

State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.
Executive Director

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July 14, 2010

Kwabena Mawulawde, M.D.
950 Stevens Creek Road, Apt. I-7
Augusta, GA 30907

RE: Case No. 10-CRF-028

Dear Dr. Mawulawde:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Danielle R. Blue, Esq., Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on July 14, 2010, 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 must be taken to the Franklin County Court of Common Pleas.

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

THE STATE MEDICAL BOARD OF OHIO

Lance A. Talmage M.D.
Lance A. Talmage, M.D. *RW*
Secretary

LAT:baj
Enclosures

CERTIFIED MAIL NO. 91 7108 2133 3936 3124 2714
RETURN RECEIPT REQUESTED

cc: Paul C. Coval, Esq.
CERTIFIED MAIL NO. 91 7108 2133 3936 3124 2721
RETURN RECEIPT REQUESTED

Mailed 8-5-10

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Danielle R. Blue, Esq., State Medical Board Attorney Hearing Examiner; and excerpt of the Minutes of the State Medical Board, meeting in regular session on July 14, 2010, 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 Kwabena Mawulawde, M.D., Case No. 10-CRF-028, 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.

Lance A. Talmage MD

Lance A. Talmage, M.D. RW
Secretary

(SEAL)

July 14, 2010

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

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CASE NO. 10-CRF-028

KWABENA MAWULAWDE, M.D.

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ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on July 14, 2010.

Upon the Report and Recommendation of Danielle R. Blue, Esq., 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.

It is hereby ORDERED that:

- A. **GRANT OF RESTORATION OF LICENSE SUBJECT TO CONDITIONS:** The application of Kwabena Mawulawde, M.D., for a certificate to practice medicine and surgery in Ohio is GRANTED, provided that he otherwise meets all statutory and regulatory requirements, and subject to the conditions set forth below.
- B. **SUSPENSION:** The certificate of Dr. Mawulawde to practice medicine and surgery in the State of Ohio shall be suspended for a period of 60 days.
- C. **PROBATION:** Upon reinstatement, Dr. Mawulawde's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least one year:
 1. **Obey the Law:** Dr. Mawulawde shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in the state in which he is practicing.

2. **Declarations of Compliance:** Dr. Mawulawde shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which Dr. Mawulawde's certificate is restored or reinstated. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
3. **Personal appearances:** Dr. Mawulawde shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which Dr. Mawulawde's certificate is restored or reinstated, or as otherwise directed by the Board. Dr. Mawulawde shall also appear upon his request for termination of the probationary period, and/or as otherwise requested by the Board.
4. **Personal and Professional Ethics Course(s):** Before the end of the first six months of probation, or as otherwise approved by the Board, Dr. Mawulawde shall provide acceptable documentation of successful completion of a course or courses dealing with personal and professional 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 course(s) 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.

In addition, at the time Dr. Mawulawde submits the documentation of successful completion of the course or courses dealing with personal and professional ethics, he shall also submit to the Board a written report describing the course(s), setting forth what he learned from the course(s), and identifying with specificity how he will apply what he has learned to his practice of medicine in the future.

- D. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Mawulawde's certificate will be fully restored.
- E. **VIOLATIONS OF TERMS OF THIS ORDER:** If Dr. Mawulawde violates the terms of this Order in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.

F. REQUIRED REPORTING WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS ORDER:

1. **Required Reporting to Employers and Others:** Within 30 days of the effective date of this Order, Dr. Mawulawde shall provide a copy of this Order to all employers or entities with which he is under contract to provide health care services (including but not limited to third-party payors), or is receiving training; and the Chief of Staff at each hospital or health-care center where he has privileges or appointments. Further, Dr. Mawulawde shall promptly provide a copy of this Order to all employers or entities with which he contracts to provide healthcare services (including but not limited to third-party payors), or entities to which Dr. Mawulawde applies for or receives training, and the Chief of Staff at each hospital or health-care center where he applies for or obtains privileges or appointments.

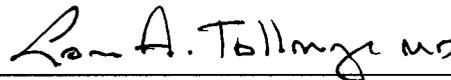
In the event Dr. Mawulawde provides any healthcare services or healthcare direction or medical oversight to any emergency medical services organization or emergency medical services provider in Ohio, within 30 days of the effective date of this Order, he shall provide a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services.

