally within the discretion of the trial judge, and it is not every denial of a request for more time that violates due process even if the party fails to offer evidence or is compelled to defend without counsel. ... There are no mechanical tests for deciding when a denial of a continuance is so arbitrary as to violate due process. The answer must be found in the circumstances present in every case, particularly in the reasons presented to the trial judge at the time the request is denied.

In State v. Unger (1981), 67 Ohio St.2d 65, 67, the Ohio Supreme Court held that “weighed against any potential prejudice to a defendant are concerns such as the court’s right to control its own docket and the public’s interest in the prompt and efficient dispatch of justice.” Unger set forth factors to be considered on a motion for continuance, including the length of the delay requested; the inconvenience to litigants, witnesses, opposing counsel, and the court; whether the requested delay is for legitimate reasons or whether it is dilatory, purposeful, or contrived; whether the defendant contributed to the circumstances which give rise to the request; and other relevant factors. Id. at 67-68.

The original hearing date in this matter was November 16, 2004. Appellant obtained three continuances, to June 22, 2005, for a total of approximately seven months. Appellant then requested a fourth continuance, which, according to the motion, would have necessitated a delay for at least an additional eight months, until February, 2006. Such a lengthy delay would interfere with the Board’s right to control its docket and the public’s interest in the prompt and efficient dispatch of justice. While the requested delay would appear to be for a legitimate reason, to allow Appellant to be present at the hearing, the Appellant is obviously responsible for the circumstances which gave rise to the request. The Board did accommodate Appellant by granting three continuances to allow him to obtain counsel to present a defense. More importantly, the information contained in Appellant’s letter was considered by the Board. Under these circumstances, the Court cannot conclude that the Board’s denial of a fourth continuance is so arbitrary as to violate due process.

It is noted that under the Board's rules, Appellant had the option of filing a motion for the taking of his deposition in lieu of live testimony, Ohio Admin. Code 4731-13-20(A), and the option of presenting his defense in writing. Ohio Admin. Code 4731-13-01(E). Appellant also has not specifically identified any information that he was prevented from presenting to the Board.

For the foregoing reasons, the Court finds that the Board's Order is supported by reliable, probative, and substantial evidence and is in accordance with law. Accordingly, the Board's Order is hereby AFFIRMED. This is a final, appealable Order. Costs to Appellant. Pursuant to Civil Rule 58, the Clerk of Court shall serve upon all parties notice of this judgment and its date of entry.

IT IS SO ORDERED.

  
BEVERLY Y. PFEIFFER, JUDGE

Copies to:  
Kevin P. Byers, Counsel for Appellant  
Kyle C. Wilcox, Counsel for Appellee

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

~~Michael J.~~  
~~Michael J.~~ Lonergan, MD,  
c/o Kevin P. Byers  
21 East State Street, Suite 220  
Columbus, Ohio 43215-4297  
Appellant,

\*

\*

CASE NO. 06 CVF 1 00022

v.

State Medical Board of Ohio,  
77 South High St., 17th Floor  
Columbus, Ohio 43266-0315  
Appellee.

\*

JUDGE \_\_\_\_\_

\*

Appeal from the State Medical Board of Ohio

STATE MEDICAL BOARD  
OF OHIO  
2006 JAN 17 P 3:04

APPELLANT'S NOTICE OF APPEAL

Pursuant to RC 119.12, notice is hereby given that Appellant, ~~Michael J.~~ <sup>John M.</sup> Lonergan, MD, appeals the order of the State Medical Board dated December 14, 2005, and mailed December 16, 2005, (copy attached as *Exhibit A.*) The Medical Board order is not supported by the necessary quantum of reliable, probative and substantial evidence nor is it in accordance with law.

Respectfully submitted,

KEVIN P. BYERS CO., L.P.A.

