



STATE MEDICAL BOARD OF OHIO

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

August 13, 1997

Apollo S. Rivera, M.D.
854 Township Road
713 R 3
Ashland, OH 44805

Dear Doctor Rivera:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Melidna R. Early, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on August 13, 1997, 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 the Franklin County Court of Common Pleas within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12, Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO

Thomas E. Gretter, M.D.
Secretary

TEG:jam
Enclosures

CERTIFIED MAIL RECEIPT NO. Z 395 587 590
RETURN RECEIPT REQUESTED

Mailed 8/15/97

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Melinda R. Early, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on August 13, 1997, 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 Apollo S. Rivera, 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.



Thomas E. Gretter, M.D.
Secretary

(SEAL)

8/13/97

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

APOLLO S. RIVERA, M.D.

*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on August 13, 1997.

Upon the Report and Recommendation of Melinda R. Early, 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:

1. The certificate of Apollo S. Rivera, 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 thirty (30) days.
2. The Board shall not consider reinstatement of Dr. Rivera's certificate unless and until all of the following minimum requirements are met:
 - a. Dr. Rivera shall submit an application for reinstatement, accompanied by appropriate fees.
 - b. Within ten days of the effective date of this Order, Dr. Rivera shall provide documentation, acceptable to the Board, of satisfactory

In the Matter of Apollo S. Rivera, M.D.

Page 2

completion of fifty (50) hours of Category II CME for the period July 1, 1994, through June 30, 1996, in addition to the hours for which satisfactory documentation has previously been provided. It shall be Dr. Rivera's responsibility to work with appropriate Board staff to ascertain what will be considered satisfactory documentation and to obtain the same.

- c. Dr. Rivera shall supply documentation, acceptable to the Board, of satisfactory completion of 100 hours of approved CME, at least forty (40) hours of which are Category I, for each biennium, if any, during which Dr. Rivera's certificate remains suspended after the effective date of this Order.
3. Subsequent to reinstatement of Dr. Rivera's certificate, Dr. Rivera shall remain on probation for three (3) additional biennial registration periods. During this probation period, Dr. Rivera shall submit, within thirty (30) days of the expiration of each registration period, documentation acceptable to the Board of satisfactory completion of the requisite hours of CME.
4. Upon successful completion of probation, Dr. Rivera's certificate shall be fully restored.

This Order shall become effective thirty (30) days from the date of mailing of notification of approval by the State Medical Board of Ohio.



Thomas E. Gretter, M.D.
Secretary

(SEAL)

8/13/97

Date

**REPORT AND RECOMMENDATION
IN THE MATTER OF APOLLO S. RIVERA, M.D.**

The Matter of Apollo S. Rivera, M.D., was heard by Melinda R. Early, Esq., Hearing Examiner for the State Medical Board of Ohio, on June 3, 1997.

INTRODUCTION

I. Basis for Hearing

A. The State Medical Board of Ohio notified Apollo S. Rivera, M.D., by letter dated April 9, 1997, that the Board proposed to take disciplinary action against his certificate to practice medicine and surgery in Ohio based on the following allegations:

- (1) In applying for renewal of his certificate to practice medicine and surgery in the State of Ohio for the current registration period, Dr. Rivera certified that he had completed the requisite hours of continuing medical education [CME], as required by Section 4731.281, Ohio Revised Code, for the registration period, July 1, 1994, through June 30, 1996.
- (2) On October 4, 1996, the Board advised Dr. Rivera, in a certified mail letter for which Dr. Rivera's agent signed, October 9, 1996, that he was required to complete an enclosed CME log detailing the CME he had completed for the registration period, July 1, 1994, through June 30, 1996. Additionally, the Board instructed Dr. Rivera to provide documented evidence of his completion of a minimum of forty hours of Category I CME for this time period.

On or about October 11, 1996, Dr. Rivera contacted the Board's Chief, Records, Renewal and CME, and advised her that he had not completed the requisite forty hours of Category I CME during the previous biennial registration period; he had completed only ten hours of Category I CME during this time.

When the Board issued its notice of opportunity for hearing letter, Dr. Rivera had not yet submitted any documentation of CME completion.