This requirement shall continue until Dr. Mawulawde receives from the Board written notification of the successful completion of the probation.

2. **Required Reporting to Other State Licensing Authorities:** Within 30 days of the effective date of this Order, Dr. Mawulawde shall provide a copy of this Order to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which he currently holds any license or certificate. Also, Dr. Mawulawde shall provide a copy of this Order at the time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement/restoration of any professional license. This requirement shall continue until Dr. Mawulawde receives from the Board written notification of the successful completion of the probation.
3. **Required Documentation of the Reporting Required by Paragraph F:** Dr. Mawulawde shall provide this Board with one of the following documents as proof of each required notification within 30 days of the date of each such notification: (1) the return receipt of certified mail within 30 days of receiving that return receipt; (2) an acknowledgement

of delivery bearing the original ink signature of the person to whom a copy of the Order was hand delivered; (3) the original facsimile-generated report confirming successful transmission of a copy of the Order to the person or entity to whom a copy of the Order was faxed; or (4) an original computer-generated printout of electronic mail communication documenting the e-mail transmission of a copy of the Order to the person or entity to whom a copy of the Order was e-mailed.

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



Lance A. Talmage, M.D. RW
Secretary

(SEAL)

July 14, 2010

Date

2010 JUN 14 PM 3: 34

BEFORE THE STATE MEDICAL BOARD OF OHIO

In the Matter of

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Case No. 10-CRF-028

Kwabena Mawulawde, M.D.,

*

Hearing Examiner Blue

Respondent.

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REPORT AND RECOMMENDATION

Basis for Hearing:

By letter dated March 10, 2010, the State Medical Board of Ohio [Board] notified Kwabena Mawulawde, M.D., that it proposed to deny his September 2009 Application for License Restoration to practice medicine and surgery in Ohio or to take disciplinary action. The Board based its proposed action on allegations that Dr. Mawulawde had provided false, fraudulent, deceptive or misleading statements on his 2009 Application for License Restoration in violation of Ohio Revised Code Section [R.C.] 4731.22(B)(5). Further, the Board alleged that Dr. Mawulawde had not actively practiced medicine for a period in excess of two years and therefore the Board had cause to exercise its discretion under R.C. 4731.22 to require additional evidence of his fitness to resume practice. Accordingly, the Board advised Dr. Mawulawde of his right to request a hearing in this matter. By letter filed on March 26, 2010, Dr. Mawulawde requested a hearing. (State's Exhibits [St. Exs.] 1A, 1B)

Appearances:

Richard Cordray, Attorney General, and Melinda Snyder, Assistant Attorney General, for the State of Ohio. Paul J. Coval, Esq., for Dr. Mawulawde

Hearing Date: June 4, 2010

SUMMARY OF THE EVIDENCE

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

Background Information

1. Kwabena Mawulawde, M.D., was born in Kingston, Jamaica, in 1957. He obtained his medical degree in 1985 from the State University of New York at Buffalo School of Medicine. Upon graduation, he completed his residency in general surgery at the State University of New York-University Hospital of Stony Brook. Subsequently, Dr. Mawulawde completed a two-year residency in cardiothoracic surgery at University

