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State Medical Board of Ohio

77 S. High Street, 17th Floor • Columbus, Ohio 43266-0315 • 614/ 466-3934 • Website: www.state.oh.us/med/

January 12, 2000

Jopindar P. Harika, M.D.
321 Red Oak Court
Monroeville, PA 15146

Dear Doctor Harika:

Please find enclosed certified copies of the CORRECTED Entry of Order; the Report and Recommendation of R. Gregory Porter, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on January 12, 2000, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order.

Section 119.12, Ohio Revised Code, may authorize an appeal from this Order. Such an appeal may be taken to the Franklin County Court of Common Pleas only.

Such an appeal setting forth the Order appealed from and the grounds of the appeal must be commenced by the filing of a Notice of Appeal with the State Medical Board of Ohio and the Franklin County Court of Common Pleas within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12, Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO

Anand G. Garg, M.D.
Secretary

AGG:jam
Enclosures

CERTIFIED MAIL RECEIPT NO. Z 281 981 257
RETURN RECEIPT REQUESTED

cc: Thomas W. Hess, Esq.
CERTIFIED MAIL RECEIPT NO. Z 281 981 258
RETURN RECEIPT REQUESTED

Mailed 2/10/00

CERTIFICATION

I hereby certify that the attached copy of the CORRECTED Entry of Order of the State Medical Board of Ohio; Report and Recommendation of R. Gregory Porter State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on January 12, 2000, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order; constitute a true and complete copy of the Findings and Order of the State Medical Board in the Matter of Jopindar P. Harika, 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.

Anand G. Garg, M.D.
Secretary

(SEAL)

JANUARY 12, 2000
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF *

*

JOPINDAR P. HARIKA, M.D. *

CORRECTED
ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on January 12, 2000.

Upon the Report and Recommendation of R. Gregory Porter, State Medical Board Attorney Hearing Examiner, designated in this Matter pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the modification, 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.

1. It is hereby ORDERED that the certificate of Jopindar P. Harika, M.D., to practice medicine and surgery in the State of Ohio shall be permanently REVOKED. Such revocation is STAYED, and Dr. Harika's certificate is SUSPENDED for an indefinite period of time, but not less than two years.

2. The Board shall not consider reinstatement of Dr. Harika's certificate to practice unless and until all of the following minimum requirements have been met:

   A. Dr. Harika shall submit an application for reinstatement, accompanied by appropriate fees, if any.

   B. Upon submission of his application for reinstatement, Dr. Harika shall provide acceptable documentation of successful completion of a course or courses dealing with personal ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education acquisition period(s) in which they are completed.

   C. In the event that Dr. Harika has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to application

for reinstatement, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of his fitness to resume practice.

3. Upon reinstatement, Dr. Harika's certificate shall be subject to the following PROBATIONARY terms, conditions and limitations for a period of at least five years:

   A. Dr. Harika shall obey all federal, state and local laws, and all rules governing the practice of medicine and surgery in Ohio and the state in which he is practicing, and all terms of probation imposed by the court in the Pennsylvania criminal matter that gave rise to this action.

   B. Dr. Harika shall appear in person for interviews before the full Board or its designated representative within three months of the date in which probation becomes effective, at six month intervals thereafter, and upon request for termination of the probationary period, or as otherwise requested by the Board.

   If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled. Although the Board will normally give Dr. Harika written notification of scheduled appearances, it is Dr. Harika's responsibility to know when personal appearances will occur. If Dr. Harika does not receive written notification from the Board by the end of the month in which the appearance should have occurred, Dr. Harika shall immediately submit to the Board a written request to be notified of his next scheduled appearance.

   C. Dr. Harika shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether he has complied with all the terms, conditions and limitations imposed by this Board, the Pennsylvania State Board of Medicine, the West Virginia Board of Medicine, and any other state medical board. Moreover, Dr. Harika shall cause to be submitted to the Board copies of any reports that he submits to the Pennsylvania and West Virginia medical boards whenever those boards require such submission.

   D. Dr. Harika shall immediately notify the Board in writing of any modification or change to any term, condition or limitation imposed by the Pennsylvania or West Virginia medical boards, or any other state medical board.

   E. In the event that Dr. Harika should leave Ohio for three consecutive months, or reside or practice outside the State, Dr. Harika must notify the Board is writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of the probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that the purposed of the probationary monitoring are being fulfilled.

F. Periods of time during which Dr. Harika's certificate to practice medicine and surgery is inactive due to nonpayment of renewal fees will not apply to the reduction of the probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that the purposes of the probationary monitoring are being fulfilled.

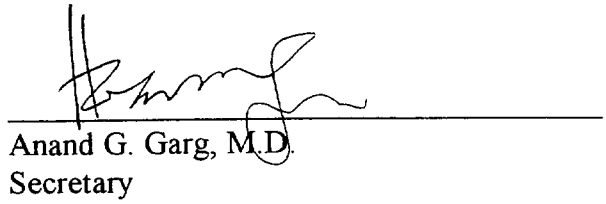
4. Within thirty days of the effective date of this Order, Dr. Harika shall provide a copy of this Order by certified mail to all employers or entities with which he is under contract to provide health care services or is receiving training, and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Harika shall provide a copy of this Order by certified mail to all employers or entities with which he applies or contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments. Further, Dr. Harika shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

5. Within thirty days of the effective date of this Order, Dr. Harika shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction is which he currently holds any professional license. Dr. Harika shall also provide a copy of this Order by certified mail, return receipt requested, at the time of application to the proper licensing authority or any state in which he applies for any professional license or reinstatement of any professional license. Further, Dr. Harika shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

6. If Dr. Harika violates probation in any respect, the Board, after giving him notice and the opportunity to be heard, may set aside the stay order and impose the permanent revocation of Dr. Harika's certificate.

7. Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Harika's certificate will be fully restored.

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



Anand G. Garg, M.D.
Secretary

(SEAL)

JANAURY 12, 2000
Date

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REPORT AND RECOMMENDATION
IN THE MATTER OF JOPINDAR P. HARIKA, M.D.

The Matter of Jopindar P. Harika, M.D., was heard by R. Gregory Porter, Attorney Hearing Examiner for the State Medical Board of Ohio, on October 27, 1999.

INTRODUCTION

I. Basis for Hearing

A. By letter dated August 11, 1999, the State Medical Board of Ohio [Board] notified Jopindar P. Harika, M.D., that it had proposed to determine whether to take disciplinary action against his certificate to practice medicine and surgery in Ohio. The Board based its proposed action on the following allegations:

1. "On or about March 3, 1997, in the Court of Common Pleas, Sixteenth Judicial District, Somerset County, Pennsylvania, [Dr. Harika] pleaded guilty to, and [was] found guilty of, one felony count of Theft by Deception in violation of 18 Pa. C.S. Section 3922(a)(1). The acts underlying this conviction were that, in the course of [Dr. Harika's] practice, [Dr. Harika] billed Somerset State Hospital and/or the State of Pennsylvania for medical services [he] had not provided.

