

STATE OF OHIO
THE STATE MEDICAL BOARD
Suite 510
65 South Front Street
Columbus, Ohio 43215

March 13, 1987

Marcelle Zalzal Bouchard, M.D.
2723 Cyclorama Drive
Cincinnati, Ohio 45211

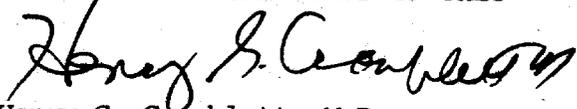
Dear Doctor Bouchard:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Lauren O. Lubow, Hearing Examiner, Medical Board; a certified copy of the Motions by the State Medical Board, meeting in regular session on March 12, 1987, approving and confirming said Report and Recommendation as the Findings and Order of the State Medical Board.

You are hereby notified that you may appeal this Order to the Court of Common Pleas of the county in which your place of business is located, or the county in which you reside. If you are not a resident and have no place of business in this state, you may appeal to the Court of Common Pleas of Franklin County, Ohio.

To appeal as stated above, you must file a notice of appeal with the Board setting forth the Order appealed from, and the grounds of the appeal. You must also file a copy of such notice with the Court. Such notices of appeal shall be filed within fifteen (15) days after the date of mailing of this letter and in accordance with Section 119.12, Revised Code.

THE STATE MEDICAL BOARD OF OHIO


Henry G. Cramblett, M.D.
Secretary

HGC:em

Enclosures

CERTIFIED MAIL NO. P 026 072 761
RETURN RECEIPT REQUESTED

cc: David H. Beaver, Esq.
511 Walnut St.,
Cincinnati, Ohio 45202-3172

CERTIFIED MAIL NO. P 026 072 760
RETURN RECEIPT REQUESTED

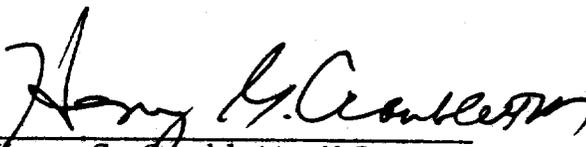
STATE OF OHIO
THE STATE MEDICAL BOARD
Suite 510
65 South Front Street
Columbus, Ohio 43215

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 Lauren O. Lubow, Hearing Examiner, State Medical Board of Ohio; and the attached copy of the Motions by the State Medical Board, meeting in regular session on March 12, 1987, approving and confirming said Report and Recommendation as the Findings and Order of the State Medical Board, constitutes a true and complete copy of the Findings and Order of the State Medical Board in the matter of Marcelle Zalzal Bouchard, 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 and in its behalf.

(SEAL)


Henry G. Gramblett, M.D.
Secretary

March 13, 1987

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

MARCELLE ZALZAL BOUCHARD, M.D.

*

ENTRY OF ORDER

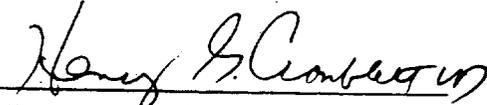
This matter came on for consideration before the State Medical Board of Ohio the 12th day of March, 1987.

Upon the Report and Recommendation of Lauren O. Lubow, Hearing Examiner, in this matter designated pursuant to R.C. 119.09, a true copy of which is attached hereto and incorporated herein, which Report and Recommendation was approved and confirmed by vote of the Board on the above date, the following Order is hereby entered on the Journal of the State Medical Board for the 12th day of March, 1987.

It is hereby ORDERED:

1. That Marcelle Zalzal Bouchard, M.D., be REPRIMANDED for misrepresentation of fact in her application for licensure by examination.
2. That upon completion of a reapplication form and payment of all accompanying fees, Marcelle Zalzal Bouchard, M.D., be permitted to sit for the June, 1987 FLEX examination in the State of Ohio.

(SEAL)


Henry G. Cramblett, M.D.
Secretary

March 13, 1987
Date

REPORT AND RECOMMENDATION
IN THE MATTER OF MARCELLE ZALZAL-BOUCHARD, M.D.