- Hospitals in Cleveland, followed by a one-year fellowship in heart, lung, heart-lung transplantation, and mechanical assist devices at Loyola University Medical Center. Dr. Mawulawde is board-certified in general surgery and thoracic surgery. (St. Ex. 2 at 15-16, 6; Respondent's Exhibit [Resp. Ex.] D; and Hearing Transcript [Tr.] at 46-47)
2. Dr. Mawulawde holds a current license to practice medicine in Georgia. He has previously held medical licenses in New York, Ohio, Illinois, Arkansas and a one-year temporary license in Texas, all of which have now expired. Of note, his Ohio license expired in 2000. (St. Ex. 2 at 16, 6; Resp. Ex. D; and Tr. at 14-15)
 3. From September 1995 through June 1997, Dr. Mawulawde was the Chief of Cardiac Surgery at John L. McClellan VA Medical Center in Little Rock, Arkansas, and the Director of Thoracic Organ Transplantation and Assistant Professor of Surgery at the University of Arkansas for Medical Sciences. (St. Ex. 6)
 4. From July 1997 through July 1999, Dr. Mawulawde was the NIH Fellow/Investigator at the Transplantation Biology Research Center at Massachusetts General Hospital/Harvard Medical School. (St. Ex. 6)
 5. Beginning in August 1999 through August 2001, Dr. Mawulawde was in private practice at Cardiothoracic Surgical Associates of Augusta, Georgia. (St. Ex. 6)
 6. Beginning in July 2000 through December 2003, Dr. Mawulawde served as both the Chief of Cardiothoracic Surgery at the VA Medical Center in Augusta, Georgia, and as an Assistant Professor of Surgery at the Medical College of Georgia. (St. Ex. 2 at 19, 6; Resp. Ex. C)
 7. From March 2003 through June 2003, Dr. Mawulawde also served as the Interim Chief and Program Director of Cardiothoracic Surgery at the Medical College of Georgia. (St. Ex. 2 at 19, 6; Tr. at 18-21)
 8. From January 2004 through April 2005, Dr. Mawulawde was unemployed and looking for a job. (St. Ex. 2 at 19; Tr. at 17-18)
 9. From April 2005 through April 2006, Dr. Mawulawde completed a fellowship in Cardiopulmonary Transplantation and Circulatory Support at the Texas Heart Institute. At the end of his fellowship, he was offered a position at the Texas Heart Institute but declined the offer in order to return to Georgia to start his own practice. (St. Ex. 2 at 20, 6; Tr. at 49-50)
 10. In April 2006, Dr. Mawulawde returned to Georgia with the intention of starting his own practice; however, his family members became gravely ill so he cared for them instead. From April 2006 to the present, Dr. Mawulawde has been unemployed and looking for a job. (Tr. at 16, 50)

11. In or about August 2009, Dr. Mawulawde was offered a one-year position with the Cleveland Clinic as a Clinical Associate in the Department of Thoracic and Cardiovascular Surgery. Specifically, the position is in the transplant and mechanical devices section. The position was set to commence on October 1, 2009. The offer is still open. (St. Ex. 2 at 15 and 45; Tr. at 47 and 75-76)

Dr. Mawulawde's 2009 License Restoration Application

12. On September 14, 2009, Dr. Mawulawde submitted an Application for License Restoration [Restoration Application] to the Board. The Restoration Application remains pending. By signing the Restoration Application, Dr. Mawulawde certified that the information provided therein was true. (St. Ex. 2; Tr. at 25)

13. In the Restoration Application, Dr. Mawulawde answered "No" to the following questions:

3. Have you ever resigned from, withdrawn from, or terminated, or have you ever been requested to resign from, withdraw from, or otherwise been terminated from, a position with a medical partnership, professional association, corporation, health maintenance organization, or other medical practice organization, either private or public?

4. Have you ever resigned from, withdrawn from, or have you ever been warned by, censured by, disciplined by, been put on probation by, been requested to withdraw from, dismissed from, been refused renewal of a contract by, or expelled from, a medical school, clinical clerkship, externship, preceptorship, residency, or graduate medical education program?

12. Have you ever been notified of any investigation concerning you by any board, bureau, department, agency, or other body, including those in Ohio, with respect to a professional license?

17. Have you been a defendant in a legal action involving professional liability (malpractice), or had a professional liability claim paid on your behalf, or paid such claim

yourself? If yes, include the case name, case number, court and address, date filed, and a summary of the underlying events. Indicate current status, including amount of settlement or judgment, if any. In addition, ask your malpractice insurance carrier(s) to provide a complete claims history report for the last 10 years to the State Medical Board of Ohio. If your current carrier has provided coverage for less than 10 years, ask your previous carrier to submit a claims history report to the Board. (St. Ex. 2 at 21-22)