   "[Dr. Harika was] sentenced to four (4) years of probation, ordered to pay restitution to the State of Pennsylvania in the amount of $84,609.23 and required to perform treatment with no charge to patients in a mental health program during the first two years of [his] probation."

2. "On or about February 23, 1999, the Pennsylvania State Board of Medicine [Pennsylvania Board] adopted a Consent Agreement and Order suspending [Dr. Harika's] Pennsylvania license for a period of two (2) years, staying twenty two months of the suspension in favor of probation and imposing a civil penalty of seven hundred ($700) dollars. [Dr. Harika] and the Pennsylvania Board stipulated that [Dr. Harika's] felony conviction, referenced in paragraph (1) above, violated the Pennsylvania Medical Practice Act at 63 P.S. Section 422.41(3)."

The Board alleged that Dr. Harika's acts, conduct, and/or omissions, underlying his plea of guilty, and the judicial finding of guilt, as set forth in paragraph 1, individually and/or collectively, constitute "'publishing a false, fraudulent, deceptive, or misleading statement,' as that clause is used in Section

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4731.22(B)(5), Ohio Revised Code (as in effect prior to March 9 1999), '[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; [and/or a] plea of guilty to, or a judicial finding of guilt of, a felony,' as that clause is used in Section 4731.22(B)(9), Ohio Revised Code (as in effect prior to March 9 1999)."

The Board further alleged that the Pennsylvania Board Consent Agreement and Order, as set forth in paragraph 2, constitutes "'[t]he limitation, revocation, or suspension by another state of a license or certificate to practice issued by the proper licensing authority of that state, the refusal to license, register, or reinstate an applicant by that authority, the imposition of probation by that authority, or the issuance of an order of censure or other reprimand by that authority for any reason, other than nonpayment of fees,' as that clause is used in Section 4731.22(B)(22), Ohio Revised Code (as in effect prior to March 9, 1999)."

Accordingly, the Board advised Dr. Harika of his right to request a hearing in this matter. (State's Exhibit 1a)

B. On August 30, 1999, William F. Manifesto, Esq., submitted a written hearing request on behalf of Dr. Harika. (State's Exhibit 1b)

II. Appearances

A. On behalf of the State of Ohio: Betty D. Montgomery, Attorney General, by Anne Berry Strait, Assistant Attorney General.

B. On behalf of the Respondent: Thomas W. Hess, Esq.

EVIDENCE EXAMINED

I. Testimony Heard

Presented by the Respondent

Jopindar P. Harika, M.D.

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II. Exhibits Examined

A. Presented by the State

1. State's Exhibits 1a through 1i: Procedural exhibits.

2. State's Exhibit 2: Certified copies of documents from the Court of Common Pleas of Somerset County, Pennsylvania, filed in the case captioned *Commonwealth of Pennsylvania v. Jopindar Harika,* Case No. 838 Criminal 1996. [Note: the pages were numbered by the Hearing Examiner after the hearing.]

3. State's Exhibit 3: Certified copies of documents from the Pennsylvania State Board of Medicine, concerning Dr. Harika.

B. Presented by the Respondent

Respondent's Exhibit A: Copy of a Consent Order between the West Virginia Board of Medicine and Dr. Harika, signed by Dr. Harika on October 25, 1999. [Note: This copy had not been executed by the West Virginia Board of Medicine.]

SUMMARY OF THE EVIDENCE

All exhibits and transcripts of testimony, even if not specifically mentioned, were thoroughly reviewed and considered by the Hearing Examiner prior to preparing this Report and Recommendation.

1. Jopindar P. Harika, M.D., testified that he had obtained his Doctor of Medicine degree in 1979 from the Armed Forces Medical College, India. Dr. Harika further testified that he emigrated to the United States in 1981, and located in Pittsburgh, Pennsylvania. Dr. Harika stated that he performed a residency at St. Francis Hospital, Pittsburgh, from 1982 until 1985, which was followed by a fellowship in forensic psychiatry from 1986 through 1988. Subsequently, Dr. Harika did a fellowship in geriatric psychiatry. Dr. Harika took the FLEX in 1983. Dr. Harika testified that he is licensed to practice medicine in Pennsylvania, West Virginia, and Ohio. (Transcript at pages [Tr.] 23-28)

   Dr. Harika testified that he is on staff at St. Francis Hospital. Dr. Harika stated that he works there as a private psychiatrist and admits patients there. Dr. Harika described St. Francis Hospital as a large, multi-specialty institution; the psychiatric department alone has 500 beds. (Tr. 35)

   Dr. Harika testified that, in addition to being on staff at St. Francis Hospital, he also practices psychiatry and forensic psychiatry at correctional institutions and state hospitals

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in Pennsylvania. Dr. Harika testified that he had been hired by Pennsylvania's prison system because he is "one of the very few forensic psychiatrists in the country." Dr. Harika testified that he has also spoken with the Ohio prison system, but had not begun working in Ohio at the time of the hearing, noting that the present matter interrupted that process. (Tr. 33-35)

2. On or about November 7, 1996, a Criminal Complaint was filed against Dr. Harika in the Court of Common Pleas of Somerset County, Pennsylvania, by the Pennsylvania Attorney General Bureau of Criminal Investigation. The complaint charged Dr. Harika with Theft by Deception, a violation of 18 Pennsylvania Consolidated Statutes [Pa. C.S.] Section 3922(a)(1). The complaint alleged that Dr. Harika had improperly obtained or withheld the sum of $84,609.23 "belonging to the Commonwealth of Pennsylvania and/or Somerset State Hospital, Somerset County, Pennsylvania." The complaint further alleged that Dr. Harika had done so "by creating or reinforcing a false impression." The complaint alleged that, while employed as a contract psychiatrist by Pennhurst Medical Group, Dr. Harika submitted timesheets to Somerset State Hospital for work he did not perform. Moreover, the complaint stated that Dr. Harika had billed Somerset State Hospital for approximately 1,072.5 hours "when, in fact, he was providing psychiatric services at other institutions." (State's Exhibit [St. Ex.] 2, pp. 3-4)

In support of the complaint, a Special Agent for the Pennsylvania Attorney General's Office, Dennis D. Dansak, filed an Affidavit of Probable Cause [Affidavit]. In that Affidavit, Agent Dansak stated that:

> Dr. Harika was employed by Pennhurst Medical Group, Inc., Exton, PA. Dr. Harika was contracted through Pennhurst Medical to provide psychiatric services to Somerset State Hospital, Somerset County, and other state and county facilities. During the period Dr. Harika performed these services, he would submit timesheets indicating the amount of hours he worked. * * *
>
> [During interviews of Dr. Harika by Agent Dansak,] Dr. Harika advised that he became too busy at the Somerset State Hospital because of a lack of psychiatrists at that particular location. He stated his hours of work were always increasing and he became aware that he could not evaluate all of the patients at all of the facilities he was contracted to perform his psychiatric services.
>
> Dr. Harika stated [that] in June or July of 1993, there weren't enough hours in the day to meet all of his contractual obligations. Although there are only 168 hours in a week, [Dr. Harika] admitted he overbilled the Somerset State Hospital and received payment for services totaling 200

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hours per week. He admitted billing the Commonwealth of Pennsylvania for services he did not perform.

