



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

October 14, 1994

James L. Evans III, M.D.  
2144 North Ft. Thomas Avenue  
Fort Thomas, Kentucky 41075

Dear Doctor Evans:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Melinda R. Early, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of the Minutes of the State Medical Board, meeting in regular session on October 12, 1994, including a Motion 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 of the Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO

*Carla S. O'Day*  
Carla S. O'Day, M.D.  
Secretary

CSO:em

Enclosures

CERTIFIED MAIL RECEIPT NO. P 348 885 185  
RETURN RECEIPT REQUESTED

cc: Kevin P. Byers, Esq.

CERTIFIED MAIL NO. P 348 885 186  
RETURN RECEIPT REQUESTED

*Mailed 10-19-94*



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

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; attached copy of the Report and Recommendation of Melinda R. Early, Attorney Hearing Examiner, State Medical Board; and an excerpt of Minutes of the State Medical Board, meeting in regular session on October 12, 1994, including a Motion approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio, constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of James L. Evans, III, M.D., as it appears in the Journal of the State Medical Board of Ohio.

This certification is made by authority of the State Medical Board of Ohio and in its behalf.

(SEAL)

  
Carla S. O'Day, M.D.  
Secretary

10/13/94  
\_\_\_\_\_  
Date



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

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

\*

\*

JAMES L. EVANS, III, M.D.

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ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on the 12th day of October, 1994.

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

It is hereby ORDERED that:

1. Dr. James L. Evans III, M.D., shall be and is hereby REPRIMANDED for failure to timely submit documentation of compliance with continuing medical education requirements for the January 1, 1991 through September 30, 1992 biennium.
2. Dr. Evans' certificate to practice medicine and surgery shall be placed on PROBATIONARY status for the next three registration periods beginning October 1, 1994, during which time Dr. Evans shall submit documentation, acceptable to the Board, of his satisfactory completion of the requisite hours of continuing medical education. This documentation shall be due in the Board's offices within thirty (30) days of the expiration of each registration period during the probationary period.
3. Upon satisfactory completion of the conditions of probation, Respondent's certificate shall be fully restored.



**STATE MEDICAL BOARD OF OHIO**  
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Page 2

James L. Evans, III, M.D.

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

Carla S. O'Day  
Carla S. O'Day, M.D.  
Secretary

(SEAL)

10/13/94  
Date

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REPORT AND RECOMMENDATION  
IN THE MATTER OF JAMES L. EVANS III, M.D.

The Matter of James L. Evans III, M.D., came on for hearing before me, Melinda R. Early, Esq., Hearing Examiner for the State Medical Board of Ohio, on July 6, 1994.

INTRODUCTION AND SUMMARY OF EVIDENCE

I. Basis for Hearing

- A. The State Medical Board of Ohio notified James L. Evans III, M.D., by letter dated May 11, 1994 (State's Exhibit #1), that it proposed to take disciplinary action against his certificate to practice medicine and surgery in Ohio, based upon the following allegations:
1. In applying for the re-registration of his certificate to practice medicine and surgery for the current registration period, he certified that he had completed during the last registration period, January 1, 1991 to September 30, 1992, the requisite hours of Continuing Medical Education ("CME"), as required by Section 4731.281, Ohio Revised Code;
  2. On April 27, 1993, Dr. Evans signed for a letter, sent certified mail by the Board, which advised him that he was required to complete a log listing the CME he had completed during the period January 1, 1991 to September 30, 1992, and which, additionally advised him to provide documentation that he had completed at least 30 credit hours of Category I CME. The Board subsequently notified Dr. Evans, by letter sent certified mail, and once again requested his submission of the CME documentation for the January 1, 1991 to September 30, 1992 registration period. Dr. Evans's agent signed for receipt of this letter on or about December 2, 1993. Dr. Evans did not respond to either of the referenced notifications, and he did not submit any documentation of CME completed during the registration period January 1, 1991 through September 30, 1992; and
  3. Dr. Evans's failure to respond to the notices as set forth above, rebutted the presumption that he had completed the requisite hours of CME, and/or demonstrated that he had failed to keep detailed CME records.