*KPBYERS*

Kevin P. Byers 0040253  
Fifth Third Center  
21 East State Street, Suite 220  
Columbus, Ohio 43215  
614.228.6283 Fax 228.6425

Attorney for ~~Michael J.~~ <sup>John M.</sup> Lonergan, MD

STATE MEDICAL BOARD  
OF OHIO

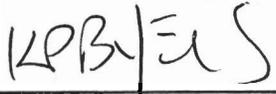
2006 JAN -3 A 11:23

FILED  
JAN -3 AM 11:11  
CLERK COURTS

FILED  
COMMON PLEAS COURT  
FRANKLIN COUNTY, OHIO

Certificate of Service

I certify that the original of the foregoing document was hand filed this 3<sup>rd</sup> day of January, 2006, at the State Medical Board, 77 South High Street, 17th Floor, Columbus, Ohio 43215-0315 with a copy filed this same date in the Court of Common Pleas of Franklin County in accord with RC 119.12 with a courtesy copy mailed to the Office of Attorney General Jim Petro, Health & Human Services Section, 30 East Broad Street, 26<sup>th</sup> Floor, Columbus, Ohio 43215-3426.

  
Kevin P. Byers

STATE MEDICAL BOARD  
OF OHIO  
2006 JAN 17 P 3:04



# State Medical Board of Ohio

7700 Highland Square, Columbus, Ohio 43235-1227 • 614-464-3900 • Website: [www.med.ohio.gov](http://www.med.ohio.gov)

December 14, 2005

John Michael Lonergan, M.D.  
Register No. 07320-088  
FCI La Tuna  
Federal Correctional Institution  
P. O. Box 3000  
Anthony, TX 88021

Dear Doctor Lonergan:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of R. Gregory Porter, Esq., Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on December 14, 2005, 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 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 an original Notice of Appeal with the State Medical Board of Ohio and a copy of the Notice of Appeal with 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. 7003 0500 0002 4333 9494  
RETURN RECEIPT REQUESTED

Cc: Kevin P. Byers, Esq.  
CERTIFIED MAIL NO. 7003 0500 0002 4333 8824  
RETURN RECEIPT REQUESTED

*Mailed 12-14-05*

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 December 14, 2005, including motions approving and confirming the Findings of Fact, Conclusions and Proposed Order of the Hearing Examiner 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 John Michael Lonergan, 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.)

December 14, 2005  
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

\*

\*

JOHN MICHAEL LONERGAN, M.D.

\*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on December 14, 2005.

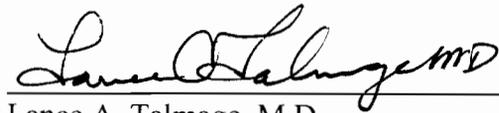
Upon the Report and Recommendation of R. Gregory Porter, State Medical Board Attorney Hearing Examiner, designated in this Matter pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the approval and confirmation by vote of the Board on the above date, the following Order is hereby entered on the Journal of the State Medical Board of Ohio for the above date.

It is hereby ORDERED that:

The certificate of John Michael Lonergan, 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 Board.

(SEAL)

  
\_\_\_\_\_  
Lance A. Talmage, M.D.  
Secretary

December 14, 2005  
Date

2005 NOV 17 A 11: 00

**REPORT AND RECOMMENDATION  
IN THE MATTER OF JOHN MICHAEL LONERGAN, M.D.**

On November 16, 2004, a hearing was convened in the Matter of John Michael Lonergan, M.D., before Siobhan R. Clovis, Esq., Hearing Examiner for the State Medical Board of Ohio. The hearing was subsequently reconvened on June 22, 2005, before R. Gregory Porter, Esq., Hearing Examiner for the State Medical Board of Ohio.

