

# State Medical Board of Ohio

30 E. Broad Street, 3rd Floor, Columbus, OH 43215-6127

Richard A. Whitehouse, Esq.  
Executive Director

(614) 466-3934  
med.ohio.gov

April 11, 2012

Charles Chiedo Njoku, M.D.  
240 Valley Run Place  
Powell, OH 43065

RE: Case No. 11-CRF-042

Dear Doctor Njoku:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Patricia A. Davidson, Esq., Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on April 11, 2012, 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 must be commenced by the filing of a Notice of Appeal with the State Medical Board and the Franklin County Court of Common Pleas. The Notice of Appeal must set forth the Order appealed from and state that the State Medical Board's Order is not supported by reliable, probative, and substantive evidence and is not in accordance with law. The Notice of Appeal may, but is not required to, set forth the specific grounds of the appeal. 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



J. Craig Strafford, M.D., M.P.H.  
Secretary

JCS:jam  
Enclosures

CERTIFIED MAIL NO. 91 7199 9991 7030 3310 5482  
RETURN RECEIPT REQUESTED

Cc: Gary A. Gillett, Esq.  
CERTIFIED MAIL NO. 91 7199 9991 7030 3310 5499  
RETURN RECEIPT REQUESTED

*Mailed 4-12-12*

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Patricia A. Davidson, State Medical Board Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on April 11, 2012, 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 Charles Chiedo Njoku, M.D., Case No. 11-CRF-042, 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.



\_\_\_\_\_  
J. Craig Stafford, M.D., M.P.H.

Secretary

(SEAL)

April 11, 2012

\_\_\_\_\_  
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

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CASE NO. 11-CRF-042

CHARLES CHIEDO NJOKU, M.D.

\*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on April 11, 2012.

Upon the Report and Recommendation of Patricia A. Davidson, State Medical Board 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 Charles Chiedo Njoku, M.D., to practice medicine and surgery in Ohio is hereby PERMANENTLY REVOKED.

This order of permanent revocation supersedes the suspension of the certificate that was ordered pursuant to Ohio Revised Code Section 3719.121(C).

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



J. Craig Strafford, M.D., M.P.H.  
Secretary

(SEAL)

April 11, 2012

Date

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**BEFORE THE STATE MEDICAL BOARD OF OHIO**

<b>In the Matter of</b>	*	<b>Case No. 11-CRF-042</b>
<b>Charles Chiedo Njoku, M.D.,</b>	*	<b>Hearing Examiner Davidson</b>
<b>Respondent.</b>	*	

**REPORT AND RECOMMENDATION**

Basis for Hearing

On April 13, 2011, the State Medical Board of Ohio ordered the immediate suspension of the certificate of Charles Chiedo Njoku, M.D., to practice medicine and surgery in Ohio, pursuant to Ohio Revised Code [R.C.] 3719.121(C). The Board stated that its action was based on a federal prosecutor's report of Dr. Njoku's plea of guilty to, and conviction for, Distribution of Schedule II Controlled Substances in violation of 21 United States Code [U.S.C.] §§ 841(a) and 841(b)(1)(C) and 18 U.S.C. § 2. (St. Ex. 1)

By letter dated April 13, 2011, the Board notified Dr. Njoku of the immediate suspension and further notified him that, based on this alleged conviction and on another alleged conviction regarding healthcare fraud, the Board intended to determine whether to take disciplinary action pursuant to the following statutory provisions:

- R.C. 4731.22(B)(9) (discipline based on a plea of guilt or judicial finding of guilt of a felony);
- R.C. 4731.22(B)(3) (discipline based on "selling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction of, a violation of any federal or state law regulating the possession, distribution, or use of any drug") (emphasis added); and
- R.C. 4731.22(B)(8) (discipline based on "obtaining \* \* \* or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice"). (St. Ex. 1)

The Board notified Dr. Njoku of his right to request a hearing, and it received his hearing request on May 2, 2011. At Dr. Njoku's written request, the hearing was postponed to December 2011. (St. Ex. 1; see, also, Case Record File)

Appearances

Mike DeWine, Attorney General, and Melinda Ryans Snyder, Assistant Attorney General, for the State of Ohio. Gary A. Gillett, Esq., for the Respondent.

Hearing Date: December 9, 2011

## SUMMARY OF THE EVIDENCE

All the evidence admitted in this matter, even if not specifically mentioned, was thoroughly reviewed and considered by the Hearing Examiner prior to preparing this Report and Recommendation.