The Board asserted that Dr. Rivera's conduct in certifying to the Board that he had completed the requisite CME, when he had not done so, constituted "fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the board," as that clause is used in Section 4731.22(A), Ohio Revised Code," and/or "publishing a false, fraudulent, deceptive or misleading statement" as that clause is used in Section 4731.22(B)(5), Ohio Revised Code."

Moreover, the Board asserted that Dr. Rivera's failure to submit written documentation of completed CME, or his failure to submit a written response to the Board's CME audit notification, and/or his failure to obtain the requisite CME, constituted "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board," as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Section 4731.281, Ohio Revised Code, and Rules 4731-10-03 and 4731-10-08 (as in effect prior to October 31, 1996), Ohio Administrative Code."

The Board advised Dr. Rivera of his right to request a hearing in this matter. (State's Exhibit [St. Ex.] 1).

- B. Dr. Rivera submitted a written hearing request on April 22, 1997. (St. Ex. 2).

II. Appearances

- A. On behalf of the State of Ohio: Lee I. Fisher, Attorney General, by James M. McGovern, Assistant Attorney General.
- B. On behalf of Respondent: Apollo S. Rivera, M.D., was apprised of his right to be represented by counsel and appeared on his own behalf.

EVIDENCE EXAMINED

I. Testimony Heard

- A. Presented by the State
1. Debra L. Jones
 2. Apollo S. Rivera, M.D.

B. Presented by the Respondent

Apollo S. Rivera, M.D.

II. Exhibits Examined

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

A. Presented by the State

1. State's Exhibit 3: April 24, 1997, letter to Dr. Rivera from the Board advising that a hearing had been set for May 5, 1997, but further advising that the hearing had been postponed pursuant to Section 119.09, Ohio Revised Code. (2 pp.)
2. State's Exhibit 4: April 28, 1997, letter to Dr. Rivera from the Board scheduling the hearing for June 3, 1997. (2 pp.)
3. State's Exhibit 5: Copy of Dr. Rivera's 1996-1998 licensure renewal application card.
4. State's Exhibit 6: October 4, 1996, letter from the Board to Dr. Rivera advising him that he was required to complete a CME log and to provide documented evidence of having completed 40 hours of Category I CME during the registration period July 1, 1994, through June 30, 1996. (2 pp.)
5. State's Exhibit 7: Copy of Section 4731.281, Ohio Revised Code, and Rules 4731-10-03 through 4731-10-08, Ohio Administrative Code. (4 pp.)

B. Presented by the Respondent

1. Respondent's Exhibit A: May 28, 1997, letter from Dr. Rivera to the Board enclosing a copy of Educational Enterprises, Inc., CME Certificate certifying that Dr. Rivera had completed 50 hours Category I CME credit in preparation for the emergency medicine board examination, May 28, 1997. (2 pp.)

SUMMARY OF THE EVIDENCE

1. Dr. Rivera is a 1965 medical school graduate of a Filipino medical school. Dr. Rivera emigrated to the United States in 1967 where he completed an internship at Mercy Hospital in Buffalo, New York. Subsequently, Dr. Rivera completed a residency at Brooklyn Hospital in Brooklyn, New York. Dr. Rivera moved to Ohio in 1980. Currently, Dr. Rivera practices emergency medicine in Wooster, Ohio. (Transcript [Tr.] at 15-16; 27).
2. Dr. Rivera applied for the 1996-1998 biennial renewal of his certificate to practice medicine and surgery in the State of Ohio. On the application card, Dr. Rivera certified, under penalty of loss of his license to practice medicine in the State of Ohio, that he had completed, or would complete, the requisite CME credit hours during the 1994-1996 registration period. (St. Ex. 5; Tr. at 9).
3. On or about October 9, 1996, the Board notified Dr. Rivera that he would be required to submit, to the Board: 1) a CME log; and 2) documentation verifying forty hours of Category I CME completion. The Board advised Dr. Rivera that he should submit this information to Ms. Debra L. Jones within three weeks of receipt of the audit notification letter. (St. Ex. 6; Tr. at 11-13).
4. Sometime in October 1996, after receiving the Board's CME audit notification letter, Dr. Rivera contacted Ms. Jones and advised her that he believed he had completed only ten hours of Category I CME, rather than the required forty hours. Ms. Jones again instructed Dr. Rivera to submit documentation of the CME he had completed during the subject biennial registration period. Dr. Rivera, however, failed to submit this information to Ms. Jones. (Tr. at 13-14).
5. Dr. Rivera stated that he knew what the CME requirements were when he signed his licensure renewal application. Dr. Rivera explained, however, that he mistakenly thought that he had completed some CME during the 1994-1996 biennial registration period. He subsequently learned, however, that this CME was completed prior to that biennial registration period. Dr. Rivera further stated that he did not realize that he had failed to comply with the CME requirements until he received the Board's April 9, 1997, notice of opportunity for hearing letter. Dr. Rivera explained that prior to this, he believed had completed at least ten hours of Category I CME. Additionally, Dr. Rivera stated that he subscribes to Audio Digest and the New England Journal of Medicine, both of which he regularly reads in order to comply with the Category II CME requirements. Dr. Rivera admitted that he did not review his CME records when he renewed his license in the 1996-1998 biennial registration period despite knowing the

