

STATE OF OHIO  
THE STATE MEDICAL BOARD OF OHIO  
77 SOUTH HIGH STREET  
17th FLOOR  
COLUMBUS, OHIO 43215

June 15, 1990

Fred B. Oldham, M.D.  
3539 Glen Avenue  
Easton, PA 18042

Dear Doctor Oldham:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Kevin P. Byers, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of the Minutes of the State Medical Board, meeting in regular session on June 13, 1990, including Motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board.

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



Henry G. Cramblett, M.D.  
Secretary

HGC:em  
Enclosures

CERTIFIED MAIL RECEIPT NO. P 055 325 295  
RETURN RECEIPT REQUESTED

cc: Patricia Johnson, Esq.

CERTIFIED MAIL NO., P 055 325 296  
RETURN RECEIPT REQUESTED

*Mailed 6/15/90*

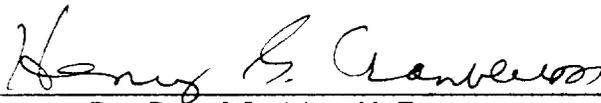
STATE OF OHIO  
STATE MEDICAL BOARD

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 Kevin P. Byers, Attorney Hearing Examiner, State Medical Board; and attached excerpt of Minutes of the State Medical Board, meeting in regular session on June 13, 1990, including Motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board, constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Fred B. Oldham, 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)

  
\_\_\_\_\_  
Henry G. Cramblett, M.D.  
Secretary

June 15, 1990  
\_\_\_\_\_  
Date



Fred B. Oldham, M.D.

- c. Dr. Oldham shall supply documentation acceptable to the Board of satisfactory completion of 100 hours of approved C.M.E., of which 40 hours shall be in Category I, for each complete biennium, if any, during which his certificate remains suspended after the 1989-1990 biennium.
  - d. In the event that Dr. Oldham has not been engaged in the active practice of medicine or surgery for a period of more than two (2) years prior to his application for reinstatement, he shall be required to take and pass the SPEX, or any similar written examination which the Board in its discretion may deem appropriate to assess his clinical competency.
3. Subsequent to the reinstatement of his certificate, Dr. Oldham's certificate shall remain on probationary status for three (3) additional full biennial registration periods. During this probationary period, Dr. Oldham shall submit documentation acceptable to the Board of satisfactory completion of the requisite C.M.E. credits. Such documentation must be supplied to the Board within thirty (30) days of the end of each biennium.
  4. Upon successful completion of probation, Dr. Oldham's certificate will be fully restored.

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

(SEAL)

  
Henry G. Cramblett, M.,D.  
Secretary

June 15, 1990

\_\_\_\_\_  
Date

REPORT AND RECOMMENDATION  
IN THE MATTER OF FRED B. OLDHAM, M.D.

The Matter of Fred B. Oldham, M.D., came on for hearing before me, Kevin P. Byers, Esq., Hearing Examiner for the State Medical Board of Ohio, on May 7, 1990.

INTRODUCTION AND SUMMARY OF EVIDENCE

I. Basis for Hearing

- A. By letter of March 14, 1990 (State's Exhibit #3), the Medical Board notified Fred B. Oldham, M.D., that it proposed to take action against his certificate to practice medicine and surgery in Ohio based upon his failure to document his completion of the Continuing Medical Education (C.M.E.) credits required by Section 4731.281, Ohio Revised Code. In Dr. Oldham's renewal application for the 1989-1990 biennium, he certified that he had completed the requisite C.M.E. hours during the 1987-1988 biennium. The Board in its letter alleged that such acts, conduct, and/or omissions 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; "publishing a false, fraudulent, deceptive or misleading statement", as that clause is used in Section 4731.22(B)(5), Ohio Revised Code; and/or "[v]iolating or attempting to violate, directly or indirectly, ...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 (Section 4731.22(B)(16) prior to March 17, 1987), to wit: Section 4731.281, Ohio Revised Code, and Rules 4731-10-03 and 4731-10-08, Ohio Administrative Code.
- B. By letter received by the State Medical Board on April 3, 1990 (State's Exhibit #4), Dr. Oldham constructively requested a hearing in this Matter.