### Background

1. Dr. Njoku testified regarding his medical education, training, and employment, and he submitted a copy of his curriculum vitae [CV]. Among other things, Dr. Njoku noted that he had a private surgical practice in Akron, Ohio, and subsequently opened a primary-care office in association with a contractor that provided managed care for state healthcare programs. Dr. Njoku also opened an endoscopy center, so he had three medical offices at one point. (Tr. at 38-44; Resp. Ex. A)
2. Dr. Njoku testified that, in 2003, he resigned his hospital privileges in Akron because he decided to cease obtaining malpractice insurance when the premiums increased dramatically one year. Dr. Njoku explained that he was paying tuition for his children to attend colleges and graduate schools, and he did not think it was necessary to continue paying the high premiums when he needed the money for his children. Dr. Njoku also testified that, around the same time, the managed-care company went bankrupt and all his “patients were sold to another entity,” so he “lost a lot of clients” at that time. (Tr. at 39-44, 66, 71)
3. Dr. Njoku testified that, after resigning his hospital privileges, a recruiter got him a job doing laser vein treatment in Sharon, Pennsylvania. (Tr. at 69-70)
4. Dr. Njoku testified that he was also practicing medicine at the primary-care office he had opened in Akron. He stated in his CV that he worked from 1995 to 2011 at “Peoples Family Medical Practice” in Akron as the “Medical director, Physician/Surgical-Endoscopist.” However, Dr. Njoku testified that he needed additional work to pay for his children’s expenses, so his recruiter got him a job at a Columbus clinic called West Broad Medical Center [West Broad], where he worked several days per week while maintaining his office practice in Akron. However, Dr. Njoku testified that he quit the job at West Broad in late 2004 or early 2005 due to the amount of driving required to work in Columbus while living in Cleveland. Dr. Njoku testified that, after leaving West Broad, his only practice was at Peoples Family Medical Practice in Akron and assisting his wife at her spa in Beechwood, Ohio.<sup>1</sup> (Tr. at 39-44, 74)
5. However, in 2006, Dr. Njoku opened a new medical office in Columbus. He testified that he was approached by investors who wanted him to open an office in Columbus, and so he opened a primary-care office in Columbus in June or July 2006, called “Peoples Family Medical Practice.” (Resp. Ex. A; Tr. at 39-45, 73-75)

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<sup>1</sup>Dr. Njoku acknowledged that he had omitted the employment at West Broad Medical Center from his CV. (Tr. at 69)

6. Dr. Njoku testified that the idea of opening a new office in Columbus was attractive to him in 2006 because he liked the idea of building a practice, and he had gained experience in “building, hiring, you know, managing big offices, and all that.” He testified that, after opening this new medical office in 2006, he typically worked three days per week at his Columbus office and also practiced at his office in Akron. However, according to Dr. Njoku, the investors did not keep their agreement, and things were “very difficult every way around.” (Tr. at 44-47, 76-77)
7. Dr. Njoku testified that, for the opening of his new office in Columbus in 2006, he hired a secretary from West Broad. He stated that he had also wanted to hire one or more others from West Broad, but he could not afford it. However, Dr. Njoku testified that, in August 2007, he was able to hire Veronica Scott-Guiler from West Broad because his practice was growing so large that he was just “killing [him]self.” (Tr. at 45-47, 58, 72-74, 80, 82)
8. Dr. Njoku testified that Ms. Scott-Guiler took care of supervising the front office, and she also managed the medical-records system. She made sure “the blood work and everything was done” and that prescriptions were called in to pharmacies. Dr. Njoku further testified that Ms. Scott-Guiler, when previously employed at West Broad, had been “playing the same role of, you know, the medical assistant, a writer.” He explained: “In primary care practice they have the writer system where the doctor goes in to take care of the patient, and there is [an employee] that will go behind him and write all the – you know, the records, while the doctor was doing the procedures. So that’s the same capacity I hired her for.” Further, he noted that Ms. Scott-Guiler was the employee who talked with patients who called in with problems or questions. However, Dr. Njoku testified that the billing was done by his wife. (Tr. at 45-47, 58, 72-74, 80, 82)

### **Criminal Charges Against Dr. Njoku**

9. In June 2010, a federal grand jury issued a Superseding Indictment in *United States v. Charles C. Njoku, M.D.*, Case No: 2:10-CR-07 in the Southern District of Ohio. Dr. Njoku was charged with eighteen criminal offenses including healthcare fraud and unlawful distribution of a controlled substance. (St. Ex. 3) This superseding indictment included the following allegations and counts:

#### **INTRODUCTION**

At all times relevant to this indictment, unless otherwise alleged:

1. Defendant CHARLES C. NJOKU [is] a medical doctor licensed in the State of Ohio, with offices located [in] Columbus, Ohio, and Akron, Ohio [addresses omitted]. Defendant CHARLES C. NJOKU diagnosed and treated patients and billed their public healthcare programs for medical services under the names of CHARLES C. NJOKU, M.D. and People’s Family Medical Center.
2. Defendant CHARLES C. NJOKU entered into a provider agreement with the Ohio Department of Job and Family Services, Medicaid, on October 26,

1984. Defendant CHARLES C. NJOKU also entered into a provider agreement with Medicare on August 1, 2002. Defendant CHARLES C. NJOKU also entered into a contract with Molina Health Care, a Medicaid Managed Care Organization on July 1, 2008. By entering into these agreements Defendant CHARLES C. NJOKU agreed to bill only for medically necessary services that were actually provided as billed.

3. Defendant Charles C. Njoku directed the activities of several of his employees who also provided services to patients.

4. Veronica Scott-Guiler (not named in the Superseding Indictment) was employed by Charles C. Njoku to work at the People's Family Medical Center in Columbus, Ohio as the Clinical Supervisor. Veronica Scott-Guiler does not have a medical or nursing degree and is not licensed by the State of Ohio, or any other entity, to provide the medical services or other clinical services hereinafter referenced.

5. Defendant Charles C. Njoku and Veronica Scott-Guiler saw and billed for patients covered by the Ohio Medicaid Program ("Medicaid"), Molina Health Care, a Medicaid Managed Care Organization, and the Medicare Program. Collectively, these healthcare insurance programs are called herein the Victim Health Care Programs.