Dr. Evans's acts in certifying that he had completed the statutorily required CME, when in fact he had not done so,

STATE MEDICAL BOARD  
CASE # 12-704-01

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.

Additionally, Dr. Evans's failure to obtain the requisite CME, and his failure to submit documentation of having completed the requisite CME, constituted "[v]iolating 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, Ohio Administrative Code.

Dr. Evans was advised of his right to request a hearing in this Matter.

- B. Dr. Evans requested a hearing, by letter which was received by the State Medical Board on May 26, 1994 (State's Exhibit #2).

## II. Appearances

- A. In behalf of the State of Ohio: Lee I. Fisher, Attorney General, by Lili C. Kaczmarek, Assistant Attorney General
- B. In behalf of James L. Evans III, M.D., by Kevin P. Byers, Esq.

## III. Testimony Heard

No witnesses were presented.

## IV. Exhibits Examined

In addition to State's Exhibits #1 and #2, noted above, the following exhibits were identified by the State and admitted into evidence in this Matter:

- A. State's Exhibit #3: May 31, 1994 letter to Dr. Evans from the State Medical Board, advising him that a hearing initially set for June 9, 1994 was postponed pursuant to Section 119.09, Ohio Revised Code.
- B. State's Exhibit #4: June 3, 1994 letter to Dr. Evans from the State Medical Board, scheduling the hearing for July 6, 1994. (2 pp.)

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- C. State's Exhibit #5: Packet of documents submitted to the State Medical Board by Dr. Evans, including the following:
- 1) Dr. Evans's CME certificate issued by the Yale School of Medicine, documenting 13 credits of Category I CME, dated January 1991;
  - 2) Dr. Evans's CME certificate issued by the Yale School of Medicine, documenting 13 credits of Category I CME, dated July 1991;
  - 3) Dr. Evans's CME certificate issued by the Yale School of Medicine, certifying 13 credits of Category I CME, dated January 1992;
  - 4) Dr. Evans's CME certificate, issued by American Health Consultants, certifying his completion of 19.50 credit hours Category I CME, and reflecting that the test was taken on December 1, 1991; and
  - 5) Dr. Evans's CME certificate, issued by American Health Consultants, certifying his completion of 19.50 credit hours of Category I CME, and reflecting that the test was taken on June 1, 1991. (4 pp.)

V. Other Matters

A. Post-Hearing Admissions to the Record

1. By Entry dated August 17, 1994, a copy of which is hereby admitted as Board Exhibit A, the hearing record was reopened for the State to submit additional evidence.
2. The requested additional evidence was submitted on August 22, 1994, and is hereby admitted as Board Exhibit B.
3. Upon the Hearing Examiner's own motion, a certified copy of Dr. Evans's renewal application, submitted by the State post-hearing, is hereby admitted to the record as Board Exhibit C.

FINDINGS OF FACT

1. Dr. Evans renewed his Ohio license to practice medicine and surgery in June 1992 and in so doing, he certified that he had completed during the last registration period, January 1, 1991 through September 30, 1992, the requisite number of CME credit hours.

These facts are established by Board Exhibit C.

2. On April 27, 1993, Dr. Evans received the Board's letter which advised him that he had been randomly selected for an audit of his CME credits. As a result of his having been randomly selected to participate in the CME audit, Dr. Evans was advised that he was

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required to submit, to the Board, a completed CME log, together with appropriate documentation evidencing his completion of at least 30 credit hours of Category I CME. The letter also advised Dr. Evans that a maximum 45 hours of undocumented Category II credit hours could be reflected on the CME log. The letter noted that it was his responsibility to document completion of the required CME, and that his failure to timely comply with the audit notification could result in the revocation or suspension of his license to practice medicine and surgery in Ohio. Dr. Evans failed to timely respond to the Board's initial audit notification. The Board then issued a second audit notification letter which Dr. Evans received on December 2, 1993. Once again, Dr. Evans failed to timely respond to the CME audit notification. As a result of his failure to timely respond to both audit notifications, the Board issued Dr. Evans a Notice of Opportunity to be Heard on the issue of his having violated Section 4731.25(A) and 4731.22(B)(20), Ohio Revised Code.