Dr. Mawulawde's Testimony Regarding His Restoration Application

14. In regard to his answer to question number 3, Dr. Mawulawde acknowledged that he was terminated from his faculty appointment at the Medical College of Georgia due to an administrative reorganization within his department. Specifically, the college had hired a new chief of cardiothoracic surgery who wanted to hire his own people. Dr. Mawulawde was notified of his termination on August 29, 2003. His position ended on December 31, 2003. (St. Ex. 4 at 85; Resp. Ex. C, and Tr. at 23-24, 27, 29)
15. Dr. Mawulawde explained that he had answered "No" to question 3 because he thought the question was asking him whether he had been terminated from his position due to misconduct and/or competency issues. He also testified that he had believed that question number 3 was asking for the same information that was on his Texas application for a postgraduate training permit. In that application, he initially answered "yes" to question 3(a) which asked "Has an academic program, health care entity or professional organization ever taken against you, through either oral or written communication, any of the following public or private actions: *** (v) request of termination, withdrawal or resignation?" Dr. Mawulawde later realized that the answer should have been "no" and sent a follow-up letter correcting his answer and explaining that he over-read the question and had never been terminated for patient care and/or disciplinary reasons. (Resp. Ex. D and E; Tr. at 27, 55-58)
16. In regard to his answer to question number 4, Dr. Mawulawde testified that he had answered "No" to question 4 because he interpreted the question as asking "whether I'd been terminated from a position while I was in training." Dr. Mawulawde has never been terminated from a position while he was in training whether in medical school or during a graduate medical education program. (Tr. at 32)
17. In regard to his answer to question number 12, Dr. Mawulawde acknowledged that he had been aware at the time he filed his Restoration Application that Georgia had conducted an investigation about a complaint filed against him arising out of the care of a 56-year-old male patient at the V.A. Medical Center in 2000. He was first notified of this investigation on October 29, 2007 by the Georgia Composite State Board of Medical Examiners [Georgia Board]. (St. Ex. 3 at 55; Tr. at 35)

18. The complaint involved a 56-year-old male patient that was scheduled for a mediastinoscopy in 2000 to stage his lung cancer at the V.A. Medical Center. The patient did not show up for the procedure. Six months later, the patient returned to the V.A. Medical Center with seizures and decreased mental status. However, after their investigation of the case, the Georgia Board closed the case because "there was no evidence to support prosecution for a violation of the Medical Practice Act." (St. Ex. 3 at 55; Tr. at 39-40)
19. Dr. Mawulawde testified that he answered "No" to question number 12 because he believed the question was asking whether there were any pending investigations into his license in other states. At the time he filled out his Restoration Application, there were no pending investigations into his license. Furthermore, the investigation that was conducted into the 2000 incident at the V.A. Medical Center had been closed without any disciplinary action taken by the Georgia Board. (St. Ex. 3 at 56; Tr. at 61-62)
20. With respect to question number 17, documents from the Georgia Board showed that, on November 7, 2007, the Georgia Board notified Dr. Mawulawde by letter that a settlement agreement was paid on his behalf by the V.A. Medical Center in February 2006 as the result of the 2000 incident. (St. Ex. 3 at 56)
21. Dr. Mawulawde testified that he answered "No" to question 17 because he was never served with a Complaint in a malpractice case or asked to participate in a settlement agreement and/or settlement hearing regarding the 2000 incident. After being notified of the settlement paid on his behalf, he had his attorney inquire into whether there was a lawsuit filed against him and his attorney was unable to find that any lawsuit was ever filed against him; therefore, he would have been unable to provide any information to the Board. Furthermore, his insurance carrier was never notified of the settlement nor asked to indemnify the V.A. Medical Center for the settlement payment. (Tr. 41-42, 69)
22. Dr. Mawulawde addressed his misreading of questions 3, 4, 12, and 17 in the Restoration Application by stating in relevant part:

I mean, in hindsight I can understand where - - as I testified to before, in hindsight I can see where, you know, others may have been - - may have interpreted, and thus answered these questions differently than I did.

But as I sit here today, I can tell you that at the time I answered these questions, I answered them in good faith. I was in no way seeking to deceive or hide anything from the Board by answering the questions which I did.

And like I said, I can understand where, you know, other people would interpret the question and perhaps provide a different

answer and a different - - excuse me, a different answer to those questions. I can see that now in hindsight.