\* \* \*

[Omitted: Paragraphs 6 through 11, setting forth information including the following: description of the Medicaid Program as administered by the Ohio Department of Job and Family Services; description of the role of Molina Healthcare; description of the Medicare program including a description of Palmetto GBA, the Ohio carrier for Medicare Part B; explanation of procedures for submitting claims for payment, with an explanation of medical billing codes called CPT codes; and a statement that a provider who submitted a claim for payment to these healthcare programs certified, when submitting the invoices or claims for payment, that the treatment had actually been given to the patient as documented and was medically necessary for the health of the patient.]

#### THE HEALTH CARE FRAUD SCHEME

12. Beginning on or about January 1, 2006 through March 1, 2009, the exact dates being unknown to the Grand Jury,<sup>2</sup> in the Southern District of Ohio and elsewhere, Defendant Charles C. Njoku and Veronica Scott-Guiler **unlawfully, willfully, and knowingly made false statements** in connection with the delivery of, and payment for, healthcare benefits, **and devised a scheme and artifice to defraud** the Victim Health Care Programs **to obtain money and**

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<sup>2</sup> Dr. Njoku pleaded guilty only to counts 14 and 16, which set forth much narrower ranges of time than the period set forth in this introductory paragraph.

**property by means of false and fraudulent pretenses, representations, and promises.**

13. It was part of the scheme and artifice to defraud and to obtain money and property by means of false and fraudulent pretenses, representations, and promises (hereinafter called "the scheme") that Defendant Charles C. Njoku would bill the Victim Health Care Programs for physician services, including **physician office visits and tests that were not rendered by a licensed physician as billed.** As part of the scheme, Defendant Charles C. Njoku billed or caused to be billed the Victim Health Care Programs for items, **services or benefits that were not provided, including physician office visits billed while Charles C. Njoku was out of the country.**

14. It was further part of the scheme that Defendant Charles C. Njoku would bill or caused to be billed to the Victim Health Care Programs for services, items or benefits **provided by an unlicensed individual, Veronica Scott-Guiler, when Charles C. Njoku was not present in the office, including while he was out of the country. Veronica Scott-Guiler was not lawfully permitted to provide any of the medical services** referenced herein for which the Victim Health Care Programs were billed.

15. It was further part of the scheme that Defendant Charles C. Njoku provided Veronica Scott-Guiler with **pre-signed prescription pads, and allowed her to write and issue prescriptions to patients, for narcotics, including Schedule II drugs and other medications, when Charles C. Njoku was not in the office, including when he was out of the country. Charles C. Njoku authorized Veronica Scott-Guiler to fill out the medication information for narcotics and other medications when he was not in the office, and present those prescriptions to patients.** The patients in turn would have those prescriptions filled at various pharmacies that would bill the Victim Health Care Programs for the medications. Veronica Scott-Guiler was not lawfully permitted to write or issue these prescriptions for which the Victim Health Care Programs were billed.

16. It was further part of the scheme that Defendant Charles C. Njoku routinely would not be at the Columbus location of People's Family Medical Center on Tuesdays. Defendant **Charles C. Njoku knew that Veronica Scott-Guiler was treating patients at this office on Tuesdays, often providing the patients with prescriptions for narcotics and other drugs.** Defendant Charles C. Njoku billed for office visits on those Tuesdays as if he had personally seen the patients and had provided the medical services that were billed to the Victim Health Care Programs.

17. It was further part of the scheme that Defendant Charles C. Njoku would direct his billing service to bill the Victim Health Care Programs for the items or services referenced above, **knowing these items or services had not been**

**performed by Charles C. Njoku, and knowing Veronica Scott-Guiler was not lawfully permitted to perform any such services.**

18. As part of the scheme, **claims involving numerous Medicaid and Medicare recipients were fraudulently billed** to the Victim Health Care Programs in amounts totaling in excess of \$100,000.00.

\* \* \*

COUNT 14  
[18 U.S.C. § 1347 and § 2]

45. Paragraphs 1 – 18 of the indictment are hereby incorporated by reference as part of this count as if fully set forth herein.

46. On or after August 1, 2008, and continuing to on or about March 1, 2009, in the Southern District of Ohio and elsewhere, the Defendant Charles C. Njoku and Veronica Scott-Guiler, **having knowingly and willfully executed and attempted to execute the scheme and artifice to defraud the Ohio Medicaid Program described above, did so execute and attempt to execute by submitting the claims for reimbursement for patient C.E. for the purpose of defrauding, or obtaining by false or fraudulent pretenses, representations, or promises, money owned by, or under the custody or control of, the Ohio Medicaid Program and Molina Health Care, in connection with the delivery of, or payment for, healthcare benefits, items, or services.**

In violation of 18 U.S.C. § 1347 and § 2.

\* \* \*

COUNT 16  
[21 U.S.C. § 841(a)(1) and (b)(1)(C) and 18 U.S.C. § 2]

49. Paragraphs 1 – 18 of the indictment are hereby incorporated by reference as part of this count as if fully set forth herein.

50. On or about August 1, 2008, in the Southern District of Ohio and elsewhere, Defendant Charles C. Njoku and Veronica Scott-Guiler, **did knowingly or intentionally cause to be distributed or dispensed a mixture and substance containing a detectable amount of Roxicet,<sup>3</sup> a Schedule II**

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<sup>3</sup> Roxicet is a brand name for an oxycodone-acetaminophen combination. E.g., National Library of Medicine, National Institutes of Health, PubMed Health, *Oxycodone*, published at <[www.ncbi.nlm.nih.gov/pubmedhealth/PMH0000589](http://www.ncbi.nlm.nih.gov/pubmedhealth/PMH0000589)>, accessed Feb. 24, 2012)

**controlled substance**, by writing or approving a prescription to patient R.B., which was not legally issued by a licensed and registered physician.