APR 18 PM 4:18

consequences of falsely certifying CME completion on the licensure renewal application. (Tr. 16-20; 23-24).

6. Dr. Rivera stated that since receiving the Board's April 9, 1997, notice of opportunity for hearing letter, he has completed fifty hours of Category I CME. On or about May 28, 1997, Dr. Rivera submitted, to the Board, an Education Enterprises, Inc., CME certificate which certifies that Dr. Rivera completed fifty hours of Category I CME in a self-study program in preparation for the Emergency Medicine Board examination. (Resp. Ex. A; Tr. at 19-20).

FINDINGS OF FACT

1. Dr. Rivera renewed his license to practice medicine and surgery in Ohio for the 1996-1998 biennial registration period. In applying to renew his certificate, Dr. Rivera certified that he had completed, or would complete, the requisite hours of CME for the 1994-1996 biennial registration period.
2. On or about October 9, 1996, the Board advised Dr. Rivera that he was required to complete a CME log detailing the CME he had completed for the registration period, July 1, 1994, through June 30, 1996. Additionally, the Board advised Dr. Rivera that he was required to submit documentation verifying completion of at least forty hours of Category I CME. Further, the Board requested that Dr. Rivera submit this information to the Board within three weeks of receipt of the CME audit notification letter.
3. Sometime in October 1996, after receiving the Board's CME audit notification letter, Dr. Rivera contacted Ms. Debra Jones at the Board, and advised her that he had completed only ten hours of Category I CME rather than the requisite forty hours. Ms. Jones again instructed Dr. Rivera to submit documentation of the CME he had completed during the July 1, 1994, through June 30, 1996, biennial registration period. Dr. Rivera, however, failed to timely submit any CME documentation to the Board.
4. Dr. Rivera admitted that when he received the Board's April 9, 1997, notice of opportunity for hearing letter, he reviewed his records and discovered that he had not completed any Category I CME credit hours during the July 1, 1994, through June 30, 1996, biennial registration period.
5. On or about May 28, 1997, Dr. Rivera completed fifty credit hours of Category I CME through Education Enterprises, Inc. This CME program was a self-study program in preparation for the Emergency Medicine board examination. This is

the only CME documentation Dr. Rivera has submitted to the Board verifying his completion of the requisite CME during the applicable biennial registration period, July 1, 1994, through June 30, 1996.

CONCLUSIONS

As set forth in Rule 4731-10-08(A), Ohio Administrative Code, an Ohio licensed physician is required to meet CME requirements established by Section 4731.281, Ohio Revised Code, in order to re-register the license. Section 4731.281, Ohio Revised Code, requires that a physician renewing a license "[o]n or before the first day of July of every even-numbered year * * * shall certify to the board that in the preceding two years the person has completed one hundred hours of continuing medical education." Section 4731.281 also states that the Board "may require a random sample of persons holding a certificate to practice * * * to submit materials documenting completion of the continuing medical education requirement during the preceding registration period." Rule 4731-10-08(A)(1), Ohio Administrative Code, further provides that "[l]icensees whose applications are selected shall submit additional documentation of compliance with CME requirements as the board may require."