But like I said, when I answered these questions, this is how I interpreted it. I interpreted the questions in good faith. There was no intent whatsoever. I was being as open and transparent as I possibly can. (Tr. at 74-75)

Additional Information

23. In regard to his offer of employment at the Cleveland Clinic, Dr. Mawulawde testified that the position will be supervised. Dr. Mawulawde further testified that the position will give him a chance to get his career back on track and get up to speed. After completing the one year program, Dr. Mawulawde wants to set up a private practice focusing on transplant surgery. (Tr. 75-76)
24. In an effort to provide additional information to show evidence of his fitness to resume practice, Dr. Mawulawde took and passed the SPEX exam in October 2009. (Resp. Ex. N; Tr. at 47-48)

FINDINGS OF FACT

1. On September 14, 2009, Dr. Mawulawde submitted an Application for License Restoration [Restoration Application] to the Board. By signing the Restoration Application, Dr. Mawulawde certified that the information provided therein was true.
2. In the "Additional License Restoration Information" section of the Restoration Application, Dr. Mawulawde answered "No" to question number 3, which asked: "Have you ever resigned from, withdrawn from, or terminated, or have you ever been requested to resign from, withdraw from, or otherwise been terminated from, a position with a medical partnership, professional association, corporation, health maintenance organization, or other medical practice organization, either private or public?"

In fact, Dr. Mawulawde was terminated from his faculty position at the Medical College of Georgia effective December 31, 2003.

3. In the "Additional License Restoration Information" section of the Restoration Application, Dr. Mawulawde answered "No" to question number 4, which asked: "Have you ever resigned from, withdrawn from, or have you ever been warned by, censured by, disciplined by, been put on probation by, been requested to withdraw from, dismissed from, been refused renewal of a contract by, or expelled from, a medical school, clinical clerkship, externship, preceptorship, residency, or graduate medical education program?"

In fact, Dr. Mawulawde has never resigned from, withdrawn from, been warned by, censured by, disciplined by, been on probation by, been requested to withdraw from, dismissed from, been refused renewal of a contract by, or expelled from, a medical

school, clinical clerkship, externship, preceptorship, residency, or graduate medical education program. Accordingly, Dr. Mawulawde's negative response to that question was accurate.

4. In the "Additional License Restoration Information" section of the Restoration Application, Dr. Mawulawde answered "No" to question number 12, which asked: "Have you ever been notified of any investigation concerning you by any board, bureau, department, agency, or other body, including those in Ohio, with respect to a professional license?"

In fact, on October 29, 2007, Dr. Mawulawde was notified by the Georgia Board that an investigation had been concluded of a complaint filed against him arising out of the care of a 56 year-old male patient.

5. In the "Additional License Restoration Information" section of the Restoration Application, Dr. Mawulawde answered "No" to question number 17, which asked:

"Have you been a defendant in a legal action involving professional liability (malpractice), or had a professional liability claim paid on your behalf, or paid such claim yourself? If yes, include the case name, case number, court and address, date filed, and a summary of the underlying events. Indicate current status, including amount of settlement or judgment, if any. In addition, ask your malpractice insurance carrier(s) to provide a complete claims history report for the last 10 years to the State Medical Board of Ohio. If your current carrier has provided coverage for less than 10 years, ask your previous carrier to submit a claims history report to the Board."

In fact, on November 7, 2007, Dr. Mawulawde was notified by the Georgia Board that a settlement had been paid on his behalf by the V.A. Medical Center in February 2006.

6. Dr. Mawulawde has not actively practiced medicine since 2006. However, Dr. Mawulawde took and passed the SPEX exam in October 2009.

CONCLUSIONS OF LAW

1. Dr. Mawulawde's acts, conduct, and/or omissions as set forth in Findings of Fact 1, 2, 4, and 5 individually and/or collectively constitute "[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery; osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board," as set forth in R.C. 4731.22(B)(5).

2. The reliable evidence was insufficient to support that Dr. Mawulawde's answer to question number 4 constitutes "[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery; osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board," as set forth in R.C. 4731.22(B)(5).
3. As set forth in Finding of Fact 6, Dr. Mawulawde has shown additional evidence of his fitness to resume his practice as set forth in R.C. 4731.22 by taking and passing the SPEX exam in October 2009.