Dr. Harika stated the overbilling situation progressed to where he would examine one or two patients in an hour, but submit timesheets indicating he examined patients for 8-15 hours. Furthermore, Dr. Harika advised he was so busy, he could not have spent 8 hours per day at the various facilities because he was contracted to perform services at too many facilities. Dr. Harika admitted all the fraudulent timesheets were submitted at Somerset State Hospital in an effort to help the hospital receive funding from the government, namely Medicaid/Medicare.

Dr. Harika was asked to review the timesheets he submitted to Somerset State Hospital between June, 1993, and August, 1994. Dr. Harika admitted that he overbilled Somerset State Hospital in the amount of the allegation, which is $84,609.43 or 1,072.5 hours. Dr. Harika stated he would actually perform service at Somerset State Hospital, for example, totaling 2 1/2 hours, examining approximately 20 patients in that time period. However, he would indicate on his timesheet submitted to the hospital he worked for 8 hours examining the same 20 patients. According to Dr. Harika, the overbilling occurred not only to permit himself to obtain more money (since he was paid by the hour), but the federal standards allowed Somerset State Hospital to bill 70 minutes per patient, and 8 hours of examining 20 patients looked better to Medicaid/Medicare than 2 1/2 hours spent examining 20 patients. Since the hospital would bill Medicaid.Medicare for the 8 hours, the hospital made money and Dr. Harika believes this overbilling generated income, not only for himself, but assisted the hospital in staying open to receive patients in need of psychiatric services.

(St. Ex. 2, pp. 5-7)

Dr. Harika testified that he was not represented by counsel at the time that he was interviewed by Agent Dansak. (Tr. 56-57)

3. Subsequently, on or about December 5, 1996, an Information was filed charging Dr. Harika with the same violation as was previously charged in the Complaint, but as a "Felony 3" rather than a "Felony 1." (St. Ex. 2, pp. 12-13)

4. On or about March 3, 1997, Dr. Harika pleaded guilty to Theft by Deception as charged in the Information. On that date, the court ordered that Dr. Harika submit to a pre-sentence investigation, and scheduled the sentencing hearing for May 1, 1997. (St. Ex. 2, pp. 14-15)

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On May 1, 1997, the court ordered that Dr Harika be placed on supervised probation for four years, that he pay the costs of prosecution and supervision; that he pay restitution in the amount of $84,609.43 to the Commonwealth of Pennsylvania, and that he provide services free of charge to the Bedford/Somerset Mental Health/Mental Retardation Program for five hours per week during the first year of his probation, and for eight hours per week during the second year of his probation (St Ex. 2, pp 16-18)

During the sentencing hearing, the court made the following statement to Dr Harika and included the statement in its sentencing entry

> Doctor, in addition to what I've already told you, I have taken into consideration your background here and certainly the fact that you have no prior criminal record
>
> You have a significant background and you've taken care of your family, and that is, in addition to your immediate family, your extended family; and you have a unique opportunity to give something back to the community here which I think is going to be of benefit to everyone.
>
> Certainly, I don't want to depreciate the seriousness of this offense by this sentence and I don't think that it does; and under these circumstances, I think this is an appropriate way to dispose of this case.

(St. Ex 2, p 17) [Note Administrative notice is taken that the court could have sentenced Dr. Harika to a maximum of seven years of imprisonment for the offense to which he had pleaded guilty (See 18 Pa C S Sections 3922(a)(1), 3903, 106(b)(4), and 1103)]

5 On or about February 23, 1999, the Pennsylvania State Board of Medicine [Pennsylvania Board] adopted and approved a Consent Agreement and Order [Consent Agreement] between the Pennsylvania Board and Dr. Harika. In that Consent Agreement, the parties stipulated that Dr. Harika's felony conviction had violated the Pennsylvania Medical Practices Act, specifically 63 P S Section 422 41(3) (St. Ex. 3)

Based on Dr Harika's felony conviction, Dr Harika and the Pennsylvania Board agreed that Dr Harika would pay the sum of $700.00 as a fine, and $300 00 for the cost of investigation. In addition, the Pennsylvania Board suspended Dr Harika's certificate to practice in that state for a period of two years, stayed all but two months of the suspension, and placed Dr. Harika on probation for an unspecified period of time The terms and conditions require Dr Harika to obey the law and to cooperate fully with the Pennsylvania Board and the Bureau of Enforcement and Investigation. (St Ex. 3)

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6. Dr. Harika testified that he subsequently entered into a Consent Order with the West Virginia Board of Medicine [West Virginia Board]. The West Virginia Consent Order is based on Dr. Harika's felony conviction in Somerset County, Pennsylvania. The sanction imposed by the West Virginia Board is similar to that imposed by the Pennsylvania Board in that it calls for a 2 year suspension, and stays all but two months of the suspension. The suspension is followed by probation, subject to various terms and conditions similar to those of the Pennsylvania Consent Agreement, until January 14, 2001. (Tr. 28-29; Respondent's Exhibit [Resp. Ex.] A)

7. Dr. Harika testified that he has made restitution to the Commonwealth of Pennsylvania in the amount of $84,609.43, as he had been ordered to do by the court. Dr. Harika further testified that he had performed five hours of service per week without charge during the first year of probation, and eight hours of service per week without charge during the second year of probation, to the Bedford Somerset Mental Hospital. (Tr. 36-37)

   Dr. Harika testified that he had been ordered into four years of probation by the court at the time he was originally sentenced. Dr. Harika further testified that he complied with all of the terms of his probation. Moreover, Dr. Harika testified that, on January 6, 1999, the court released him from his probation following the completion of approximately two years of probation. (Tr. 37-38)

8. Dr. Harika testified that he served his two-month suspension as ordered by the Pennsylvania Board, and that he paid the $700.00 civil penalty. Dr. Harika further testified that he has complied with all of the terms and conditions of his Consent Agreement with the Pennsylvania Board. (Tr. 38)

9. Dr. Harika testified that, at the time he worked at Somerset State Hospital, he had been employed by Pennhurst Medical, a corporation which contracts with institutions to provide psychiatric services. Dr. Harika stated that, during this time, he was also providing services to Cambria County Mental Health Center, and Memorial Hospital, Johnstown, Pennsylvania. Dr. Harika further testified that he was also working at Cambria County Prison, Smithfield Prison, and Crescent Prison. (Tr. 39-40, 49-51)

   Dr. Harika testified that he was one of the few psychiatrists at Somerset State Hospital, and that he had approximately 250 patients on his case log. Dr. Harika testified that he made rounds on those patients every day, and that the hospital billed Medicare, Medicaid, or other third-party payors based on Dr. Harika's having seen those patients. Dr. Harika testified that the hospital then paid Pennhurst and Pennhurst paid him a fixed salary. Dr. Harika testified: "So I was not being paid by how many patients I saw or how many—just the hours I was working there. So the hospital was doing all the fraud. They were billing Medicare. Like, I was seeing 250 patients in one day, you know. The Attorney General's Office confirmed that." Dr. Harika testified that he filled out time sheets and submitted them to Somerset State Hospital. (Tr. 41-44) When asked if he had

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submitted time sheets that claimed hours for which he hadn't actually worked at Somerset State Hospital, Dr. Harika replied:

> I was just submitting the certain hours I was working in one day, sir. And as I mentioned, the case log was so much and I was not mentioning how many time, minutes I was seeing a patient or not, sir.
>
> This—what has happened is whatever this overbilling is coming from. They investigated all the hospitals where I was working and they found I overlapped in all the billings of the different hospitals.