In violation of 21 U.S.C. § 841(a)(1) and (b)(1)(C), and 18 U.S.C. § 2.

(St. Ex. 3, emphasis added)

### **Plea Agreement**

10. On July 9, 2010, Dr. Njoku signed a plea agreement in which he agreed to plead guilty to Count 14 (healthcare fraud) and Count 16 (unlawful distribution of a Schedule II substance) and also agreed to assist the government in its prosecution of other persons. In exchange, the government agreed to dismiss the remaining sixteen counts. On July 9, 2010, in *United States v. Njoku, supra*, Dr. Njoku pleaded guilty to one count of healthcare fraud and one count of unlawful distribution of a Schedule II controlled substance. The plea agreement was filed with the court on that date. The court ordered the preparation of a Presentence Investigation Report and scheduled a sentencing hearing for December 29, 2010. (St. Ex. 4; St. Ex. 6 at 1-3)

### **Sentencing Hearing and Judgment Entry**

11. On December 29, 2010, the court held a hearing regarding the sentence for Dr. Njoku. Both parties stated that they had no objection to the facts set forth in the Presentence Investigation Report, and the court adopted those facts as its own statement of facts. Dr. Njoku's attorney then set forth factors in favor of leniency. For example, he argued that, although he could not dispute the court's view that Dr. Njoku's conduct had "imperiled the lives of patients for greed," the court should consider that Dr. Njoku's conduct had been "an aberration" by a man who was otherwise a good person and good physician.<sup>4</sup> (Tr. at 2-11)
12. The court expressed the opinion that Dr. Njoku had manipulated Ms. Scott-Guiler in that she had not acted independently but engaged in the conduct because Dr. Njoku had told her to do so. The court opined that Dr. Njoku had used and manipulated her "because he was in a superior position to her, a woman who had two or three children, who needed the job, and so he forced her to commit these acts." The defense did not dispute the facts but argued that Dr. Njoku's conduct, while "very, very regrettable," had never been committed with malice and that the court should consider the greater deeds that Dr. Njoku had accomplished in his life. The court recognized that Dr. Njoku had been going through a difficult time but opined that, when one considered the peril to which Dr. Njoku exposed his patients and the manipulation of his employee as part of his "avaricious scheme," then Dr. Njoku's good deeds were "vitiating by the nefarious deeds in which he engaged." (Tr. at 14-23)
13. Dr. Njoku's attorney emphasized that Dr. Njoku had been obliged to travel to Nigeria due to the death of his mother, something that had happened "all of a sudden" and could not be

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<sup>4</sup>The presentence report was not submitted as a hearing exhibit. Only the prosecuting attorney's memorandum was submitted (St. Ex. 5), and that document is viewed more as an item of advocacy for the government's position. Further, the federal judge adopted the facts in the presentence report, not the facts in the prosecution's memorandum. (St. Ex. 6)

planned for.<sup>5</sup> In asking for lenience, Dr. Njoku's attorney noted that Dr. Njoku had already suffered a great deal as a result of his criminal conduct and would undergo further suffering, in that the federal court would impose punishment and that Dr. Njoku could lose his license to practice medicine, a career that he had for thirty years. "He's done well for himself, and hopefully, he can land well as a result of this as well." Dr. Njoku's attorney asked the court to depart from the sentencing guidelines, not imposing prison time, based on the extraordinary circumstances and the aberrational nature of the criminal conduct. (Tr. at 4-21)

14. Dr. Njoku addressed the court personally, expressing remorse and a commitment to ensuring that such things never took place again. Dr. Njoku also told the court that, in addition to the events when he was out of the country, there might have been "a couple of patients" who were seen before he arrived at the Columbus office when he was driving from Cleveland. He explained that patients were seen before his arrival because the patients were very demanding and difficult.<sup>6</sup> Dr. Njoku told the court that, after his office "started getting more – I mean some complaints from the patients," he had "finally caught the ear" of his staff and made clear that they were "not to see anybody until [he] got to the office." (St. Ex. 6 at 22-25)
15. In addition, Dr. Njoku told the court that he very much regretted "presigning those prescriptions" before he left the country. He stated: "I did that because I suspected that the physician to cover for me might not show up, and my suspicion was correct." He also stated that Ms. Scott-Guiler was supposed to write prescriptions only for "essential medical needs" of the patients and that he had not been in control of the other prescriptions she wrote, but he would take responsibility. (St. Ex. 6 at 25-26)
16. In considering the sentence, the court commented that this was the kind of crime that Dr. Njoku knew what he was doing and had wanted to maximize profits beyond what he already earned legitimately from his lucrative medical practice. Further, the court noted that Dr. Njoku's criminal conduct had continued over a period of time that "was calculated" to enhance his profits "considerably." The court further opined that it was one thing for a physician to falsify bills to make more money, but it was another thing to imperil the lives of his patients. The court stated in part: "You ha[d] a person who is not a doctor \* \* \* basically practicing medicine. That certainly does not indicate to the Court a deep and abiding concern for the health and well-being of your patients." (St. Ex. 6 at 20-21)
17. Dr. Njoku expressed his regret and said he had never meant to defraud anyone. The court set forth the primary features of the sentence, such as the term of imprisonment. (St. Ex. 6 at 26-29)
18. On February 17, 2011, the court filed the judgment entry. Among other things, the court memorialized the guilty pleas regarding the following crimes: healthcare fraud in violation of 18 U.S.C. §§ 1347 and 2, and illegal distribution of a schedule II controlled substance in