**INTRODUCTION**

**I. Basis for Hearing**

- A. By letter dated September 8, 2004, the State Medical Board of Ohio [Board] notified John Michael Lonergan, 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 on an allegation that Dr. Lonergan had pled guilty to and been convicted of six felony counts relating to tax violations, one count of Mail Fraud, and one count of Health Care Fraud. (State's Exhibit 1A)

The Board alleged that Dr. Lonergan's guilty plea and conviction constituted 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." Accordingly, the Board advised Dr. Lonergan of his right to request a hearing in this matter. (State's Exhibit 1A)

- B. By letter received by the Board on September 20, 2004, Dr. Lonergan requested a hearing. (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. Dr. Lonergan, who is currently incarcerated, did not appear for hearing on either day, but instead presented his defense in writing.

## EVIDENCE EXAMINED

### I. Testimony Heard

No witnesses were presented.

### II. Exhibits Examined

#### A. Presented by the State

1. State's Exhibits 1A through 1R: Procedural exhibits. [Note: State's Exhibit 1R, which is a copy of the Respondent's June 3, 2005, motion for continuance of the June 22, 2005, hearing, was admitted to the record by the Hearing Examiner post-hearing.]
2. State's Exhibit 2: Certified copy of an indictment filed against Dr. Lonergan in the United States District Court for the Northern District of Ohio in *United States v. Lonergan*, Case No. 1:04CR45, for violation of 18 U.S.C. Sections 1341 (Mail Fraud), and 1347 (Health Care Fraud). [Note: The date of filing of this document is illegible.] [Further note: Several portions of this document that are not relevant to this matter were redacted prior to admission of this exhibit to the record.]
3. State's Exhibit 3: Certified copy of a plea agreement filed in *United States v. Lonergan*, Case Nos. 1:03CR384 and 1:04CR45, signed on May 26, 2004.
4. State's Exhibit 4: Certified copy of an indictment filed against Dr. Lonergan on October 7, 2003, in *United States v. Lonergan*, Case No. 1:03CR384, for violation of 26 U.S.C. Sections 7201 and 7206(1) (tax violations).
5. State's Exhibit 5: Certified copy of a Judgment Entry filed on September 20, 2004, in *United States v. Lonergan*, Case No. 1:03CR384.
6. State's Exhibit 6: Certified copy of a Judgment Entry filed on September 20, 2004, in *United States v. Lonergan*, Case No. 1:04CR45.

#### B. Presented by the Respondent

1. Respondent's Exhibit A: Copy of a letter received from Dr. Lonergan by Board staff on July 26, 2004.
2. Respondent's Exhibit B: Copies of letters of support written on behalf of Dr. Lonergan. [Note: This exhibit has been sealed to protect patient confidentiality.]

### PROCEDURAL MATTERS

1. This matter had originally been assigned to Hearing Examiner Siobhan R. Clovis, Esq., and the hearing originally convened on November 16, 2004. At that time, Dr. Lonergan's son, Robert Connor Lonergan, who is not an attorney, appeared on Dr. Lonergan's behalf. Mr. Lonergan advised, among other things, that his father was incarcerated and unable to appear for hearing, and asked for additional time to allow his father to obtain representation. The State agreed to a brief continuance, and the matter was set for further hearing at a later date. No substantive evidence was presented on November 16, 2004. Shortly thereafter, Hearing Examiner Clovis left the Board's employ. Hearing Examiner R. Gregory Porter was assigned to preside over this matter in Ms. Clovis' stead. (See Hearing Transcript Volume I; State's Exhibit 1I)
2. In December 2004, Kevin P. Byers, Esq. entered his appearance as Dr. Lonergan's counsel. (See State's Exhibits 1J and 1K)
3. On or about June 15, 2005, Respondent's Notice of Hearing Intentions was filed on behalf of Dr. Lonergan. That document states,

Respondent's June 3, 2005, motion for continuance to permit Respondent's personal attendance and participation in the hearing was denied by entry of June 14, 2005. The State is hereby notified that Respondent shall have no representative in attendance at the June 22, 2005, hearing although [Mr. Byers] remains counsel of record and should continue to be served with all notices, pleadings, orders, entries, decisions, and reports.