When Dr. Evans responded to the Board's Notice of Opportunity to be Heard, he submitted copies of CME certificates, issued by approved sponsors, which documented his completion of 58.50 credit hours of Category I CME during the period January 1, 1991 to September 30, 1992. He later submitted one final CME certificate reflecting the completion of 19.50 Category I credit hours in December 1991.

These facts are established by State's Exhibits #1 and #5, Board Exhibit B, and clarification of evidence by Respondent's Counsel (Tr. at 10).

3. Dr. Evans stated that he did not timely respond to the Board's audit notifications because he did not intend to renew his Ohio certificate to practice medicine and surgery.

These facts are established by Respondent's Counsel's Arguments (Tr. 8).

#### CONCLUSIONS

1. The Findings of Fact do not support a conclusion that Dr. Evans's acts would 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, or that Dr. Evans's acts would constitute "[v]iolating 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 Rule 4731-10-03, Ohio Administrative Code. Dr. Evans did not commit fraud, misrepresentation, or deception in applying for the renewal of his

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certificate to practice medicine and surgery because he met the requirements of Rule 4731-10-08(A)(2), Ohio Administrative Code and thereby supported the presumption that he had completed the requisite CME when he so certified in his licensure renewal application. Although the State failed to show Dr. Evans violated Section 4731.22(A), Ohio Revised Code, and Section 4731.22(B)(20), Ohio Revised Code, on the basis of having violated Section 4731.281, Ohio Revised Code, and Rule 4731-10-03, Ohio Administrative Code, Findings of Fact #1 and #2 do support a conclusion that Dr. Evans's acts would constitute a violation of Section 4731.22(B)(20), Ohio Revised Code, by virtue of his having violated Rule 4731-10-08, Ohio Administrative Code.

2. Rule 4731-10-08, Ohio Administrative Code, provides that the Board may randomly select the applications of physicians who are renewing their certificates to practice medicine and surgery in Ohio for purposes of verifying the physicians' completion of the requisite CME. The Rule further requires the physicians to provide additional documentation as the Board may require. Under the authority of this Rule, the Board issued two written notifications to Dr. Evans explaining the audit requirements: the timely submission of a completed CME log and the documented completion of at least 30 credit hours of Category I CME. Dr. Evans failed to timely comply with the Board's audit notifications. He did, eventually, provide the Board with copies of certificates issued by approved sponsors, which documented his completion of the requisite number of CME credit hours, including more than twice the number of required Category I credit hours. Thus, Dr. Evans's acts in failing to timely comply with the Board's audit notification, constitutes "[v]iolating 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: Rule 4731-10-08, Ohio Administrative Code.

PROPOSED ORDER

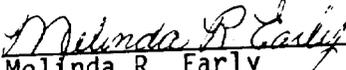
It is hereby ORDERED that:

1. Dr. James L. Evans III, M.D., shall be and is hereby REPRIMANDED for failure to timely submit documentation of compliance with continuing medical education requirements for the January 1, 1991 through September 30, 1992 biennium.

STATE OF OHIO  
MEDICAL BOARD  
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2. Dr. Evans' certificate to practice medicine and surgery shall be placed on PROBATIONARY status for the next three registration periods beginning October 1, 1994, during which time Dr. Evans shall submit documentation, acceptable to the Board, of his satisfactory completion of the requisite hours of continuing medical education. This documentation shall be due in the Board's offices within thirty (30) days of the expiration of each registration period during the probationary period.
3. Upon satisfactory completion of the conditions of probation, Respondent's certificate shall be fully restored.