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<sup>5</sup> However, during the administrative hearing, Dr. Njoku testified that it was his mother-in-law who had died in May 2008 and that he had made a "planned trip" in July 2008 with his wife to attend the burial. (Tr. at 48-49)

<sup>6</sup> Dr. Njoku testified about these incidents during the administrative hearing, as described below.

violation of 21 U.S.C. §§ 841(a) and (b)(1)(c) and 18 U.S.C. § 2. In addition, the court dismissed the remaining counts of the Superseding Indictment. (St. Ex. 7)

19. In this judgment entry, the court ordered the terms and conditions of the sentence, including the following: imprisonment of 12 months and one day on each of the counts, with these prison terms to run concurrently; supervised release for three years on each offense after the release from prison, with the first 12 months to be served under monitored home confinement, with the two terms of probation to run concurrently; payment of all or part of the cost of “location monitoring” in an amount to be determined by the probation officer; 416 hours of community service; three drug tests during the period of probation; payment of restitution in the amount of \$131,793.91; and payment of a special assessment of \$200. (St. Ex. 7)

#### **Additional Testimony by Dr. Njoku**

20. Dr. Njoku explained that his mother-in-law had died in Nigeria in May 2008 and that he and his wife had made a “planned trip” to Nigeria in July 2008 for the burial. He testified that he had anticipated that the trip was going to last twelve days and that he had tried to make plans for a physician to cover his Columbus practice. (Tr. at 45-52)
21. Dr. Njoku testified that a nearby physician, Dr. Lenahan, had agreed to cover his Columbus practice during his absence. (Tr. at 45-52) However, Dr. Njoku also indicated that he and Dr. Lenahan had been unable to reach an agreement regarding the level of payment, in that she wanted more than he could afford:

\* \* \* We even considered sending the patients to her office, which was down the road. But then I told her she could – the patients were more familiar with [my] office, and even if it’s two days a week, one day a week, to come and take care of them, because I’ll be gone for a very short period of time.

\* \* \*

\* \* \* And we were discussing remuneration on several phone calls, and she wanted a certain amount. I knew I could not afford what she was asking for. I even asked her to then see the patients, do the billing, and then maybe reimburse for the overhead expense in the office. Unfortunately, she didn’t come.

(Tr. at 50-51) Dr. Njoku also indicated that, before he left the office for his trip, he had some doubts as to whether Dr. Lenahan was actually going to show up, because he had called her several times before leaving and she did not return his calls. (Tr. at 52)

22. Dr. Njoku admitted that he had left pre-signed prescriptions to be used during his absence. He explained that he had left them in the office because it was “a habit-type thing, you know, at that point in time” in his practice. He indicated that this type of thing is not unusual in primary-care practices. (Tr. at 56, 88-89)

23. Dr. Njoku also testified that he had provided the pre-signed prescriptions because he had some “second thoughts” about whether Dr. Lenahan was going to show up, because he had called her “on a few occasions” before leaving on his trip, and she had not returned his calls. Dr. Njoku asserted, however, that he did not know that he had no physician coverage until he was at the airport en route to Nigeria. He stated that Ms. Scott-Guiler telephoned him and asked him what she should do. (Tr. at 52-54, 87-88) Dr. Njoku was questioned as to what he had instructed her to do, and he answered as follows:

Well, you can – Well, I don’t know if you have ever been in that position. I mean, I have been in situations before where I have to make a decision, and most of those decisions might not be the correct decisions.

But at that point I told Ms. Scott to go ahead, since these are patients we already know -- a little bit difficult patients, you know -- but to go ahead, since, you know -- and take care of their essential medication needs; for those that required any of their pain medicine, to call our pharmacy that we use, Peoples Pharmacy, to see if they will accept a call-in of Vicodin<sup>7</sup> only.

At that point -- And, you know, I don't want to confuse, thinking back to the decision I made that day, I made what I thought was the appropriate decision, knowing the group of patients I took care of. I knew the kind of riot that would have resulted in -- if I had asked my office to just shut down the door and send them on to the emergency room.

But I thought, then, the majority of them have several comorbid problems, you know, you find -- I would say 80, 90 -- and I don't have the specific number to show you, but I know my guesstimate is correct, that number that would have not only pulmonary problems, cardiovascular, you know, you name it, GI and all that.<sup>8</sup>

These people could not go without their essential medications while I was, you know -- for that time period. And that was why I made that decision to take care of the essential needs.

(Tr. at 53-54) Dr. Njoku said he did not tell Ms. Scott-Guiler where to find the signed prescriptions until she called him when he was at the airport. (Tr. at 104-105)

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<sup>7</sup> Vicodin, a brand of hydrocodone with acetaminophen, is a schedule III substance, whereas oxycodone is a schedule II substance that presents greater risks to patients. E.g., U.S. Dept. of Justice, Office of Drug Diversion, *Controlled Substance Schedules*, published at <[www.deadiversion.usdoj.gov/schedules/](http://www.deadiversion.usdoj.gov/schedules/)>, accessed Feb. 23, 2012; National Library of Medicine, Nat’l Inst. of Health, PubMed Health, *Hydrocodone*, at <[www.ncbi.nlm.nih.gov/pubmed/health/PMH0000014](http://www.ncbi.nlm.nih.gov/pubmed/health/PMH0000014)>, accessed Feb. 23, 2010).