The matter of Marcelle Zalzal-Bouchard, M.D., came on for hearing before me, Lauren Lubow, Attorney Hearing Examiner for the State Medical Board of Ohio, on February 3, 1987.

INTRODUCTION AND SUMMARY OF EVIDENCE

I. Mode of Conduct

- A. During the course of this hearing, rules of evidence were relaxed and both the State and the Applicant were given great latitude in demonstrating the relevancy and materiality of testimony and exhibits offered, as well as in attempting to discredit testimony and evidence presented by the opposing party.

II. Basis for Hearing

- A. By letter of November 6, 1986, the State Medical Board of Ohio notified Dr. Zalzal-Bouchard that it proposed to deny her application for licensure by examination on the basis of alleged violations of Section 4731.22(A) and 4731.08, Ohio Revised Code. These allegations were based upon the Applicant's having responded to the question on her September 28, 1983 FLEX application, "List all FLEX exams which you have taken..." that she had taken the exam in Ohio in June 1972. In fact, the Board had been advised by the Federation of State Medical Boards that prior to September 1983, Dr. Zalzal-Bouchard had taken the FLEX examination five times in Michigan, in addition to having taken it in Ohio in June 1972.
- B. On November 14, 1986, the State Medical Board received a letter from Attorney Michael D. Lorton on behalf of Dr. Zalzal-Bouchard requesting a hearing in this matter.

III. Appearance of Counsel

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- A. On behalf of the State of Ohio: Anthony J. Celebrezze, Attorney General, by Christopher J. Costantini, Assistant Attorney General.
- B. On behalf of the Applicant: David H. Beaver, Esq.

IV. Testimony Heard

- A. Presented by the State:
 - 1. Marcelle Zalzal-Bouchard, M.D., as on cross-examination
- B. Presented by the Applicant:
 - 1. Marcelle Zalzal-Bouchard, M.D.

V. Exhibits Examined

- A. Presented by the State:
 - 1. State's Exhibit #1 - November 6, 1986 letter from the State Medical Board to Dr. Zalzal-Bouchard proposing to deny her application for licensure by examination.
 - 2. State's Exhibit #2 - November 10, 1986 letter from Attorney Michael Lorton requesting a hearing on behalf of Dr. Zalzal-Bouchard.
 - 3. State's Exhibit #3 - November 17, 1986 letter from the State Medical Board scheduling Dr. Zalzal-Bouchard's hearing for February 2, 1987.
 - 4. State's Exhibit #4 - Applicant's September 1983 application for licensure by examination.
 - 5. State's Exhibit #5 - September 11, 1986 FLEX Status Report from the Federation of State Medical Boards concerning Dr. Zalzal-Bouchard.
 - 6. State's Exhibit #6 - September 26, 1986 letter from the State Medical Board to Dr. Zalzal-Bouchard enclosing her application materials and check, and advising her that her September 1985 application had been received by the Board after the application deadline.

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7. State's Exhibit #7 - December 29, 1986 letter to Christopher J. Costantini, Assistant Attorney General, from Michael D. Lorton, Esq., acknowledging receipt of materials copied for Dr. Zalzal-Bouchard, and advising that another attorney would be handling the Applicant's hearing.
8. State's Exhibit #8 - Applicant's March 1984 Federation FLEX application.
9. State's Exhibit #9 - Applicant's September 1984 Federation FLEX application.
10. State's Exhibit #10 - Applicant's September 1986 Federation FLEX application.

B. Presented by the Applicant:

1. Applicant's Exhibit C - Listing of FLEX examinations taken by Dr. Zalzal-Bouchard, compiled by her attorney.
2. Applicant's Exhibit D - Excerpt from the February 3, 1987 edition of the Cincinnati Enquirer, which contains a story concerning Dr. Leon Goldman, who provided a reference for Dr. Zalzal-Bouchard in connection with her application for licensure by examination.