II. Appearances

- A. On behalf of the State of Ohio: Anthony J. Celebrezze, Jr., Attorney General, by Rachel L. Belenker, Assistant Attorney General
- B. Having been duly notified of the time and place of hearing, Dr. Oldham neither appeared in person nor by any authorized representative.

III. Testimony Heard

None

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IV. Exhibits Examined

In addition to State's Exhibits #3 and #4 previously identified, the following exhibits were identified by the State and admitted into evidence in this Matter:

- A. State's Exhibit #1: April 17, 1990 letter to Dr. Oldham from the State Medical Board scheduling his formal hearing for May 7, 1990.
- B. State's Exhibit #2: April 10, 1990 letter to Dr. Oldham from the State Medical Board scheduling his formal hearing for April 11, 1990, but postponing it pursuant to Section 119.09, Ohio Revised Code.
- C. State's Exhibit #5: June 28, 1989 letter from the State Medical Board advising Dr. Oldham that he had been selected as part of a random audit and needed to submit documentation verifying his completion of 40 hours of Category I C.M.E., as well as a log of 60 hours of Category II C.M.E. for the 1987-1988 biennium.
- D. State's Exhibit #6: July 29, 1989 letter to Dr. Oldham from the State Medical Board advising that no response to the Board's prior letter had been received and that he was again requested to submit documentation of his C.M.E.
- E. State's Exhibit #7: September 11, 1989 letter to Dr. Oldham from the State Medical Board advising that his documentation of 37 credit hours of Category I C.M.E. had been received, but that he still needed to document three (3) more Category I C.M.E. credits.
- F. State's Exhibit #8: November 6, 1989 letter to Dr. Oldham from the State Medical Board advising that no response had been received regarding the September 11, 1989 request for documentation.
- G. State's Exhibit #9: Six pages of documentation provided by Dr. Oldham under letter dated August 3, 1989 and received by the State Medical Board on August 4, 1989. Two of these pages are the C.M.E. log sheets provided to Dr. Oldham by the Board. Three of the pages are acceptable documentation of 37 Category I C.M.E. credits for the 1987-1988 biennium. The final page is an abstract submission form showing Dr. Oldham as a co-author of a study proposed for presentation at the June 10-13, 1987, Third International Conference on Malignant Lymphoma.
- H. State's Exhibit #10: Dr. Oldham's renewal application for the 1989-1990 biennial registration period.

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V. Post-hearing Admissions to the Record

After the record was closed, the Hearing Examiner received a letter from Patricia A. Johnson, Esq., purporting to represent Dr. Oldham. This letter, received by the Board on April 30, 1990, is hereby admitted into the record upon the Hearing Examiner's own motion, as Board Exhibit A.

FINDINGS OF FACT

1. On his application for renewal of his Ohio license to practice medicine and surgery for the 1989-1990 biennium, Fred B. Oldham, M.D., certified that he had completed the necessary C.M.E. hours during the last biennium. This certification was expressly made under penalty of the loss of Dr. Oldham's right to practice medicine and surgery.

This fact is established by State's Exhibit #10.

2. By letter dated June 28, 1989, the State Medical Board notified Dr. Oldham that, as a result of a random audit, he would be required to provide documentation of his completion of at least 40 hours of Category I C.M.E. credits for the 1987-1988 biennium. He was also requested to submit a log of at least 60 hours of Category II credits for the same biennium. Dr. Oldham did not respond to this initial notice from the Board.

On July 29, 1989, the Board sent a follow-up request for Dr. Oldham's C.M.E. documentation. By letter received by the Board on August 4, 1989, Dr. Oldham responded to the audit request and provided partial documentation of C.M.E. credits he had completed during the 1987-1988 biennium.

On September 11, 1989, the Board sent Dr. Oldham a notice that his documentation was lacking three (3) Category I C.M.E. credits. He was asked to submit additional documentation in order to avoid disciplinary action. On November 6, 1989, having received no response, the Board sent a follow-up request for documentation to support the three (3) missing hours of Category I C.M.E. credit. The Board received no response to this final request.

By letter dated March 14, 1990, the Board cited Dr. Oldham and notified him of his opportunity for hearing. Although he responded to the Board's citation by letter received by the Board on April 3, 1990, Dr. Oldham again failed to provide extrinsic documentation of the three (3) credits at issue.