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

  
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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 MINUTES OF OCTOBER 12, 1994

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## REPORTS AND RECOMMENDATIONS

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

Dr. Heidt 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: Candelaria J. M. Castaneda, M.D.; James L. Evans III, M.D.; Richard M. Kremer, M.D.; and Robert T. McKinney, M.T. A roll call was taken:

A roll call was taken:

ROLL CALL:	Dr. O'Day	- aye
	Mr. Albert	- aye
	Dr. Stienecker	- aye
	Dr. Gretter	- aye
	Dr. Agresta	- aye
	Dr. Buchan	- aye
	Ms. Noble	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

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

ROLL CALL:	Dr. O'Day	- aye
	Mr. Albert	- aye
	Dr. Stienecker	- aye
	Dr. Gretter	- aye
	Dr. Agresta	- aye
	Dr. Buchan	- aye
	Ms. Noble	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

Mr. Sinnott returned to the meeting at this time.

Dr. Heidt asked Mr. Sinnott whether he had received, read, and considered the hearing record, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Candelaria J. M. Castaneda, M.D.; James L. Evans III, M.D.; Richard M. Kremer, M.D.; and Robert T. McKinney, M.T. Mr. Sinnott indicated that he had.

EXCERPT FROM THE MINUTES OF OCTOBER 12, 1994  
IN THE MATTER OF JAMES L. EVANS III, M.D.

Dr. Heidt asked Mr. Sinnott whether he 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. Mr. Sinnott stated that he did.

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All Assistant Attorneys General and all Enforcement Coordinators returned to the meeting at this time.

REPORT AND RECOMMENDATION IN THE MATTER OF JAMES L. EVANS III, M.D.

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**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. EARLY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF JAMES L. EVANS III, M.D. DR. GARG SECONDED THE MOTION.**

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A roll call vote was taken on Dr. Steinbergh's motion:

ROLL CALL VOTE:	Dr. O'Day	- abstain
	Mr. Albert	- abstain
	Dr. Stienecker	- aye
	Dr. Gretter	- aye
	Dr. Agresta	- aye
	Dr. Buchan	- aye
	Ms. Noble	- aye
	Mr. Sinnott	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.



# **STATE MEDICAL BOARD OF OHIO**

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

May 11, 1994

James L. Evans, III, M.D.  
57 Covert Place  
Ft. Thomas, KY 41075

Dear Doctor Evans:

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 registration period (January 1, 1991 - September 30, 1992) the requisite hours of Continuing Medical Education (CME) as required by Section 4731.281, Ohio Revised Code.
- (2) On April 27, 1993, you signed for the certified mail letter from the State Medical Board which informed you that you were required to complete a log listing your CME for the January 1, 1991 to September 30, 1992, registration period and to provide documentation that you had actually completed at least thirty (30) hours of Category 1 CME credits. By certified mail letter dated November 30, 1993, for which your agent signed on or about December 2, 1993, the State Medical Board again requested that you submit documentation of your CME credits for the registration period January 1, 1991, to September 30, 1992. You have not responded to either of the above notices. You have failed to submit any documentation of CME completed for the above registration period.
- (3) Your lack of response to the notices as detailed in the above paragraph (2) rebuts the presumption that you did complete the requisite hours of Continuing Medical Education, and/or demonstrates that you failed to keep detailed records of CME taken.

Your acts in certifying to the State Medical Board that you had completed the statutorily required Continuing Medical Education, 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.

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May 11, 1994

Further, such failure to obtain the requisite Continuing Medical Education and submit documentation of same constitutes "(v)iolating 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, Ohio Administrative Code.

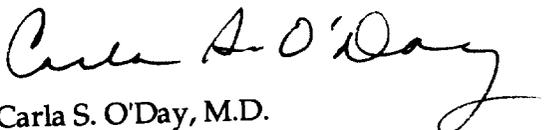
Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty (30) days of the time of mailing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



Carla S. O'Day, M.D.  
Secretary

CSO:jmb

Enclosures:

CERTIFIED MAIL #P 348 888 309  
RETURN RECEIPT REQUESTED