(Tr. 45-46) When asked if he had done anything wrong, Dr. Harika testified:

> The only wrong thing I do was I help all these hospitals survive, you know. There's a shortage of psychiatrists in that rural area, and I was the only psychiatrist there working at all these facilities to keep these facilities open.
>
> If I did not work at these facilities, the facilities would have closed and everybody would be without a job. They could—the hospitals did all the billings. I worked—I sacrificed my family life to sleep at the hospital seven days a week to keep the hospital going. And I was the guy—I was arrested and I had to pay for everything.
>
> And these were the—the hospitals survived. They made all the money. They made millions of dollars. And I was the guy who's caught on this, and nobody else was caught for this, because they were doing all the billings.
>
> I was paid a fixed salary by Pennhurst. I was working at Cambria County Mental Health Center. They just paid me by the hours, but they billed for how many hours—who knows.

(Tr. 48-49)

Dr. Harika testified that he had filled out time sheets and submitted them to Somerset State Hospital for a "[c]ertain number of hours to reflect how many patients I was seeing." Dr. Harika testified that he did not submit any timesheets to other institutions where he worked. When the Pennsylvania Attorney General's Office added the hours that Dr. Harika had worked at Somerset State Hospital to the hours for which the other facilities had billed for Dr. Harika's services, they determined that there were not a sufficient number of hours available in a week for Dr. Harika to have worked all of those hours. (Tr. 49-51)

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Dr. Harika testified that he did no billing, he only filled out timesheets for the time he spent at Somerset State Hospital. Because he had done no actual billing, he had not been charged with Medicare fraud. (Tr. 62-63)

Dr. Harika testified that what he did wrong was to have worked hard at so many different facilities, but that he had done so to help them and to keep them going. Dr. Harika further testified that if he had not done so, at the sacrifice of his personal and family life, he would not be in trouble today. (Tr. 51-55)

10. Dr. Harika testified that he was paid a flat, fixed salary by Pennhurst Medical. Dr. Harika further testified that his salary did not fluctuate based upon the number of patients he saw in a month, or by the number of billings submitted per month by the facilities. Dr. Harika further testified that he received no bonuses or additional compensation from Pennhurst Medical as the result of meeting any production quotas. (Tr. 57-58)

11. Dr. Harika stated that his privileges at St. Francis Hospital have not been suspended, limited, or terminated as a result of his legal difficulties. Moreover, Dr. Harika testified that he has been a Medicare provider since 1983, and that no action has been taken or initiated to suspend him from the Medicare program. In addition, Dr. Harika testified that he is a Medicaid provider, and that no action has been taken or initiated to suspend him from the Medicaid program. Similarly, Dr. Harika testified that no action has been taken or initiated by Blue Cross/Blue Shield to terminate him as a provider in Pennsylvania. Finally, Dr. Harika testified that he has never been sued, nor has he ever settled a matter under threat of litigation. (Tr. 29-32)

12. Dr. Harika testified that he will not be prohibited from returning to work for the Pennsylvania prison system as a result of his criminal conviction. (Tr. 35)

13. Dr. Harika testified that, except for the Somerset County conviction that is the subject of this matter, he has never been charged with a crime. (Tr. 33)

14. Dr. Harika testified that he acknowledges that he made a mistake in Pennsylvania. Dr. Harika further testified that he has paid for that mistake. (Tr. 38-39)

FINDINGS OF FACT

1. On or about March 3, 1997, in the Court of Common Pleas, Sixteenth Judicial District, Somerset County, Pennsylvania, Jopindar P. Harika, M.D., pleaded guilty to, and was found guilty of, one felony count of Theft by Deception in violation of 18 Pa. C.S. Section 3922(a)(1). The acts underlying this conviction were that, in the course of Dr. Harika's practice, Dr. Harika billed Somerset State Hospital and/or the State of Pennsylvania for medical services he had not provided.

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On May 1, 1997, the court ordered that Dr. Harika be placed on supervised probation for four years; that he pay restitution in the amount of 84,609.43 to the Commonwealth of Pennsylvania; that he provide services free of charge to the Bedford/Somerset Mental Health/Mental Retardation Program for five hours per week during the first year of his probation, and for eight hours per week during the second year of his probation.

On or about January 6, 1999, the court released Dr. Harika from probation.

2. On or about February 23, 1999, the Pennsylvania State Board of Medicine [Pennsylvania Board] adopted and approved a Consent Agreement and Order [Consent Agreement] between the Pennsylvania Board and Dr. Harika. In that Consent Agreement, the parties stipulated that Dr. Harika's felony conviction had violated the Pennsylvania Medical Practices Act, specifically 63 P.S. Section 422.41(3).

   Based on Dr. Harika's felony conviction, Dr. Harika and the Pennsylvania Board agreed that Dr. Harika would pay a fine of $700.00. In addition, the Pennsylvania Board suspended Dr. Harika's certificate to practice in that state for a period of two years, stayed all but two months of the suspension, and placed Dr. Harika on probation.

CONCLUSIONS OF LAW

1. The acts, conduct, and/or omissions of Jopindar P. Harika, M.D., underlying his plea of guilty, and the judicial finding of guilt, as set forth in Findings of Fact 1, above, constitute "'publishing a false, fraudulent, deceptive, or misleading statement,' as that clause is used in Section 4731.22(B)(5), Ohio Revised Code (as in effect prior to March 9 1999).

2. The acts, conduct, and/or omissions of Dr. Harika underlying his plea of guilty, and the judicial finding of guilt, as set forth in Findings of Fact 1, above, 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.

3. The acts, conduct, and/or omissions of Dr. Harika underlying his plea of guilty, and the judicial finding of guilt, as set forth in Findings of Fact 1, above, constitute "[a] plea of guilty to, or a judicial finding of guilt of, a felony," as that clause is used in Section 4731.22(B)(9), Ohio Revised Code (as in effect prior to March 9 1999).