FINDINGS OF FACT

1. Prior to submitting her application to take the FLEX examination in Ohio in September 1983, Marcelle Zalzal-Bouchard, M.D., had taken the examination in Michigan on the following dates: June 1973, December 1973, June 1975, December 1975 and December 1977. Dr. Zalzal-Bouchard had also taken the examination in Ohio in June 1972.
2. In response to question 1(b) of Section 4 of the September 1983 application, "List all FLEX exams which you have taken . . .," Dr. Zalzal-Bouchard indicated that she had taken the examination in Ohio in June 1972. Dr. Zalzal-Bouchard did not indicate that she had also taken the examination in Michigan on five separate occasions.

3. Subsequent to submitting her application in September 1983, Dr. Zalzal-Bouchard took the FLEX examination in Ohio in December 1983, June 1984, December 1984, and June, 1986. She also took the exam in Michigan in June, 1985, for a total of 11 sittings.
4. In responding to question 5 on the Federation FLEX applications labelled as State's Exhibits #8, #9 and #10, Dr. Zalzal-Bouchard indicated that she had taken the examination before, but did not respond to the question, "How many previous FLEX examinations have you taken?"

CONCLUSIONS

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Dr. Marcelle Zalzal-Bouchard's failure to provide a complete and accurate answer to question 1(b) of Section 4 on her September 1983 examination application undeniably constitutes a misrepresentation in violation of Section 4731.22(A), Ohio Revised Code. However, it appears from the testimony and evidence presented that the Applicant's incorrect answer was an error resulting from misunderstanding and carelessness, rather than a concerted effort by the Applicant to deceive the Ohio Board.

Dr. Zalzal-Bouchard contends that she misunderstood the question asking her to list all the FLEX exams she had taken, and had instead construed it to refer only to the exams she had taken in Ohio. Although the question seems clear, it is conceivable that the Applicant's misconstruction was an honest error resulting from carelessness in completing the application.

There is no evidence in the record to suggest that Dr. Zalzal-Bouchard had any reason to lie about the examinations she had taken previously. Her testimony reflects her understanding that when she applied for the December 1983 exam in Ohio, there was no longer a limit to the number of time an applicant could sit for the test in this state. Consequently, she knew that her six prior attempts at passing the exam had no bearing on her eligibility.

Dr. Zalzal-Bouchard also believed that information about her prior exams was available to the Ohio Board from the Federation of State Medical Boards--a presumption that proved to be correct, since the Board's charges against the Applicant were based on Federation records. Certainly it is the responsibility of the applicant to provide this Board with the information necessary to carry out its functions; nevertheless, the Applicant's reliance on the Federation

is understandable in view of the number of times she had taken the exam, the extensive gaps between some of the sittings, and the doctor's failure to keep her own record of the exams she had taken.

Dr. Zalzal-Bouchard's assertion that she could not recall precisely when and how many times she had taken the FLEX is borne out by her Federation applications. It is noteworthy that on those applications she admits to previous sittings, but refuses to guess at a number, choosing instead to leave the line blank.

In summary, although there has been a misrepresentation made in violation of Section 4731.22(A), Ohio Revised Code, the evidence is insufficient to support a conclusion that such misrepresentation rises to the level of fraud, or that Dr. Zalzal-Bouchard lacks the good moral character required of licensure applicants in Section 4731.08, Ohio Revised Code.

In considering disposition of this case, it should be noted that due to Dr. Zalzal-Bouchard's carelessness in completing the application, which necessitated this hearing, she has already forfeited the opportunity to sit for the December 1986 examination and the accompanying fee.

PROPOSED ORDER

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It is hereby ORDERED:

1. That Marcelle Zalzal-Bouchard, M.D., be reprimanded for misrepresentation of fact in her application for licensure by examination.
2. That upon completion of a reapplication form and payment of all accompanying fees, Marcelle Zalzal-Bouchard, M.D., be permitted to sit for the June, 1987 FLEX examination in the State of Ohio.



Lauren Lubow, Esq.
Hearing Examiner

EXCERPT FROM THE MINUTES OF MARCH 12, 1987

REPORT AND RECOMMENDATION IN THE MATTER OF MARCELLE ZALZAL BOUCHARD, M.D.