These facts are established by State's Exhibits #3 through #9.

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### CONCLUSIONS

Pursuant to statute and rule, the State Medical Board is authorized to conduct random audits of practitioners who certify during a renewal period that they have complied with C.M.E. requirements during the last biennium. Specifically, Rule 4731-10-08(A)(1), Ohio Administrative Code, states that those licensees who are randomly selected for audit "shall submit additional documentation of compliance with C.M.E. requirements as the Board may require." Furthermore, paragraph (A)(2) of this Rule mandates that "applicants shall keep detailed records of C.M.E. hours taken." These Rules contain the enabling procedures under the specific statutory provision, Section 4731.281, Ohio Revised Code, which grants the Board authority to "require a random sample of practitioners to submit materials documenting the completion of the Continuing Medical Education requirement during the preceding registration period."

Dr. Oldham failed to comply with these requirements. The evidence in this Matter shows that Dr. Oldham was given a number of opportunities over a thirteen (13) month period to document his claimed C.M.E. compliance and thus maintain the privilege of holding a license to practice medicine and surgery in the State of Ohio. The fact that Dr. Oldham was able to document all but three (3) credits in Category I C.M.E. does not mitigate his noncompliance. Dr. Oldham's certification of C.M.E. compliance at the time of renewal affords him a presumption that the requirement has been fulfilled. However, pursuant to Rule 4731-10-08(B), Ohio Administrative Code, failure to provide documentation upon Board demand rebuts the presumption created by paragraph (A) of the Rule. Therefore, it must be concluded that he has a deficiency of three (3) hours in Category I C.M.E. requirements for the biennium in question. Dr. Oldham may have indeed complied with the educational mandate of Rule 4731-10-03, Ohio Administrative Code. However, until he submits documentation of such compliance, it must be presumed that he did not complete the requisite Category I C.M.E. during the biennium at issue.

The State has proven by substantial, reliable and probative evidence that Dr. Oldham's acts, conduct, and/or omissions as set forth in the above Findings of Fact, constitute:

1. "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;
2. "Publishing a false, fraudulent, deceptive or misleading statement", as that clause is used in Section 4731.22(B)(5), Ohio Revised Code, and;

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3. "Violating, or attempting to violate, directly or indirectly,...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 (Section 4731.22(B)(16), prior to March 17, 1987), to wit: Section 4731.281, Ohio Revised Code, and Rules 4731-10-03 and 4731-10-08, Ohio Administrative Code.

PROPOSED ORDER

It is hereby ORDERED that:

1. The certificate of Fred B. Oldham, 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 State Medical Board shall not consider reinstatement of Dr. Oldham's certificate to practice unless and until all of the following minimum requirements are met:
  - a. Dr. Oldham shall submit an application for reinstatement, accompanied by appropriate fees.
  - b. On or before December 31, 1990, or as otherwise directed by the Board, Dr. Oldham shall provide documentation acceptable to the Board of his satisfactory completion of 43 hours of Category I C.M.E. for the period from January 1, 1987 to December 31, 1990, in addition to the 37 hours for which he has already provided documentation. Additionally, Dr. Oldham shall submit a log of at least 60 hours of Category II C.M.E. for the period from January 1, 1989 to December 31, 1990.
  - c. Dr. Oldham shall supply documentation acceptable to the Board of satisfactory completion of 100 hours of approved C.M.E., of which 40 hours shall be in Category I, for each complete biennium, if any, during which his certificate remains suspended after the 1989-1990 biennium.
  - d. In the event that Dr. Oldham has not been engaged in the active practice of medicine or surgery for a period of more than two (2) years prior to his application for reinstatement, he shall be required to take and pass the SPEX, or any similar written examination which the Board in its discretion may deem appropriate to assess his clinical competency.

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3. Subsequent to the reinstatement of his certificate, Dr. Oldham's certificate shall remain on probationary status for three (3) additional full biennial registration periods. During this probationary period, Dr. Oldham shall submit documentation acceptable to the Board of satisfactory completion of the requisite C.M.E. credits. Such documentation must be supplied to the Board within thirty (30) days of the end of each biennium.
4. Upon successful completion of probation, Dr. Oldham's certificate will be fully restored.