<sup>8</sup> Dr. Njoku also testified that “almost all” of the patients in his care “have failed back” from multiple spinal surgeries. He stated that, after considering and/or trying other treatment modalities, he found that the patients needed pain medication and had “become chronically pain medicine dependent.” (Tr. at 93, 95)

24. Dr. Njoku acknowledged that Ms. Scott-Guiler had taken patients' blood pressure, recorded vital signs, recorded patient complaints, drew blood, and wrote prescriptions for patients or called prescriptions into pharmacies. However, Dr. Njoku testified that he had believed that this was the only alternative to "not serving these patients," which would have caused them to lack their "essential medications." He stated that all the patients were preexisting patients whose routine medical needs were indicated in their charts. He testified that, at the time, he did not think that his actions would have any consequences. (Tr. at 53-55, 61)
25. Dr. Njoku testified that, when reviewing records later, he had learned that Ms. Scott-Guiler "apparently had written prescriptions for oxycodone for four, I would say, deserving patients." He testified that "she knew better" than to write these prescriptions. He further stated that she had not done as he instructed her, to call the pharmacy to see whether it would accept a call-in prescription for Vicodin.<sup>9</sup> In addition, Dr. Njoku testified that Ms. Scott-Guiler had told some patients that she could not prescribe for them: "These were chronic pain patients who demanded their scheduled II drugs, severe arthritic patients. So if she couldn't give it to them, they can go to the emergency room, if it is an emergency to them, or they can wait for a few more days for me to come home." (Tr. at 56-57, 91-92)
26. However, Dr. Njoku admitted that patients had received prescriptions for oxycodone from Ms. Scott-Guiler, and that a patient had received a prescription for 30 tablets of OxyContin from her. He testified that he was disappointed in her behavior and told her so. He testified: "Her response to me was, 'Well, that's a prescription I used to give – we used to give them before, and they needed it.'" Dr. Njoku further stated: "I accepted responsibility because I told her to take care of those patients, what I thought was the appropriate thing at that time." (Tr. at 56-57, 91-92)
27. Dr. Njoku testified that there had been no adverse effects to patients from Ms. Scott-Guiler's treatment. He also discussed the billing codes that were used to bill for the treatment she provided. He admitted that it was "illegal" and "wrong" that his practice had billed for patients seen by Ms. Scott-Guiler as if the patients had been seen by a physician. (Tr. at 60-63)
28. In addition, Dr. Njoku testified that, after he returned from his trip, there were times when Ms. Scott-Guiler saw patients when he was not in the office. He said this occurred when he was delayed by weather or traffic during his drive from Cleveland. He explained that patients made "demands," saying that they had "another appointment somewhere" or had been fasting for a blood draw and needed to eat. Dr. Njoku acknowledged that Ms. Scott-Guiler "saw a few of those patients." (Tr. at 63-64)
29. Dr. Njoku further testified that he thinks that a medical assistant receives training at a "medical assistant school" for about 12 months or 18 months, but he was not sure. He asserted that Ms. Scott-Guiler was "certified" as a medical "technologist" and a medical

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<sup>9</sup> Although Dr. Njoku testified that Ms. Scott-Guiler had not followed his instruction about trying to call in a Vicodin prescription for a patient's pain (Tr. at 56), he also testified that she "was to call the Vicodin in," but he did not "know what even transpired with that." (Tr. at 93)

“assistant” and that she also had a master’s degree in “healthcare services.”<sup>10</sup> Dr. Njoku could not recall what type of organization had certified her, and he was unsure whether her certificate might have been granted by the training school she attended. However, he stated that his medical assistants “do present us with their certificates.” (Tr. at 47-48, 72, 102)

30. Finally, Dr. Njoku testified that, if the Board decides to reinstate his suspended license to practice medicine, he wants to return to serving the poor and underprivileged because he was “raised to care, and nobody is denied care in my book.” He stated that he wants to care for those who “still don’t have a doctor, who still utilize emergency rooms.” He testified that his patients have “severe medical issues” and he usually gives them his phone number, to call if they need to talk with him, because “most of their problems dealt with the psychological aspect of things” and he did his best “to counsel them and all that.” Dr. Njoku testified that he “could easily go out and practice in the upper end, you know, in the upper neighborhoods, and things like that, but I still believe these individuals need care.” He also stated that he wants to continue his volunteer work overseas. (Tr. at 65-67)

**Letter in Support of Dr. Njoku**

31. Dr. Njoku submitted a November 2011 letter from Brian T. Jones, M.D., an associate professor at Northeastern Ohio Medical University. Among other things, Dr. Jones stated: he had known Dr. Njoku for more than 20 years; Dr. Njoku had been on the teaching staff as an attending surgeon at Akron City Hospital when Dr. Jones was doing his training there; Dr. Jones had never known Dr. Njoku’s “surgical knowledge or abilities” to be in question; he had found Dr. Njoku to be very committed to patients’ care and comfort, and to be very dedicated to his family; and he respects Dr. Njoku and looks forward to the time when he can work with him again. (Resp. Ex. B)

**SELECTED STATUTORY PROVISIONS**

Section 1347 of Title 18 of the United States Code, which is captioned “Health care fraud,” provides as follows, in part (emphasis added):

- (a) Whoever **knowingly and willfully** executes, or attempts to execute, a scheme or artifice -  
(1) **to defraud** any healthcare benefit program; or  
(2) **to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any healthcare benefit program**, in connection with the delivery of or payment for healthcare benefits, items, or services,  
shall be fined under this title or imprisoned not more than 10 years, or both. \* \* \*
- (b) With respect to violations of this section, a person need not have actual knowledge of this section or specific intent to commit a violation of this section.