Findings of Fact 1 through 4, above, support a conclusion that the conduct of Apollo S. Rivera, M.D., in falsely certifying completion of the statutorily required CME, constitutes "fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the Board," as set forth in Section 4731.22(A), Ohio Revised Code, and "publishing a false, fraudulent, deceptive, or misleading statement," as set forth in Section 4731.22(B)(5). Additionally, Dr. Rivera's conduct in failing to provide the Board with a written response to the CME audit notification letter, and his conduct in failing to submit appropriate CME documentation, as well as his failure to timely complete the requisite CME, constitute violations of Section 4731.281, Ohio Revised Code, and Rules 4732-10-03 and 4732-10-08, Ohio Administrative Code. Accordingly, Dr. Rivera was "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board," as set forth in Section 4731.22(B)(20), Ohio Revised Code.

PROPOSED ORDER

It is hereby ORDERED that:

1. The certificate of Apollo S. Rivera, 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 thirty (30) days.

1996.10.18 PM 4:19

2. The Board shall not consider reinstatement of Dr. Rivera's certificate unless and until all of the following minimum requirements are met:
 - a. Dr. Rivera shall submit an application for reinstatement, accompanied by appropriate fees.
 - b. Within ten days of the effective date of this Order, Dr. Rivera shall provide documentation, acceptable to the Board, of satisfactory completion of fifty (50) hours of Category II CME for the period July 1, 1994, through June 30, 1996, in addition to the hours for which satisfactory documentation has previously been provided. It shall be Dr. Rivera's responsibility to work with appropriate Board staff to ascertain what will be considered satisfactory documentation and to obtain the same.
 - c. Dr. Rivera shall supply documentation, acceptable to the Board, of satisfactory completion of 100 hours of approved CME, at least forty (40) hours of which are Category I, for each biennium, if any, during which Dr. Rivera's certificate remains suspended after the effective date of this Order.
3. Subsequent to reinstatement of Dr. Rivera's certificate, Dr. Rivera shall remain on probation for three (3) additional biennial registration periods. During this probation period, Dr. Rivera shall submit, within thirty (30) days of the expiration of each registration period, documentation acceptable to the Board of satisfactory completion of the requisite hours of CME.
4. Upon successful completion of probation, Dr. Rivera's certificate shall be fully restored.

This Order shall become effective thirty (30) days from the date of mailing of notification of approval by the State Medical Board of Ohio.



Melinda R. Early
Attorney Hearing Examiner



STATE MEDICAL BOARD OF OHIO

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

EXCERPT FROM THE DRAFT MINUTES OF AUGUST 13, 1997

REPORTS AND RECOMMENDATIONS

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

Dr. Buchan asked whether each member of the Board had received, read, and considered the hearing record, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Thomas W. Carrigan, M.D., and Apollo S. Rivera, M.D.

A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Heidt	- aye
	Dr. Gretter	- aye
	Dr. Egner	- aye
	Mr. Sinnott	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Buchan	- aye

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

ROLL CALL:	Mr. Albert	- aye
	Dr. Heidt	- aye
	Dr. Gretter	- aye
	Dr. Egner	- aye
	Mr. Sinnott	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Buchan	- aye

In accordance with the provision in Section 4731.22(C)(1), Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of these matters.

Dr. Buchan stated that if there were no objections, the Chair would dispense with the reading of the proposed findings of fact, conclusions and orders in the above matters. No objections were voiced by Board members present.

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

.....
REPORT AND RECOMMENDATION IN THE MATTER OF APOLLO S. RIVERA, M.D.

.....
**DR. GARG MOVED TO APPROVE AND CONFIRM MS. EARLY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF APOLLO S. RIVERA, M.D.
DR. HEIDT SECONDED THE MOTION.**

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

VOTE:	Mr. Albert	- abstain
	Dr. Heidt	- aye
	Dr. Egner	- aye
	Mr. Sinnott	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Buchan	- aye

The motion carried.