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

KEVIN P. BYERS  
Kevin P. Byers/  
Attorney Hearing Examiner

EXCERPT FROM THE MINUTES OF JUNE 13, 1990

REPORTS AND RECOMMENDATIONS

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Dr. Kaplansky asked if 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 Robert W. Perchan, M.D.; Mehrdad V. Sanadaji, M.D.; Ghahreman Khodadad, M.D.; and Fred B. Oldham, M.D.

ROLL CALL:	Dr. Cramblett	- aye
	Dr. Gretter	- aye
	Dr. Stephens	- aye
	Mr. Jost	- aye
	Dr. Ross	- aye
	Dr. Rauch	- aye
	Mr. Albert	- aye
	Dr. Daniels	- aye
	Ms. Rolfes	- aye
	Dr. Agresta	- aye
	Dr. Kaplansky	- aye

.....

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

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REPORT AND RECOMMENDATION IN THE MATTER OF FRED B. OLDHAM, M.D.

.....

DR. GRETTER MOVED TO APPROVE AND CONFIRM MR. BYER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF FRED B. OLDHAM, M.D. DR. AGRESTA SECONDED THE MOTION.

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

ROLL CALL VOTE:	Dr. Cramblett	- abstain
	Dr. Gretter	- aye
	Dr. Stephens	- aye
	Mr. Jost	- aye
	Dr. Ross	- aye
	Dr. Rauch	- abstain
	Mr. Albert	- aye
	Dr. Daniels	- aye
	Ms. Rolfes	- aye
	Dr. Agresta	- aye

The motion carried.

STATE OF OHIO  
THE STATE MEDICAL BOARD  
77 SOUTH HIGH STREET  
17TH FLOOR  
COLUMBUS OH 43215

March 14, 1990

Fred B. Oldham, M.D.  
3539 Glen Avenue  
Easton, PA 18042

Dear Doctor Oldham:

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, 1987 through December 31, 1988) the requisite hours of Continuing Medical Education (CME), as required by Section 4731.281, Ohio Revised Code.
- (2) By letter dated June 28, 1989, and sent by certified mail you were notified by the State Medical Board that you are required to complete a log listing your CME for the 1987-1988 registration period, and to provide documentation that you had actually completed at least 40 hours of Category I CME credits. By letter dated July 29, 1989, you were again notified that you are required to complete the CME log. On August 4, 1989, the Board received your response, in which you documented 37 Category I credits and listed 61 Category II credits. By letter dated September 11, 1989, and sent to you by certified mail you were notified by the State Medical Board that you were required to document an additional 3 hours of Category I credit. By letter dated November 6, 1989 and sent to you by certified mail, you were again notified that you were required to document that you have completed the requisite number of CME credits. You have not responded to the September, 1989 or the November, 1989 notices.

March 14, 1990

- (3) Your response, or lack thereof, to the notices as detailed in the above Paragraph (2) establish that you did not complete the requisite hours of Continuing Medical Education, and/or that you failed to keep detailed records of CME taken.

The acts and/or omissions as alleged in the above paragraph (1), individually and/or collectively, 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, such acts and/or omissions as alleged in the above paragraph (1), individually and/or collectively, constitute "publishing a false, fraudulent, deceptive, or misleading statement," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

Further, such acts as alleged in the above paragraphs (1) through (3), individually and/or collectively, 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, (Section 4731.22(B)(16), Ohio Revised Code, prior to March 17, 1987) to wit: Section 4731.281, Ohio Revised Code, and Rule 4731-10-03 and Rule 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 the 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.

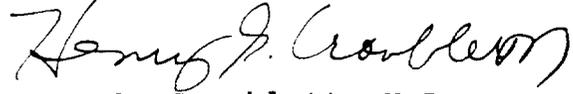
In the event that there is no request for such hearing received within thirty (30) days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, suspend, refuse to register or reinstate your certificate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

Fred B. Oldham, M.D.  
Page 3

March 14, 1990

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Henry G. Cramblett, M.D.  
Secretary

HGC:jmb

Enclosures:

CERTIFIED MAIL #P 746 510 206  
RETURN RECEIPT REQUESTED