(State's Exhibit 1Q)

4. A second day of hearing took place on June 22, 2005. The hearing record in this matter was held open until June 29, 2005, in order to give the State an opportunity to provide a redacted copy of State's Exhibit 2. This document was received in a timely manner, and hearing record closed on June 29, 2005. (Hearing Transcript Volume II [Tr. II] at 13)
5. Prior to the June 22, 2005, hearing, Dr. Lonergan had submitted his written defense to the Board. During hearing, the Hearing Examiner was reluctant to admit Dr. Lonergan's written defense to the record without a request from or, at the very least, the permission of Dr. Lonergan's counsel, who was not present during the hearing. Accordingly, at the close of the January 22, 2005, hearing, Dr. Lonergan's written defense was held as proffered material. (See Hearing Transcript Volume II at 11-12) Subsequently, with the approval of Dr. Lonergan's counsel and without objection by the State, the hearing record briefly reopened on November 7, 2005, and Dr. Lonergan's written defense was admitted to the record as Respondent's Exhibits A and 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. In his written defense, John Michael Lonergan, M.D., said that he has worked in the field of health care since 1970, and spent the majority of that time practicing “in a hospital based protocol driven practice of medicine.” Dr. Lonergan further stated that, in 1998, he had had a dispute with supervisory staff at the former Columbus [Ohio] Community Hospital where he had worked in the Emergency Department. According to Dr. Lonergan, the dispute concerned an issue that Dr. Lonergan believed would have caused a breach of his duties as a physician and that he therefore had left that institution’s employ. Subsequently, Dr. Lonergan started a practice in North Royalton, Ohio, called House Calls Unlimited. Dr. Lonergan was engaged in that practice during the period that the events leading to this hearing took place. (State’s Exhibit [St. Ex.] 2 at 1; Respondent’s Exhibit [Resp. Ex.] A)
2. In October 2003, in the United States District Court for the Northern District of Ohio, a grand jury returned an indictment against Dr. Lonergan in *United States v. Lonergan*, Case No. 1:03CR-384. The indictment charged Dr. Lonergan with one felony count of Income Tax Evasion in violation of 26 U.S.C. Section 7210, and five felony counts of Filing False Income Tax Returns in violation of 26 U.S.C. Section 7206(1). (St. Ex. 4)
3. In 2004, a grand jury returned a second indictment against Dr. Lonergan in *United States v. Lonergan*, Case No. 1:04CR-45. The second indictment charged him with one felony count of Mail Fraud in violation of 18 U.S.C. Section 1341, and one felony count of Health Care Fraud in violation of 18 U.S.C. Section 1347. (St. Ex. 2)
4. On May 26, 2004, Dr. Lonergan entered into a plea agreement in which he agreed to plead guilty to the eight felony counts set forth in the two indictments. The plea agreement also set forth stipulations of fact, including those summarized below:
  - In an effort to conceal his true income from the IRS, Dr. Lonergan and another individual established a corporation called Coleman Medical Corporation [CMC] in 1995, which Dr. Lonergan controlled and used to conceal assets and receipt of income during the years 1995 through 1997. (St. Ex. 3, Paragraph 12e)
  - As of December 1996, Dr. Lonergan owed approximately \$422,089.00 in unpaid federal income tax dating from 1980 through 1993. In December 1996, Dr. Lonergan entered an agreement with the Internal Revenue Service [IRS] in compromise of his tax liability, based on income information provided by Dr. Lonergan for 1995 and 1996. However, Dr. Lonergan knowingly understated his income for those two years.