STATE MEDICAL BOARD OF OHIO

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

April 9, 1997

Apollo S. Rivera, M.D.
854 Township Road
713 R 3
Ashland, OH 44805

Dear Dr. Rivera:

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) In applying for registration of your certificate to practice medicine or surgery for the current registration period, you certified that you had completed during the last biennial period of acquisition of Continuing Medical Education (CME) (July 1, 1994 - June 30, 1996) the requisite hours of CME as required by Section 4731.281, Ohio Revised Code.
- (2) By a certified mail letter dated October 4, 1996, for which your agent signed on October 9, 1996, the State Medical Board of Ohio informed you that you were required to complete a log listing your CME for the July 1, 1994 - June 30, 1996, period and to provide documentation that you had actually completed at least forty (40) hours of Category I CME credits. On or about October 11, 1996, you contacted Debra Jones, Chief, Records, Renewal and CME and informed her that you had not, in fact, completed the requisite hours of CME. You stated that you thought you only had a total of ten (10) hours of Category I CME. To date, you have failed to submit any documentation of CME completed for the above period.

Your acts, conduct and/or omissions in certifying to the State Medical Board that you had completed the statutorily required CME, as set forth in the above paragraph (1), when you had not, in fact, done so, constitute "fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the board," as that clause is used in Section 4731.22(A), Ohio Revised Code.

Further, your acts, conduct and/or omissions in certifying to the State Medical Board that you had completed the statutorily required CME, as set forth in the above paragraph (1), when you had not, in fact, done so constitute "publishing a false, fraudulent, deceptive, or misleading statement," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

mailed 4/14/97

Further, your failure to respond in writing as directed to the audit notice, to obtain the requisite CME, and/or to submit documentation of same, as alleged in the above paragraph (2), constitutes "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board," as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Section 4731.281, Ohio Revised Code, and Rules 4731-10-03 and 4731-10-08 (as in effect prior to October 31, 1996), Ohio Administrative Code.

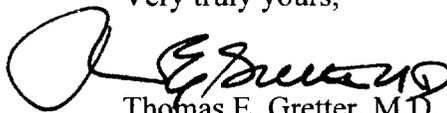
Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty (30) days of the time of mailing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

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

In the event that there is no request for such hearing received within thirty (30) days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand or place you on probation.

Copies of the applicable sections are enclosed for your information.

Very truly yours,


Thomas E. Gretter, M.D.
Secretary

TEG/bjs
Enclosures

CERTIFIED MAIL # P 152 984 661
RETURN RECEIPT REQUESTED

rev. 2/15/95

organization that conducts an approved impaired physician treatment provider program, no member of such an organization, and no employee, representative, or agent of the treatment provider shall be held liable in damages to any person by reason of actions taken or recommendations made by the treatment provider or its employees, representatives, or agents.

HISTORY: 141 v H 769. Eff 3-17-87.

Not analogous to former RC § 4731.25, (99 v 499, § 35; GC § 1278; 120 v 134; Bureau of Code Revision, 10-1-53), repealed 139 v H 317, § 2, eff 8-27-82.

Cross-References to Related Sections

Certification from treatment provider that practitioner has completed inpatient treatment as requirement for reinstatement, RC § 4731.22.

Medical quality foundation, RC § 3701.89.

Reports by treatment provider to medical board not required when impaired practitioner accepts treatment and has no violations other than substance abuse, RC § 4731.22.4.

Ohio Administrative Code

Rules governing impaired practitioners and approval of treatment programs. OAC ch. 4731-16.

Criteria for treatment providers. OAC 4731-16-07 et seq.

ALR

Alcoholism, narcotics addiction, or misconduct with respect to alcoholic beverages or narcotics, as ground for revocation or suspension of license to practice medicine or dentistry. 93 ALR2d 1398.

§ 4731.26 Certified copies of certificate.

Upon application the state medical board shall issue a duplicate certificate to replace one missing or damaged, reflect a name change, or for any other reasonable cause. The fee for such duplicate certificate shall be twenty-five dollars.

HISTORY: GC § 1279; 99 v 499, § 36; Bureau of Code Revision, 10-1-53; 134 v H 545 (Eff 1-7-72); 139 v H 694 (Eff 11-15-81); 139 v H 317. Eff 8-27-82.

Cross-References to Related Sections

Powers and duties of board, RC § 4731.20.

Research Aids

Issuance of certificate:

O-Jur3d: Phys & S § 125

Am-Jur2d: Phys & S § 26

§§ 4731.27, 4731.28 Repealed, 139 v H 317, § 2 [GC §§ 1280, 1281; 99 v 499; Bureau of Code Revision, 10-1-53]. Eff 8-27-82.