4. The Pennsylvania Board Consent Agreement and Order, as set forth in Findings of Fact 2, above, constitutes "[t]he limitation, revocation, or suspension by another state of a license or certificate to practice issued by the proper licensing authority of that state, the refusal to license, register, or reinstate an applicant by that authority, the imposition of probation by

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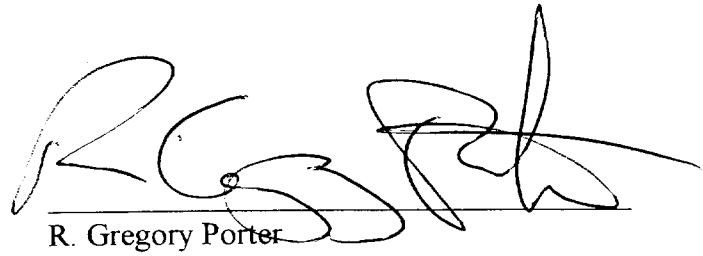
that authority, or the issuance of an order of censure or other reprimand by that authority for any reason, other than nonpayment of fees," as that clause is used in Section 4731.22(B)(22), Ohio Revised Code (as in effect prior to March 9, 1999).

PROPOSED ORDER

It is hereby ORDERED that the certificate of Jopindar P. Harika, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED.

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



R. Gregory Porter
Attorney Hearing Examiner

State Medical Board of Ohio
77 S. High Street, 17th Floor • Columbus, Ohio 43266-0315 • 614/ 466-3934 • Website: www.state.oh.us/med/

EXCERPT FROM THE DRAFT MINUTES OF JANUARY 12, 2000

REPORTS AND RECOMMENDATIONS

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

Dr. Egner 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 Jopindar P. Harika, M.D., and Bohumila Slabochova, M.D. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Bhati	- aye
	Dr. Talmage	- aye
	Dr. Somani	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Ms. Noble	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Egner	- aye

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

ROLL CALL:	Mr. Albert	- aye
	Dr. Bhati	- aye
	Dr. Talmage	- aye
	Dr. Somani	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Ms. Noble	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

Dr. Egner - aye

In accordance with the provision in Section 4731.22(F)(2), Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of these matters.

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

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

JOPINDAR P. HARIKA, M.D.

Dr. Egner directed the Board's attention to the matter of Jopindar P. Harika, M.D. She advised that objections were filed to Hearing Examiner Porter's Report and Recommendation and were previously distributed to Board members.

DR. SOMANI MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF JOPINDAR P. HARIKA, M.D. DR. STEINBERGH SECONDED THE MOTION.

Dr. Egner stated that she would now entertain discussion in the above matter.

Dr. Steinbergh stated that she would like to comment on the Report and Recommendation, which she finds to be somewhat appropriate. She personally felt that a permanent revocation in this case might be severe. It is clear that Dr. Harika inappropriately gave his hours and fraudulently caused his hospitals to bill for services that he did not provide in terms of time.

Dr. Steinbergh added that, although the Board is not reviewing this case for minimal standards of care, she believes that any physicians on the Board would appreciate the fact that if Dr. Harika saw 20 patients in two and a half hours, it means that he saw each psychiatric patient for about seven and a half minutes. Dr. Steinbergh stated that she found that to be appalling.

Dr. Steinbergh stated that she does wish to offer an alternative order that would call for stayed revocation, a minimum suspension of one year with five years' probation. She asked for comments from other members.

Dr. Somani stated that he looked at this case carefully and read through all the details. Dr. Somani stated that he found it interesting that Dr. Harika did over-bill the hospital and the physician got payment from Medicare and Medicaid, but the interesting part was that Dr. Harika claimed that he was an employee and

his salary was not affected based upon the billing hours. It was also interesting that the Pennsylvania State Board of Medicine only suspended Dr. Harika's license, staying all but two months and yet Ohio's Proposed Order was for permanent revocation. Dr. Somani stated that it's beyond what he would like to see in this case. He would be in favor of changing this Order to stayed revocation, reprimand, and putting Dr. Harika on probation for five years.

DR. STEINBERGH MOVED THAT THE PROPOSED ORDER IN THE MATTER OF JOPINDAR P. HARIKA, M.D., BE AMENDED TO READ AS FOLLOWS:

1. It is hereby ORDERED that the certificate of Jopindar P. Harika, M.D., to practice medicine and surgery in the State of Ohio shall be permanently REVOKED. Such revocation is STAYED, and Dr. Harika's certificate is SUSPENDED for an indefinite period of time, but not less than one year.

2. The Board shall not consider reinstatement of Dr. Harika's certificate to practice unless and until all of the following minimum requirements have been met:

   A. Dr. Harika shall submit an application for reinstatement, accompanied by appropriate fees, if any.

   B. Upon submission of his application for reinstatement, Dr. Harika shall provide acceptable documentation of successful completion of a course or courses dealing with personal ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education acquisition period(s) in which they are completed.

   C. In the event that Dr. Harika has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to application for reinstatement, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of his fitness to resume practice.

3. Upon reinstatement, Dr. Harika's certificate shall be subject to the following PROBATIONARY terms, conditions and limitations for a period of at least five years:

   A. Dr. Harika shall obey all federal, state and local laws, and all rules governing the practice of medicine and surgery in Ohio and the state in which he is practicing, and all terms of probation imposed by the court in the Pennsylvania criminal matter that gave rise to this action.

B. Dr. Harika shall appear in person for interviews before the full Board or its designated representative within three months of the date in which probation becomes effective, at six month intervals thereafter, and upon request for termination of the probationary period, or as otherwise requested by the Board.

If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled. Although the Board will normally give Dr. Harika written notification of scheduled appearances, it is Dr. Harika's responsibility to know when personal appearances will occur. If Dr. Harika does not receive written notification from the Board by the end of the month in which the appearance should have occurred, Dr. Harika shall immediately submit to the Board a written request to be notified of his next scheduled appearance.

C. Dr. Harika shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether he has complied with all the terms, conditions and limitations imposed by this Board, the Pennsylvania State Board of Medicine, the West Virginia Board of Medicine, and any other state medical board. Moreover, Dr. Harika shall cause to be submitted to the Board copies of any reports that he submits to the Pennsylvania and West Virginia medical boards whenever those boards require such submission.

D. Dr. Harika shall immediately notify the Board in writing of any modification or change to any term, condition or limitation imposed by the Pennsylvania or West Virginia medical boards, or any other state medical board.

E. In the event that Dr. Harika should leave Ohio for three consecutive months, or reside or practice outside the State, Dr. Harika must notify the Board in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of the probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that the purposes of the probationary monitoring are being fulfilled.

F. Periods of time during which Dr. Harika's certificate to practice medicine and surgery is inactive due to nonpayment of renewal fees will not apply to the reduction of the probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that the purposes of the probationary monitoring are being fulfilled.