Then, for the years 1997 through 2000, Dr. Lonergan knowingly understated his income, thereby paying less than required under the compromise agreement, and resulting in a failure to pay approximately \$102,487.00 owed under the agreement. (St. Ex. 3, Paragraphs 12b-12d, 12g)

- In a further effort to conceal his true income from the IRS, Dr. Lonergan caused approximately \$155,000.00 of his income to be falsely reported as income received by two individuals from CMC. Dr. Lonergan caused personal tax returns to be filed for these individuals, with one of them listing \$80,000 as income from CMC in 1996, and the other listing \$75,000.00 as income from CMC for 1997. (St. Ex. 3, Paragraph 12f)
- Dr. Lonergan filed false tax returns for the years 1996 through 2000, resulting in an understatement of taxes due of approximately \$116,387.00. (St. Ex. 3, Paragraph 13)
- During the years 1999 through 2001, Dr. Lonergan engaged in a scheme to defraud the Medicare and Medicaid programs by billing for services that either were not rendered or were not eligible for payment. Dr. Lonergan billed for: services exceeding 24 hours in a single day; “services allegedly provided to recipients in their private residences, when in fact such recipients resided in group homes”; and “services allegedly provided by [Dr. Lonergan], when in fact such services, if provided at all, were provided by an unlicensed individual.” (St. Ex. 3, Paragraph 14b)

(St. Ex. 3 at 7-9)

5. On August 12, 2004, the court found Dr. Lonergan guilty of the offenses addressed in the plea agreement and imposed sentence in both cases. In Case No. 1:03CR-384, the court ordered imprisonment of 24 months, one year of post-release probation, payment of a special assessment of \$600.00, and restitution of \$1,087.00. The court also ordered that Dr. Lonergan participate in mental health treatment while in prison. In Case No. 1:04CR-45, the court ordered 24 months of imprisonment to run concurrently with the term imposed in Case No. 1:03CR-384, payment of a special assessment of \$200.00, restitution of \$339,056.00, and post-release conditions. (St. Exs. 5 and 6)
6. As of June 3, 2005, Dr. Lonergan remained incarcerated. (St. Exs. 1P and 1R)
7. In his written defense, Dr. Lonergan stated that, after he had left his position in the Emergency Department at Columbus Community Hospital, he had been advised to start his own “housecalls business” by an individual “who purported to be an ‘expert’ in business and medical billing.” This same individual ran a company that did medical billing. Dr. Lonergan started the housecalls business, and hired that individual’s company to do his medical billing. However, Dr. Lonergan stated that that individual had “proved to be not only incompetent, but also nefarious and untrustworthy specifically in the area of medical billing.” Moreover, Dr. Lonergan stated that, unbeknownst to Dr. Lonergan, that individual’s billing company had been indicted for Medicare Fraud. Dr. Lonergan stated that he had received a lot of bad

advice from that individual and his company. Among other things, Dr. Lonergan stated that they had advised him that a “group home” is considered a private residence for purposes of Medicare billing, which Dr. Lonergan has since learned is not true. Nevertheless, Dr. Lonergan stated that the charge of Health Care Fraud resulted because he had believed the advice he was given. (Resp. Ex. A)

Further, Dr. Lonergan stated that in March 2002 the government had searched his residence and seized his medical records. Dr. Lonergan also stated that, since that time, he has not had access to his medical records. Moreover, Dr. Lonergan stated that those records would demonstrate that he had not billed for procedures that he did not perform. (Resp. Ex. A)

In addition, Dr. Lonergan wrote that the business aspect of medical practice had never appealed to him. Dr. Lonergan stated, “I did check the wrong boxes on the billing form I used, in fact I did not even have the code for the Group Home version of nursing home on the form I was given.” Dr. Lonergan acknowledged that he had been ultimately responsible for the accuracy of the forms that had been submitted. He added, “The fact that I’m obviously incompetent in terms of the business of medicine is no excuse[]”; however, he stated that he “never intentionally broke any laws or did anything illegal[.]” (Resp. Ex. A)