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<sup>10</sup> Dr. Njoku did not provide documentation to support these statements.

Section 841 of Title 21 of the United States Code, which is captioned "Prohibited Acts," provides as follows, in part (emphasis added):

(a) Unlawful acts

Except as authorized by this subchapter, it shall be unlawful for any person **knowingly or intentionally--**

(1) to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance; or

(2) [omitted]

(b) Penalties

Except as otherwise provided in section 849, 859, 860, or 861 of this title, any person who violates subsection (a) of this section shall be sentenced as follows:

(1) (A) [omitted]

(B) [omitted]

(C) \* \* \* [S]uch person shall be sentenced to a term of imprisonment of not more than 20 years \* \* \*. Notwithstanding section 3583 of title 18, any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a term of supervised release of at least 3 years in addition to such term of imprisonment \* \* \* .

### CREDIBILITY DETERMINATION

Dr. Njoku was not a credible witness during the hearing. This finding is based largely on the Hearing Examiner's observation of his tone and demeanor. Further, the content of much of Dr. Njoku's exculpatory testimony was unpersuasive, especially when viewed in light of his guilty pleas to the two felony offenses and in light of the court's judgment. Indeed, the Hearing Examiner has no doubt that Dr. Njoku lied repeatedly during the hearing. He tried to minimize the enormity of his criminal offenses, blamed others, and pretended that he had not intended to allow the distribution of schedule II substances to patients during his absence. In at least one part of his testimony, however, Dr. Njoku was probably telling the truth: when he indicated that he had been unwilling to pay a locum tenens physician the amount of money she required for working in his office while he was out of the country.

The Hearing Examiner, after observing Dr. Njoku testify and reviewing the charges to which he pleaded guilty and of which he was convicted, is convinced that Dr. Njoku deliberately engaged in a scheme to get paid for physician services that he had not rendered. He knowingly and intentionally allowed the unlicensed person, his office manager and medical assistant, to treat his patients as part of the scheme. In reality, he regretted only that he was caught.

### FINDINGS OF FACT

1. On July 9, 2010, in the United States District Court for the Southern District of Ohio, Eastern Division, Charles Chiedo Njoku, M.D., pleaded guilty to one felony count of Healthcare Fraud in violation of 18 U.S.C. §§ 1347 and 2, and one felony count of Illegal Distribution of a Schedule II Controlled Substance in violation of 21 U.S.C. §§ 841(a) and (b)(1)(C), and 18 U.S.C. § 2.
2. On February 17, 2011, the court filed a judgment entry stating the terms and conditions of the sentence, including the following: twelve months and one day of imprisonment, to be followed by three years of supervised release, and payment of restitution in the amount of \$131,793.91.
3. Dr. Njoku's conduct underlying the criminal convictions involved billing Medicaid and Medicare programs for office visits that had not been delivered as billed; providing pre-signed prescription pads to his office manager/medical assistant for her to use to write and issue prescriptions to patients for narcotic medications and other medications when Dr. Njoku was out of the country; and allowing his office manager/medical assistant to see patients in his office and then claiming in his bills to healthcare programs for these office visits that he had in fact seen the patients, when in fact he had not been in the office when the patients' visits took place.

### CONCLUSIONS OF LAW

1. The facts as set forth above in Findings of Fact 1 and 2, individually and/or collectively, establish Dr. Njoku's "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 language is used in R.C. 4731.22(B)(9).
2. The facts as set forth above in Findings of Fact 1 through 3, individually and/or collectively, establish authority for the Board to discipline Charles Chiedo Njoku, M.D., for "[s]elling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction of, a violation of any federal or state law regulating the possession, distribution, or use of any drug," as that language is used in R.C. 4731.22(B)(3).
3. The facts as set forth above in Findings of Fact 1 through 3 establish Dr. Njoku's "obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice," as that language is used in R.C. 4731.22(B)(8).

**DISCUSSION OF PROPOSED ORDER**

Dr. Njoku committed two serious felonies in the course of his medical practice.. The imposition of severe discipline by the Board is warranted.

The Hearing Examiner did not adopt the federal court's opinions as expressed during the sentencing hearing. Rather, the Hearing Examiner ultimately reached the same conclusions independently with respect to the following matters: Dr. Njoku lacked concern for the patients involved; he placed his patients at significant risk; and he was motivated by greed when he committed the crimes for which he was convicted, As noted above, Dr. Njoku's remorse did not arise from doing wrong, it arose from being caught.

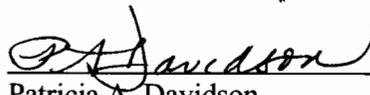
**PROPOSED ORDER**

It is hereby ORDERED:

The certificate of Charles Chiedo Njoku, M.D., to practice medicine and surgery in Ohio is hereby PERMANENTLY REVOKED.

This order of permanent revocation supersedes the suspension of the certificate that was ordered pursuant to Ohio Revised Code Section 3719.121(C).