Dr. Stephens asked if each member of the Board had received, read, and considered the hearing record, the proposed findings and order, and any objections filed to the proposed findings and order in the matter of Marcelle Zalzal Bouchard, M.D. A roll call was taken:

ROLL CALL:

Dr. Cramblett	- aye
Dr. Lancione	- aye
Dr. Buchan	- aye
Dr. Lovshin	- aye
Dr. Rothman	- aye
Dr. Rauch	- aye
Ms. Rolfes	- aye

.....

DR. LANCIONE MOVED TO APPROVE AND CONFIRM MS. LUBOW'S FINDINGS OF FACT AND CONCLUSIONS IN THE MATTER OF MARCELLE ZALZAL BOUCHARD, M.D. DR. BUCHAN SECONDED THE MOTION. A roll call vote was taken:

ROLL CALL VOTE:

Dr. Cramblett	- abstain
Dr. Lancione	- aye
Dr. Buchan	- aye
Dr. Lovshin	- aye
Dr. Rothman	- aye
Dr. Rauch	- aye
Ms. Rolfes	- aye

The motion carried.

DR. LANCIONE MOVED TO APPROVE AND CONFIRM MS. LUBOW'S PROPOSED ORDER IN THE MATTER OF MARCELLE ZALZAL BOUCHARD, M.D. DR. LOVSHIN SECONDED THE MOTION. A roll call vote was taken:

ROLL CALL VOTE:

Dr. Cramblett	- abstain
Dr. Lancione	- aye
Dr. Buchan	- aye
Dr. Lovshin	- aye
Dr. Rothman	- aye
Dr. Rauch	- aye
Ms. Rolfes	- aye

The motion carried.

STATE OF OHIO
THE STATE MEDICAL BOARD
Suite 510
65 South Front Street
Columbus, Ohio 43266-0315

November 6, 1986

Marcelle Zalzal, M.D.
2723 Cyclorama Drive
Cincinnati, Ohio 45211

Dear Doctor Zalzal:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board proposes to deny your application for licensure for the following reasons:

1. On or about September 28, 1983 you filed an application to sit for the December 1983 examination for Ohio licensure. In addition, you filed re-examination applications on or about March 30, 1984, September 27, 1984, March 13, 1986 and September 16, 1986.

In response to Question 1(b) of Section 4 of the September 1983 application you indicated that you had taken the FLEX examination in the following states on the following dates:

<u>State</u>	<u>Date</u>
Ohio	June 1972

Question 1(b) of Section 4 states: "List all FLEX exams which you have taken. Indicate whether you took all three days or whether you took only part of the exam." Lines are provided for the State of examination, date, whether full or partial examination, and whether passed or failed.

In fact, the Board has now been advised by the Federation of State Medical Boards that prior to September 1983 you sat for the FLEX examination in Michigan on the following dates: June 1973, December 1973, June 1975, December 1975 and December 1977. You sat for the FLEX exam in Ohio in June 1972.

Your acts, conduct and omissions as alleged in paragraph 1 constitute a violation of Section 4731.22(A), Ohio Revised Code, to wit: committing fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the Board.

Further, your acts, conduct and omissions as listed in paragraph 1 establish a failure to furnish satisfactory proof of good moral character as required by Section 4731.08, Ohio Revised Code.

November 6, 1986

Marcelle Zalzal, M.D.

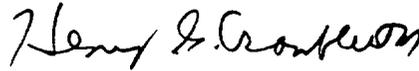
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Pursuant to Chapter 119., Ohio Revised Code, please be advised that you may request a hearing on this matter. If you wish to request such hearing, that request must be made within thirty (30) days of the time of mailing of this notice.

You are further advised that you are entitled to appear at such hearing in person, or by your attorney, or 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.

A copy of the applicable sections are enclosed for your information.

Very truly yours,



Henry G. Cramblett, M.D.
Secretary

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Encls.

CERTIFIED MAIL # P 569 363 996
RETURN RECEIPT REQUESTED