4. Within thirty days of the effective date of this Order, Dr. Harika shall provide a copy of this Order by certified mail to all employers or entities with which he is under contract to provide health care services or is receiving training, and the Chief of Staff at each hospital where he has

privileges or appointments. Further, Dr. Harika shall provide a copy of this Order by certified mail to all employers or entities with which he applies or contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments. Further, Dr. Harika shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

5. Within thirty days of the effective date of this Order, Dr. Harika shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction is which he currently holds any professional license. Dr. Harika shall also provide a copy of this Order by certified mail, return receipt requested, at the time of application to the proper licensing authority or any state in which he applies for any professional license or reinstatement of any professional license. Further, Dr. Harika shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

6. If Dr. Harika violates probation in any respect, the Board, after giving him notice and the opportunity to be heard, may set aside the stay order and impose the permanent revocation of Dr. Harika's certificate.

7. Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Harika's certificate will be fully restored.

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

DR. BHATI SECONDED THE MOTION.

Dr. Somani asked for the reason for a minimum one-year suspension. He noted that neither Pennsylvania nor West Virginia imposed such a suspension, and Dr. Harika practices primarily in Pennsylvania.

Dr. Steinbergh noted that the Hearing Examiner did adhere completely to the Board's disciplinary guidelines, the next step down would be a minimum one-year suspension. The Board has, in fact, suspended felons of this nature for longer than one year. Dr. Steinbergh stated that her question was whether the Board would feel comfortable with just a one-year suspension.

Dr. Somani stated that his only concern is that there are two states that have taken an action based upon the practice in the primary state. Dr. Harika was not practicing in Ohio. Therefore, a longer suspension than that imposed by the states of Pennsylvania or West Virginia is difficult to support. He suggested that the Board suspend Dr. Harika's license for the same period of time as did Pennsylvania.

Mr. Browning reminded the Board of the significance of this case. This case concerns fraud and felonies in the Medicare and Medicaid system. Mr. Browning stated that he can't believe that Pennsylvania did so little in this case. This involved $84,000 and a willful and intentional act. While going in the direction of a permanent revocation may not be necessary, he does think it is a significant matter, and a one-year suspension strikes him as inadequate.

Dr. Buchan stated that he tends to agree with Mr. Browning. He finds it disturbing that Dr. Harika would commit such an act of fraud, and he finds it disturbing that Dr. Harika would attempt to minimize his actions and suggest that he indeed was not doing it just to serve himself, but to help the hospital in regards to the Medicaid/Medicare situation. He also had a concern about the length of time Dr. Harika spent with patients. This is not an issue of a small fraudulent case, it's a significant case. He would lean towards a more harsh statement, including a two-year suspension. Although revocation is the most severe sanction, he wouldn't be opposed to that either. He is certainly opposed to a simple time out because this is more than a little misfiling. It was willful misconduct of the most severe form. Dr. Buchan added that he's not too interested in what Pennsylvania or West Virginia did. He believes the Board should take a hard line and is more in favor of a two-year suspension or revocation.

Dr. Egner asked whether Dr. Buchan wished to amend the proposed amendment.

Dr. Buchan stated that he would consider that but would like to hear other Board members' comments.

Dr. Stienecker agreed that suspension may be more in order than revocation. He also sides with Mr. Browning and Dr. Buchan that this was a willful theft for all practical purposes and it was a felony conviction. At least one year of suspension is in order and he would support Dr. Steinbergh's motion as is.

Dr. Bhati stated that this was a felony committed in the course of practice. To give this physician a simple slap on the hand would send the wrong message. Permanent revocation may be too harsh. He could support a two-year suspension, would definitely support a minimum one-year suspension, but he would not support less than a one-year suspension.

Dr. Agresta stated that what has been done in other states always comes into play when this Board makes decisions, but he agrees with Mr. Browning that these other states have obviously missed the boat. He can't believe that the sanctions in those two states were as lenient as they were. That's the reason why this Board should always make its own decisions as to what it wants to do in the way of sanctioning its licensees. The appropriate decision in this case is a stayed revocation and a minimum one year out of practice. Two years would be more ideal. This was a very serious offense. Originally he agreed to the permanent revocation. He would be happy to accept the Proposed Order.

DR. BUCHAN MOVED TO AMEND THE AMENDMENT TO IMPOSE A MINIMUM TWO-YEAR SUSPENSION RATHER THAN ONE-YEAR SUSPENSION. DR. BHATI SECONDED THE MOTION.

Dr. Somani stated that he would again like to point out that not only two other medical boards but the courts in this case also made a decision. Therefore he would be very happy to accept the one-year suspension.

A vote was taken on Dr. Buchan's motion to amend the amendment:

VOTE:		
	Mr. Albert	- abstain
	Dr. Bhati	- aye
	Dr. Talmage	- aye
	Dr. Somani	- nay
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Ms. Noble	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- nay

The motion carried.

A vote was taken on Dr. Steinbergh's motion to amend, as amended:

VOTE:		
	Mr. Albert	- abstain
	Dr. Bhati	- aye
	Dr. Talmage	- aye
	Dr. Somani	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Ms. Noble	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.

DR. BHATI MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF JOPINDAR P. HARIKA, M.D. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

VOTE:		
	Mr. Albert	- abstain
	Dr. Bhati	- aye
	Dr. Talmage	- aye
	Dr. Somani	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Ms. Noble	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye
	Dr. Egner	- aye

The motion carried.

State Medical Board of Ohio

August 11, 1999

Jopindar P. Harika, M.D.
321 Red Oak Court
Monroeville, Pennsylvania 15146

Dear Doctor Harika:

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, permanently 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) On or about March 3, 1997, in the Court of Common Pleas, Sixteenth Judicial District, Somserset County, Pennsylvania, you pleaded guilty to, and were found guilty of, one felony count of Theft by Deception in violation of 18 Pa. C.S. Section 3922(a)(1). The acts underlying this conviction were that, in the course of your practice, you billed Somerset State Hospital and/or the State of Pennsylvania for medical services you had not provided.

You were sentenced to four (4) years of probation, ordered to pay restitution to the State of Pennsylvania in the amount of $84,609.23 and required to perform treatment with no charge to patients in a mental health program during the first two years of your probation.

(2) On or about February 23, 1999, the Pennsylvania State Board of Medicine (hereinafter the "Pennsylvania Board") adopted a Consent Agreement and Order suspending your Pennsylvania license for a period of two (2) years, staying twenty two months of the suspension in favor of probation and imposing a civil penalty of seven hundred ($700) dollars. You and the Pennsylvania Board stipulated that your felony conviction, referenced in paragraph (1) above, violated the Pennsylvania Medical Practice Act at 63 P.S. Section 422.41(3). A copy of the Pennsylvania Consent agreement and Order is attached hereto and fully incorporated herein.

Mailed 8/12/99

Your acts, conduct, and/or omissions underlying your plea of guilty, and the judicial finding of guilt, as alleged in paragraph (1) above, 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 (as in effect prior to March 9 1999).

Further, your acts, conduct, and/or omissions underlying your plea of guilty and the judicial finding of guilt, 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 plea of guilty to, and the judicial finding of guilt as alleged in paragraphs (1) above, constitute "[a] plea of guilty to, or a judicial finding of guilt of, a felony," as that clause is used in Section 4731.22(B)(9), Ohio Revised Code (as in effect prior to March 9 1999).