These sections concerned fees of probate judge and annual list of certificates.

[§ 4731.28.1] § 4731.281 Continuing medical education; application for registration with board.

On or before July 1, 1992, each person holding

a certificate under this chapter to practice medicine and surgery, osteopathic medicine and surgery, or podiatry shall certify to the state medical board that in the preceding eighteen months he has completed seventy-five hours of continuing medical education. On or before the first day of July of every even-numbered year thereafter, each such person shall certify to the board that in the preceding two years he has completed one hundred hours of continuing medical education. Such certification shall be made upon the application for registration furnished by the board pursuant to this section. For purposes of meeting this requirement, all continuing medical education taken by persons holding a certificate to practice medicine and surgery shall be certified by the Ohio state medical association and approved by the board; all continuing medical education taken by persons holding a certificate to practice osteopathic medicine and surgery shall be certified by the Ohio osteopathic association and approved by the board; and all continuing medical education taken by persons holding a certificate to practice podiatry shall be certified by the Ohio podiatric medical association and approved by the board. The board shall adopt rules providing for pro rata reductions by month of the hours of continuing education required by this section for persons who are in their first registration period, who have been disabled due to illness or accident, or who have been absent from the country. Each person holding a certificate to practice under this chapter shall be given sufficient choice of continuing education programs to ensure that he has had a reasonable opportunity to participate in continuing education programs that are relevant to his medical practice in terms of subject matter and level. The board may require a random sample of persons holding a certificate to practice under this chapter to submit materials documenting completion of the continuing medical education requirement during the preceding registration period, but this provision shall not limit the board's authority to investigate pursuant to section 4731.22 of the Revised Code.

Every person holding a certificate under this chapter to practice medicine and surgery, osteopathic medicine and surgery, or podiatry shall, on or before July 1, 1992, and on or before the first day of July of every even-numbered year thereafter, apply to the state medical board for a certificate of registration with the board upon an application which shall be furnished by the board, and shall pay at such time a fee of two hundred fifty dollars to the board. The board shall deposit the fee into the state treasury to the credit of the occupational licensing and regulatory fund created by section 4743.05 of the Revised Code, except that, until January 14, 1998, the board shall deposit twenty dollars of the fee into the state treasury to the credit of the physician loan repayment fund created by section 3702.78 of the Revised Code.

Except for the registration occurring in 1992, the

board shall assess a penalty of twenty-five dollars for late applications. The board shall deposit penalties into the occupational licensing and regulatory fund.

The board, on or before the first day of March of each year of registration, shall mail or cause to be mailed to every person registered to practice medicine and surgery, osteopathic medicine and surgery, or podiatry, an application for registration addressed to the last known post-office address of such person or may cause such application to be sent to such person through the secretary of any recognized medical, osteopathic, or podiatric society. Failure of such person to receive an application from the board shall not excuse him from the requirements contained in this section. The application shall contain proper spaces for the applicant's signature and the insertion of the required information including a statement that he has fulfilled the continuing education requirements imposed by this section.

The applicant shall write or cause to be written upon the application so furnished his full name, principal practice address and residence address, the number of his certificate to practice, and such other facts for the identification of the applicant as a person holding a certificate to practice under this chapter as the board considers necessary, and shall execute and deliver it to the board by mail or in person. Every person registered under this section shall give written notice to the board of any change of principal practice address or residence address within thirty days of the change.

The applicant shall report any criminal offense that constitutes grounds for refusal of registration under section 4731.22 of the Revised Code of which he has been found guilty or to which he has entered a plea of guilty or no contest since the signing of his latest preceding application for a certificate to practice medicine or surgery.

The board shall issue to any person holding a certificate under this chapter to practice medicine and surgery, osteopathic medicine and surgery, or podiatry, upon his application and qualification therefor in accordance with this section, a certificate of registration under the seal of the board. Such certificate shall be valid for a two-year period, commencing on the first day of October and expiring on the thirtieth day of September of the second year following.

On the first day of November in the year of registration, or as soon as practicable thereafter, the board shall publish and cause to be mailed to each person registered under this section, upon request, a printed list of the persons so registered.