Moreover, Dr. Lonergan admitted that he had used the services of a physician who was not licensed to practice medicine in Ohio. Dr. Lonergan stated that this physician had had one year of training at Mount Sinai Hospital in Cleveland, Ohio, and been “a well published department chairman in Russia.” Dr. Lonergan further stated that he had closely supervised everything that this individual had done, and that “[a]t no time was he left on his own.” Dr. Lonergan explained, “No, he did not have an Ohio license, but he was a physician who already had one year of training in an approved training program in an American Hospital that I was supervising as I have done hundreds of times with other medical students, nurses, paramedics, interns, residents, and fellows.” (Resp. Ex. A)

In addition to the issue of health care fraud, Dr. Lonergan stated that he had been convicted of tax-related violations. Dr. Lonergan wrote that, because his business was deemed fraudulent, the IRS had disallowed the related deductions he had claimed over the years. Dr. Lonergan expressed exasperation at the fact that all of the money that he had spent on that practice had been disallowed as a legitimate business deduction. Moreover, Dr. Lonergan stated that, because he had received checks in the mail from Medicare, he was also deemed guilty of Mail Fraud. (Resp. Ex. A)

With regard to CMC, Dr. Lonergan stated that he had entered into that arrangement in order to give some of his earnings to a friend who was in “dire financial straits,” and that Dr. Lonergan had had no control over the money that he had paid into that corporation. However, Dr. Lonergan stated that his belief at that time that the arrangement had been legal was the result of “bipolar wishful thinking.” Moreover, Dr. Lonergan stated, “Looking back

with my now properly medicated 20/20 hindsight, it is embarrassing that an otherwise very moral and moderately intelligent person could reach those conclusions.” (Resp. Ex. A)

In conclusion, Dr. Lonergan stated,

[T]hose that do know me and know the pedestrian lifestyle I have lived and that I have been in debt for the last more than fifteen years know that I never intended to break the law, any law. I do not gamble. I do not have expensive hobbies. I take care of my family, my patients, my church, and my debts with my income. I also never intended to do any kind of scheme or somehow include the profit motive in my reasons for caring for my patients. If I wanted purely monetary awards for my time, I would've immediately gone into Pediatric Anesthesiology as soon as I became Board Certified in Anesthesiology as well as Pediatrics in late 1997. What I did in having a housecalls business was never about the bottom line. It was about giving the best and most care to the most people. Unfortunately without the structure of protocol driven hospital based medicine and or the medication I am now taking, with my bipolar biochemistry, something had to give, and since I did protocol based medical care what I ignored was the business part of medical care, and that is why I am here \* \* \*. There is a silver lining behind this blackest cloud that my family, my patients, and I ever experienced and that is that I finally got the appropriate psychiatric help for myself. I have been on the appropriate pharmacologic therapy for approximately five months, and my children, my sisters and whole family tell me how different I am. From my standpoint, though this is a horrific nightmare and I would not wish what has happened to me on my worst enemy, but it is good to be slowed down and to do things one at a time. All I want to do now is to go home and be a good father to my children, and be a good doctor for the rest of my career. This normalcy is truly a godsend. At the risk of monotonous repetition, I never intended to break the law. My whole life stands in sharp contradistinction to doing anything dishonorable, unethical, or illegal. I haven't had a traffic citation in the last six years. If you can, please help me to get back to taking quality care of my treasured patients in Ohio. I will do whatever you ask and cooperate in any way that I can. If there is anything else that is needed of me, you have but to ask and if I am able I will provide it. As I have said to tens of thousands of patients in my career, “how can I help you?”

(Resp. Ex. A)

8. Dr. Lonergan presented a number of letters of support written by patients, relatives, and friends. These letters describe Dr. Lonergan as a compassionate and dedicated physician. (Resp. Ex. B). Note that the State did not have an opportunity to cross-examine the authors of those letters.

### FINDINGS OF FACT

On May 26, 2004, in the U.S. District Court for the Northern District of Ohio, John Michael Lonergan, M.D., entered into a plea agreement in which he agreed to plead guilty to eight felony counts involving tax violations, mail fraud, and health care fraud, as follows:

- one count of Income Tax Evasion in violation of 26 U.S.C. Section 7201;
- five counts of Filing False Income Tax Returns in violation of 26 U.S.C. Section 7206(1);
- one count of Mail Fraud in violation of 18 U.S.C. Section 1341; and
- one count of Health Care Fraud in violation of 18 U.S.C. Section 1347.