Further, the Pennsylvania Board Consent Agreement and Order, as alleged in paragraph (2) above, constitutes "[t]he limitation, revocation, or suspension by another state of a license or certificate to practice issued by the proper licensing authority of that state, the refusal to license, register, or reinstate an applicant by that authority, the imposition of probation by that authority, or the issuance of an order of censure or other reprimand by that authority for any reason, other than nonpayment of fees," as that clause is used in Section 4731.22(B)(22), Ohio Revised Code (as in effect prior to March 9, 1999).

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.

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, effective March 9, 1999, 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,

Anand G. Garg, M.D.
Secretary

AGG/jag

Enclosures

CERTIFIED MAIL # Z 233 896 427
RETURN RECEIPT REQUESTED

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF MEDICINE

Commonwealth of Pennsylvania, Bureau of Professional and Occupational Affairs	:	
vs.	:	Docket No. 0502-49-98 File No. 1996-49-04718
Jopindar Pal Harika, Respondent	:	

OHIO STATE MEDICAL BOARD
JUN 21 1999

CONSENT AGREEMENT AND ORDER

The Commonwealth and Respondent stipulate as follows in settlement of the above-captioned case.

1. This matter is before the State Board of Medicine pursuant to the Medical Practice Act, Act of December 20, 1985, P.L. 457, No. 112, as amended ("Act"), 63 P.S. §422.1 et seq.

2. At all relevant and material times, Jopindar Pal Harika ("Respondent") held a license to practice medicine in the Commonwealth of Pennsylvania, License No. MD-030282-E.

3. The Respondent admits that the following facts are true:

a. Respondent's license is current through December 31, 1998 and may be renewed thereafter upon the filing of the appropriate documentation and payment of the necessary fees.

b. Respondent's last known address(es) on file with the Board is 321 Red Oak Court, Monroeville, PA 15146.

OHIO STATE MEDICAL BOARD

JUN 2 1 1999

c. On or about November 7, 1996, a Criminal Complaint was filed in the matter of Commonwealth of Pennsylvania v Jopindar Harika, M.D., Case No. 838 Criminal 1996 charging Respondent with violating 18 Pa. C.S. §3922 (a) (1)(v), pertaining to his billing the Commonwealth of Pennsylvania and/or Somerset State Hospital for services he did not perform.

d. On or about December 26, 1996, a Criminal Information was filed in the Court of Common Pleas of Somerset County, Pennsylvania in the matter of Commonwealth of Pennsylvania v. Jopindar Harika at Case Number 838 of 96, charging Respondent with one count of Theft By Deception in violation of 18 Pa. C.S. §3922 (a) (1), pertaining to his billing Somerset State Hospital and/or Commonwealth of Pennsylvania for approximately 1,072.5 hours totaling $84,609.23 for work Respondent claimed he performed at Somerset State Hospital when in fact he had not provided those services.

e. On or about March 3, 1997, Respondent pled guilty in the above-referenced criminal proceedings to the one count in the Criminal Information referenced in paragraph 3d above.

OHIO STATE MEDICAL BOARD
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f. On or about May 1, 1997, Respondent was sentenced in the above-referenced criminal proceedings to the one (1) count of Theft By Deception and ordered to pay restitution to the Commonwealth of Pennsylvania in the amount of $84,609.23, placed on probation for four (4) years, required to perform medical treatment consisting of five (5) hours per week during the first year of probation at no charge for services to the Bedford/Somerset Mental Health/Mental Retardation Program, and during the second year of probation, to perform eight (8) hours per week with no charge.

4. The activities of Respondent, described above, violated the Act at 63 P.S. §422.41(3) in that Respondent was convicted of a Felony in the courts of this Commonwealth.

5. The parties consent to the issuance of the following Order in settlement of this matter:

a. Respondent violated the Act at 63 P.S. §422.41(3) in that Respondent was convicted of a Felony in the courts of this Commonwealth.

OHIO STATE MEDICAL BOARD

b. That Respondent agrees to the imposition of a seven hundred ($700.00) dollar civil penalty to be assessed against his license to practice medicine in this Commonwealth, said penalty to be paid by Cashier's Check, Certified Check, U.S. Postal Money Order or Attorney's Check, made payable to "Commonwealth of Pennsylvania".

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c. Respondent agrees to the payment of $300.00 cost of investigation.

d. Respondent's license, No. MD-030282-E, is **SUSPENDED** for a period of 2 years.

e. Following a period of 2 months, the remaining 22 months of such suspension is to be immediately **STAYED** in favor of **PROBATION** subject to the following terms and conditions:

<u>GENERAL</u>

(1) Respondent shall abide by and obey all laws of the United States, the Commonwealth of Pennsylvania and its political

subdivisions and all rules and regulations and laws pertaining to the practice of the profession in this Commonwealth or any other state or jurisdiction in which Respondent holds a license to practice a health care profession. Provided, however, summary violations not related to practice shall not constitute a violation of this Order;

OHIO STATE MEDICAL BOARD

JUN 2 1 1999

(2) Respondent shall at all times cooperate with the Bureau of Professional and Occupational Affairs ("Bureau"), any of its agents or employees and the Bureau of Enforcement and Investigation ("BEI") and its agents and employees, in the monitoring, supervision and investigation of Respondent's compliance with the terms and conditions of this Order, including Respondent causing to be submitted at his own expense written reports, records and verifications of actions that may be required by the Bureau, BEI or any of its agents or employees;

(3) Respondent's failure to fully cooperate with and successfully comply with the terms and conditions of this probation shall be deemed a violation of this Consent Agreement and Order;

OHIO STATE MEDICAL BOARD
JUN 2 1 1999

(4) Respondent shall not falsify, misrepresent or make material omission of any information submitted pursuant to this Order;

(5) Respondent shall notify BEI, in writing, within twenty (20) days of the filing of any criminal charges, the initiation of any other legal action pertaining to the practice of Respondent's profession, the initiation, action, restriction or limitation relating to Respondent by the professional licensing authority of any state or jurisdiction or the Drug Enforcement Agency of the U.S. Department of Justice, or any investigation, action, restriction or limitation relating to Respondent's privileges to practice a health care profession at any health care facility;

(6) Respondent shall notify BEI by telephone within 72 hours and in writing within ten (10) days of the change of his home address, phone number, place(s) of employment and/or practice;

OHIO STATE MEDICAL BOARD
JUN 2 1 1999

REPORTING/RELEASES

(7) Respondent, his providers, monitor(s)/supervisor(s), employers or other persons shall cause any reports, data or other information required to be filed with BEI under this Order, unless otherwise directed, with:

Probation Compliance Officer
Bureau of Enforcement and Investigation
Box 2649
Harrisburg, PA 17105-2649

(8) Respondent consents to the release by the Bureau or BEI of any information or data produced as a result of this probation to any employer, prospective employer or monitor/supervisor;