Failure of any certificate holder to register and comply with this section shall operate automatically to suspend his certificate to practice on the first day of October in the year registration is required, and the continued practice after the suspension of the certificate to practice shall be considered as practicing

without a license. A certificate to practice suspended for less than two years for failure to register shall be reinstated by the board upon submission of the current and delinquent registration fees, the twenty-five-dollar penalty for late applications, and certification by signature of the applicant that the applicant has completed the requisite continuing medical education.

The state medical board may obtain information not protected by statutory or common law privilege from courts and other sources concerning malpractice claims against any person holding a certificate to practice under this chapter or practicing as provided in section 4731.36 of the Revised Code.

HISTORY: 132 v H 418 (Eff 12-1-67); 136 v H 682 (Eff 7-28-75); 136 v H 1426 (Eff 7-1-76); 139 v H 694 (Eff 11-15-81); 139 v H 317 (Eff 3-27-82); 140 v H 37 (Eff 6-22-84); 141 v H 428 (Eff 12-23-86); 143 v H 111 (Eff 7-1-89); 144 v H 454 (Eff 4-30-92); 145 v H 152. Eff 7-1-93.

The provisions of § 3(B) of HB 454 (144 v -) read as follows:

SECTION 3. * * * (B) Notwithstanding the provision of section 4731.281 of the Revised Code that requires the completion of 75 hours of continuing medical education in the 18 months preceding July 1, 1992, at the written request of an applicant for a certificate of registration, the State Medical Board shall accept any continuing medical education completed during the period beginning July 1, 1992, and ending September 30, 1992, in fulfillment of the 75-hour requirement; however, continuing medical education accepted in fulfillment of the 75-hour requirement shall not be accepted in fulfillment of the continuing medical education requirement for the registration occurring in 1994.

Cross-References to Related Sections

- Issuance of certificate, RC § 4731.14.
- Occupational licensing and regulatory fund, RC § 4743.05.
- Standard renewal procedure, defined, RC § 4745.01.
- State medical board; deposit of receipts, RC § 4731.24.

Ohio Administrative Code

- License registration and reinstatement; continuing medical education. OAC ch. 4731-10.

Research Aids

- Periodic registration:
 - O-Jur3d: Phys & S § 127
 - Am-Jur2d: Phys & S § 26

CASE NOTES AND OAG

1. (1989) The state medical board may not reinstate an osteopath's certificate under RC § 4731.28.1 and then revoke it for practicing before complying with the biennial registration requirement. RC § 4731.99 is the only statute under which a penalty may be assessed: *McCarthy v. Ohio State Medical Bd.*, 63 OApp3d 543, 579 NE2d 517.
2. (1991) Ohio Adm. Code 4731-10-08(A)(2)(f) does not create an irrebuttable presumption against an applicant for license registration; the applicant need only retain any available documentation of the completion of CME activity: *Nusbaum v. State Med. Board of Ohio*, No. 90AP-1376 (10th Dist.).

§ 4731
another st

(A) Wh
and surgen
the licensi
mate of
or the nat
physician
cal counce
to practic
tion with
in its disc
than six
to practic
medicine
cant to su
evidence
same age
requiremen
4731.08
4731.14
he demon
accordan

(B) Th
its certifi
a compl
surgery
der divis
after rec
board st
tice, by
before a
for purp

(C) H
ant to se
medical
within n
tion unb
cant on
tial ques
has notifi
for the
board o
lated se
issue a
termina

(D) A
mitted
this sect

(E) E
an appl
gery or
licensin
that lic
educati
ates sha
if he fu
certific
outside
onstrat

**4731-10-03 CONTINUING MEDICAL EDUCATION REQUIREMENTS FOR
REGISTRATION OR REINSTATEMENT OF A LICENSE**

(A) "License registration" is defined in paragraph (A)(3) of rule 4731-10-01 of the Administrative Code.

(B) "License reinstatement" is defined in paragraph (A)(4) of rule 4731-10-01 of the Administrative Code.

(C) All applicants who file for license registration or license reinstatement must meet the one-hundred-hour continuing medical education (hereinafter "CME") requirement less any reduction in hours allowed by the board under the provisions of rules

4731-10-09 and 4731-10-10 of the Administrative Code.