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



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Patricia A. Davidson  
Hearing Examiner



# State Medical Board of Ohio

30 E. Broad Street, 3rd Floor, Columbus, OH 43215-6127

Richard A. Whitehouse, Esq.  
Executive Director

(614) 466-3934  
med.ohio.gov

## EXCERPT FROM THE DRAFT MINUTES OF APRIL 11, 2012

### REPORTS AND RECOMMENDATIONS AND PROPOSED FINDINGS AND PROPOSED ORDERS

Dr. Mahajan announced that the Board would now consider the Reports and Recommendations, and the Proposed Findings and Proposed Order appearing on its agenda.

Dr. Mahajan asked whether each member of the Board had received, read and considered the hearing records; the Findings of Fact, Conclusions of Law, Proposed Orders, and any objections filed in the matters of: Muhammad Saleem Choudhry, M.D.; William Clayton Doebler, M.D.; Charles Chiedo Njoku, M.D.; Justin Matthew Rodebaugh, M.D.; and Siraj Ahmed Siddiqui, M.D. A roll call was taken:

ROLL CALL:	Dr. Strafford	- aye
	Mr. Hairston	- aye
	Dr. Steinbergh	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye
	Dr. Bechtel	- aye
	Dr. Talmage	- aye
	Ms. Elsass	- aye
	Mr. Kenney	- aye
	Dr. Ramprasad	- aye

Dr. Mahajan 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. Strafford	- aye
	Mr. Hairston	- aye
	Dr. Steinbergh	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye
	Dr. Bechtel	- aye
	Dr. Talmage	- aye
	Ms. Elsass	- aye
	Mr. Kenney	- aye
	Dr. Ramprasad	- aye

Dr. Mahajan noted that, in accordance with the provision in section 4731.22(F)(2), Ohio 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. Strafford and

Dr. Talmage served as Secretary and Supervising Member.

Dr. Mahajan reminded all parties that no oral motions may be made during these proceedings.

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

.....  
CHARLES CHIEDO NJOKU, M.D., Case No. 11-CRF-042  
.....

Dr. Talmage exited the meeting prior to this discussion  
.....

**Dr. Steinbergh moved to approve and confirm Ms. Davidson's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Charles Chiedo Njoku, M.D. Mr. Hairston seconded the motion.**  
.....

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

ROLL CALL:	Dr. Strafford	- abstain
	Mr. Hairston	- aye
	Dr. Steinbergh	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye
	Dr. Bechtel	- aye
	Ms. Elsass	- aye
	Mr. Kenney	- aye
	Dr. Ramprasad	- aye

The motion to approve carried.



# State Medical Board of Ohio

30 E. Broad Street, 3rd Floor, Columbus, OH 43215-6127

Richard A. Whitehouse, Esq.  
Executive Director

(614) 466-3934  
med.ohio.gov

## NOTICE OF IMMEDIATE SUSPENSION AND OPPORTUNITY FOR HEARING

April 13, 2011

Case number: 11-CRF- 042

Charles Chiedo Njoku, M.D.  
240 Valley Run Place  
Powell, Ohio 43065

Dear Doctor Njoku:

In accordance with Sections 2929.42 and/or 3719.12, Ohio Revised Code, the United States Attorney's Office for the Southern District of Ohio reported that on or about December 29, 2010, in the United States District Court, Southern District of Ohio, Eastern Division, you pled guilty to, and were found guilty of, *inter alia*, one felony count of Distribution of Schedule II Controlled Substances in violation of 21 U.S.C. §§ 841(a) and (b)(1)(C), and 18 U.S.C. § 2.

Therefore, pursuant to Section 3719.121(C), Ohio Revised Code, you are hereby notified that your license to practice medicine and surgery in the State of Ohio is immediately suspended. Continued practice after this suspension shall be considered practicing medicine without a certificate in violation of Section 4731.41, Ohio Revised Code.

Furthermore, 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 December 29, 2010, in the United States District Court, Southern District of Ohio, Eastern Division, you pled guilty to, and were found guilty of

*Mailed 4-14-11*

one felony count of Healthcare Fraud, in violation of 18 U.S.C. §§ 1347 and 2; and one felony count of Illegal Distribution of a Schedule II Controlled Substance, in violation of 21 U.S.C. §§ 841(a) and (b)(1)(C), and 18 U.S.C. § 2. You were sentenced, *inter alia*, to twelve months and one day of incarceration, to be followed by three years of supervised release, and you were ordered to pay restitution in the amount of \$131,793.91.

The aforementioned criminal conviction arose from your billing Medicaid and Medicare for office visits that were not delivered as billed, including office visits billed to the program while you were out of the country. Further, you gave your office manager pre-signed prescription pads and allowed the office manager to write and issue prescriptions to patients for narcotics and other medications while you were out of the country. Moreover, you also allowed your office manager to see patients at your office, and then claimed that you had in fact seen the patients when you submitted bills to the programs.

Your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute “[s]elling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction of, a violation of any federal or state law regulating the possession, distribution, or use of any drug,” as those clauses are used in Section 4731.22(B)(3), Ohio Revised Code.

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

Further, your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitutes “[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony,” as that clause is used in 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,

Charles Chiedo Njoku, M.D.  
Suspension  
Page 3

or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

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

CERTIFIED MAIL #91 7108 2133 3938 3022 3095  
RETURN RECEIPT REQUESTED

Duplicate to: Charles Chiedo Njoku, M.D. (68167-061)  
USP Big Sandy  
U.S. Penitentiary  
P.O. Box 2068  
Inez, KY 41224

CERTIFIED MAIL #91 7108 2133 3938 3023 5432  
RETURN RECEIPT REQUESTED