(9) Respondent shall execute any waivers or consent forms required to allow the Bureau

or BEI to obtain access to any agreements or any other records generated through the Bureau or BEI or its agents;

OHIO STATE MEDICAL BOARD

COSTS

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(10) Respondent shall bear the responsibility of all costs incurred by Respondent in complying with the terms of this Order, including production of records;

VIOLATION OF THIS ORDER

f. Notification of a violation of the terms or conditions of this Consent Agreement and Order shall result in the **IMMEDIATE VACATING** of the stay order, **TERMINATION** of the period of probation, and **ACTIVATION** of the entire period of suspension of Respondent's license to practice medicine in the Commonwealth of Pennsylvania as follows:

(1) The prosecuting attorney for the Commonwealth shall file with the Board a Petition which indicates that Respondent has violated any terms or conditions of this Consent Agreement and Order;

(2) Upon a probable cause determination that Respondent has violated any of the terms or conditions of this Consent Agreement and Order, the Board shall, without holding a formal hearing, issue a preliminary order vacating the stay of the suspension in this matter, terminating the period of probation and activating the entire period of suspension of Respondent's license;

OHIO STATE MEDICAL BOARD
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(3) Respondent shall be notified of the Board's Preliminary Order within three (3) days of its issuance by certified mail and first class mail postage prepaid, sent to the last registered address on file with the Board;

(4) Within twenty (20) days of mailing of the notification of the Board's action, Respondent may answer the Commonwealth's Petition and request that a formal hearing be convened concerning Respondent's violation of probation, in which Respondent may seek relief from the Preliminary Order activating the

suspension. Respondent shall serve the prosecuting attorney for the Commonwealth with a copy of the answer and all subsequent filings in this matter;

OHIO STATE MEDICAL BOARD

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(5) If a request for a formal hearing is received from Respondent, the Board shall convene a formal hearing within forty-five (45) days from the date of the Board's receipt of Respondent's request for a formal hearing;

(6) If Respondent files an answer and request for a hearing within the twenty (20) day period, the Preliminary Order activating the suspension shall remain in effect unless and until the Board issues a determination favorable to Respondent after holding the formal hearing;

(7) The facts and averments in this Consent Agreement and Order shall be deemed admitted and uncontested at this hearing;

(8) If the Board after such hearing makes a determination adverse to Respondent, the Board will issue a Final Order activating

the suspension of Respondent's license and imposing any additional disciplinary measures it deems appropriate;

OHIO STATE MEDICAL BOARD
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(9) If a request for a formal hearing is not received from Respondent within the prescribed twenty (20) day period, the Board's Preliminary Order shall become a Final Order twenty (20) days after the date of its mailing;

g. If the stay is terminated, Respondent shall still comply with all terms and conditions of probation during the active suspension, other than those terms and conditions pertaining to practicing the profession. Continued failure by Respondent to comply with the unaffected terms and conditions of probation shall result in further disciplinary action against Respondent;

h. Respondent's failure to fully comply with any terms of this Order may also constitute grounds for additional disciplinary action;

i. Nothing in this Order shall preclude the Prosecuting Attorney for the Commonwealth from filing charges or the Board from imposing disciplinary or

corrective measures for violations or facts not contained in this Consent Agreement;

OHIO STATE MEDICAL BOARD
JUN 2 1 1999

j. Upon successful completion of probation, Respondent may petition the Board to reinstate Respondent's license to unrestricted, non-probationary status upon an affirmative showing that Respondent has complied with all terms and conditions and that Respondent's resumption of unmonitored practice does not present a threat to the public health and safety. Respondent shall include with the petition a summary of Respondent's Criminal History Record Information (a/k/a "Criminal Record Check") obtained at Respondent's expense.;

k. This case shall be deemed settled and discontinued upon Board adoption of the Consent Agreement;

l. This Order shall take effect immediately upon Board adoption of the Consent Agreement.

6. Respondent's execution of this Consent Agreement shall constitute a consent for release of all medical health related and psychological records pertaining to Respondent to the Prosecuting Attorney, the Bureau and BEI.

7. Respondent's execution of this Consent Agreement shall also constitute a release for any employment, peer review or review records pertaining to Respondent's practice of the profession to the Prosecuting Attorney, the Bureau and BEI.

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8. Respondent acknowledges receipt of an Order to Show Cause in this matter. Respondent knowingly and voluntarily waives the right to an administrative hearing in this matter, and to the following rights related to that hearing: to be represented by counsel at the hearing; the right to present witnesses and testimony in defense or in mitigation of any sanction that may be imposed for a violation; to cross-examine witnesses and to challenge evidence presented by the Commonwealth; to present legal arguments by means of a brief; and to take an appeal from any final adverse decision.

9. Respondent agrees, as a condition of entering into this Consent Agreement, not to seek modification at a later date of the Stipulated Order adopting and implementing this Consent Agreement without first obtaining the express written concurrence of the Prosecution Division.

10. This Consent Agreement is between the Commonwealth and Respondent only. Except as otherwise noted, this Agreement is to have no legal effect unless and until the Office of General Counsel

approves the contents as to form and legality and th[illegible] the stipulated Order.

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11. Should the Board not approve this Consent Agreement, presentation to and consideration of this Consent Agreement and other documents and matters by the Board shall not prejudice the Board or any of its members from further participation in the adjudication of this matter. The participants waive any objection to a Board member's consideration of this Agreement in the event that the member participated in a prior decision to prosecute this matter. This paragraph is binding on the participants even if the Board does not approve this Consent Agreement.

12. This agreement contains the whole agreement between the participants. There are no other terms, obligations, covenants, representations, statements or conditions, or otherwise, of any kind whatsoever concerning this agreement.

13. Respondent verifies that the facts and statements set forth in this Agreement are true and correct to the best of Respondent's knowledge, information and belief. Respondent understands that statements in this Agreement are made subject to

the criminal penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

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Andrew B. Kramer
Prosecuting Attorney
Bureau of Professional and Occupational Affairs

DATED: 1/14/99

Jopindar Pal Harika
Respondent

DATED: 1/12/99

William F. Manifesto, Esquire
Respondent's Attorney

DATED: 1-12-99

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ORDER

AND NOW, this 23rd day of February, ~~1998~~ 1999, the State Board of Medicine adopts and approves the foregoing Consent Agreement and incorporates the terms of paragraph 5, which shall constitute the Board's Order and is now issued in resolution of this matter.

This Order shall take effect immediately.

BY ORDER:

STATE BOARD OF MEDICINE

BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

Dorothy Childress
Commissioner
Date of Mailing: 2/26/99

DB Kimball Jr MD
Daniel B. Kimball, Jr., M.D.
Chairman

For the Commonwealth:

Andrew B. Kramer
P. O. Box 2649
Harrisburg, PA 17105-2649

For Respondent:

William F. Manifesto, Esquire
1550 Koppers Building
436 Seventh Ave.
Pittsburgh, PA 15219

ABK/tmr