On August 12, 2004, the court accepted Dr. Lonergan's guilty pleas, found him guilty, and imposed sentence, including 24 months of incarceration in a federal facility.

### CONCLUSIONS OF LAW

The guilty pleas entered by John Michael Lonergan, M.D., and/or the judicial finding of guilt by the federal court, 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.

\* \* \* \* \*

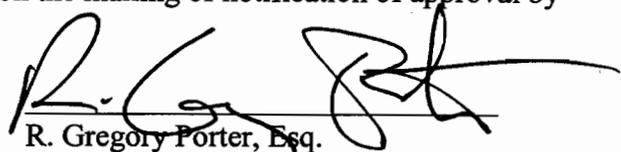
It is unfortunate that Dr. Lonergan chose to engage in a practice that resulted in his conviction and incarceration for eight federal felony offenses. The Board hopes that Dr. Lonergan will continue to voluntarily seek help for his bipolar condition as described in his written defense. Nevertheless, the violations to which Dr. Lonergan pled guilty are too severe to merit committing the Board's resources toward his remediation and continued practice.

### PROPOSED ORDER

It is hereby ORDERED that:

The certificate of John Michael Lonergan, 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 Board.

  
R. Gregory Porter, Esq.  
Hearing Examiner



# State Medical Board of Ohio

7000 August 11th Blvd • Columbus, OH 43230-1277 • 614-466-0144 • <http://www.smb.state.oh.us>

## EXCERPT FROM THE DRAFT MINUTES OF DECEMBER 14, 2005

### REPORTS AND RECOMMENDATIONS

Dr. Davidson 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 records, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Binh Quoc Doan, M.D.; Adam P. Hall, D.O.; James L. Kegler, M.D.; John Michael Lonergan, M.D.; Richard Daniel Price, M.D.; Craig L. Rich, M.D.; Charles Christian Rickey, P.A.; Steven John Shor, M.D.; and Robert Martin Stang, D.O. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

Dr. Davidson 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. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

Dr. Davidson 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. In the matters before the Board today, Dr. Talmage served as Secretary and Mr. Albert served as Supervising Member.

Dr. Davidson 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.

.....  
JOHN MICHAEL LONERGAN, M.D.

.....  
**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF JOHN MICHAEL LONERGAN, M.D. DR. SAXENA SECONDED THE MOTION.**

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

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

The motion carried.



# State Medical Board of Ohio

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

September 8, 2004

John Michael Lonergan, M.D.  
4602 Russell Avenue  
Parma, OH 44134

Dear Doctor Lonergan:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio [Board] 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 you or place you on probation for one or more of the following reasons:

- (1) On or about May 26, 2004, in the United States District Court, Northern District of Ohio, you entered pleas of guilty to eight felony counts involving tax evasion, mail fraud and health care fraud, to wit: one count of Attempted Income Tax Evasion in violation of 26 U.S.C. Section 7201; five counts of Filing a False Return in violation of 26 U.S.C. Section 7206(1); one count of Mail Fraud in violation of 18 U.S.C. Section 1341; and one count of Health Care Fraud in violation of 18 U.S.C. Section 1347. On or about August 3, 2004, in the United States District Court, Northern District of Ohio, you were sentenced to twenty-four months incarceration in a facility of the Bureau of Prisons.

Your pleas of guilty or the judicial finding of guilt as alleged in paragraph (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 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 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.

*Mailed 9-9-04*

John Michael Lonergan, M.D.

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

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, 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/blt  
Enclosures

CERTIFIED MAIL # 7000 0600 0024 5143 8480  
RETURN RECEIPT REQUESTED