(D) If an individual has not completed the requisite hours of CME, he is not eligible for license registration or license reinstatement until such time as they have been completed. Any CME undertaken after the end of a registration period and utilized for purposes of registering or reinstating a suspended license cannot also be utilized to meet the CME requirement for the current registration period.

Eff. 5/16/83

CROSS REFERENCES

RC 4731.222, Reinstatement of suspended or inactive certificate
RC 4731.281, Continuing education requirements; biennial registration

4731-10-04 Continuing medical education requirements for restoration of a license

(A) "License restoration" is defined in paragraph (A)(5) of rule 4731-10-01 of the Administrative Code.

(B) Any application for license restoration will invoke the provisions of section 4731.222 of the Revised Code. The authority of the board to impose terms and conditions includes the following:

- (1) Requiring the applicant to obtain additional training and to pass an examination upon completion of such training;
- (2) Restricting or limiting the extent, scope, or type of practice of the applicant.

HISTORY: 1982-83 OMR 1285 (E), eff. 5-16-83

CROSS REFERENCES

RC 4731.222, Reinstatement of suspended or inactive certificate
RC 4731.281, Continuing education requirements; biennial registration

4731-10-05 Out-of-state licensees

Those individuals residing or practicing out of the state who wish to register or reinstate their licenses to practice medicine or surgery, osteopathic medicine and surgery, or podiatry in Ohio must complete the required continuing medical education within the registration period even though not currently residing or practicing in Ohio.

HISTORY: 1982-83 OMR 1285 (E), eff. 5-16-83

CROSS REFERENCES

RC 4731.281, Continuing education requirements; biennial registration

4731-10-06 Retired or non-working licensees

Licensees who are not working in the medical profession or who are retired from practice are not exempt from the continuing medical education requirements of section 4731.281 of the Revised Code and this chapter of the Administrative Code.

HISTORY: 1982-83 OMR 1286 (E), eff. 5-16-83

CROSS REFERENCES

RC 4731.281, Continuing education requirements; biennial registration

4731-10-07 Internships, residencies, and fellowships

(A) Continuing medical education requirements may contain provisions authorizing continuing medical education credit for licensees in internships, residencies, or fellowships in an accredited program approved by the state medical board. The training must have been taken during the registration period. Any training received prior to initial licensure or

license restoration may not be utilized for continuing medical education credit.

(B) Interns, residents, and fellows holding full licenses to practice must make application for renewal and comply with continuing medical education requirements under section 4731.281 of the Revised Code and Chapter 4731-10 of the Administrative Code.

HISTORY: 1983-84 OMR 25 (E), eff. 7-22-83

CROSS REFERENCES

RC 4731.281, Continuing education requirements; biennial registration
RC 4731.291, Temporary certificate for internship, residency or fellowship program

4731-10-08 Evidence of continuing medical education

(A) Each applicant for license registration or license reinstatement shall certify that he has completed the requisite hours of continuing medical education (hereinafter "CME") since the start of the registration period. This certification shall be evidence of completion of the CME requirement as set forth in section 4731.281 of the Revised Code, provided that:

(1) The board may randomly select applications for verification that all CME requirements have been met. Licensees whose applications are selected shall submit additional documentation of compliance with CME requirements as the board may require.

(2) Applicants shall keep detailed records of CME hours taken. Records of all CME undertaken shall be retained by the applicant for one year after the end of the registration period. At a minimum, the following information must be retained:

- (a) Description of the CME activity;
- (b) The category of CME, if applicable;
- (c) The location of the CME activity;
- (d) The dates of attendance;
- (e) The hours of each CME activity; and
- (f) Any available documentation of the completion of the CME activity.

All records of CME activity shall be kept available for agents of the board for review.

(B) Failure to maintain records rebuts the presumption established in paragraph (A) of this rule that the CME requirements have been completed.

(C) Nothing in this rule shall limit the board's authority to investigate and take action under section 4731.22 of the Revised Code.

HISTORY: 1982-83 OMR 1286 (E), eff. 5-16-83

CROSS REFERENCES

RC 4731.281, Continuing education requirements; biennial registration

4731-10-09 Reduction of continuing medical education hours

Reduction of hours can be granted on an individual basis only to those who have been ill for more than six consecutive months or out of the United States for more than six consecutive months during the registration period upon application to