DISCUSSION CONCERNING THE PROPOSED ORDER

Disclosure is essential to the licensure process. In this case, Dr. Mawulawde should have disclosed his termination of employment, the investigation of the complaint filed against him, and the settlement paid on his behalf because there is no question that he had notice of these events before he filed his Restoration Application. Dr. Mawulawde argues that he answered the questions "in good faith" based on his interpretation of the questions. In reality, however, the questions did not need to be interpreted because the questions were clear and unambiguous. Therefore, it became apparent that Dr. Mawulawde chose to "interpret" the questions to his advantage. Ironically, in this case, if Dr. Mawulawde would have disclosed the adverse events on his Restoration Application, his answers would not have been likely to bar or hinder his licensure. In any case, Dr. Mawulawde's conduct warrants a sanction.

PROPOSED ORDER

It is hereby ORDERED that:

- A. **GRANT OF RESTORATION OF LICENSE SUBJECT TO CONDITIONS:** The application of Kwabena Mawulawde, M.D., for a certificate to practice medicine and surgery in Ohio is GRANTED, provided that he otherwise meets all statutory and regulatory requirements, and subject to the conditions set forth below.
- B. **SUSPENSION:** The certificate of Dr. Mawulawde to practice medicine and surgery in the State of Ohio shall be suspended for a period of 180 days.
- C. **PROBATION:** Upon reinstatement, Dr. Mawulawde's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least one year:
 1. **Obey the Law:** Dr. Mawulawde shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in the state in which he is practicing.

2. **Declarations of Compliance:** Dr. Mawulawde shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which Dr. Mawulawde's certificate is restored or reinstated. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
3. **Personal appearances:** Dr. Mawulawde shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which Dr. Mawulawde's certificate is restored or reinstated, or as otherwise directed by the Board. Dr. Mawulawde shall also appear upon his request for termination of the probationary period, and/or as otherwise requested by the Board.
4. **Personal and Professional Ethics Course(s):** Before the end of the first six months of probation, or as otherwise as approved by the Board, Dr. Mawulawde shall provide acceptable documentation of successful completion of a course or courses dealing with personal and professional 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 course(s) 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.

In addition, at the time Dr. Mawulawde submits the documentation of successful completion of the course or courses dealing with personal and professional ethics, he shall also submit to the Board a written report describing the course(s), setting forth what he learned from the course(s), and identifying with specificity how he will apply what he has learned to his practice of medicine in the future.

- D. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Mawulawde's certificate will be fully restored.
- E. **VIOLATIONS OF TERMS OF THIS ORDER:** If Dr. Mawulawde violates the terms of this Order in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.
- F. **REQUIRED REPORTING WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS ORDER:**
 1. **Required Reporting to Employers and Others:** Within 30 days of the effective date of this Order, Dr. Mawulawde shall provide a copy of this Order to all

employers or entities with which he is under contract to provide health care services (including but not limited to third-party payors), or is receiving training; and the Chief of Staff at each hospital or health-care center where he has privileges or appointments. Further, Dr. Mawulawde shall promptly provide a copy of this Order to all employers or entities with which he contracts to provide healthcare services (including but not limited to third-party payors), or entities to which Dr. Mawulawde applies for or receives training, and the Chief of Staff at each hospital or health-care center where he applies for or obtains privileges or appointments.

In the event Dr. Mawulawde provides any healthcare services or healthcare direction or medical oversight to any emergency medical services organization or emergency medical services provider in Ohio, within 30 days of the effective date of this Order, he shall provide a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services.

This requirement shall continue until Dr. Mawulawde receives from the Board written notification of the successful completion of the probation.

2. **Required Reporting to Other State Licensing Authorities:** Within 30 days of the effective date of this Order, Dr. Mawulawde shall provide a copy of this Order to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which he currently holds any license or certificate. Also, Dr. Mawulawde shall provide a copy of this Order at the time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement/restoration of any professional license. This requirement shall continue until Dr. Mawulawde receives from the Board written notification of the successful completion of the probation.
3. **Required Documentation of the Reporting Required by Paragraph F:** Dr. Mawulawde shall provide this Board with one of the following documents as proof of each required notification within 30 days of the date of each such notification: (1) the return receipt of certified mail within 30 days of receiving that return receipt; (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Order was hand delivered; (3) the original facsimile-generated report confirming successful transmission of a copy of the Order to the person or entity to whom a copy of the Order was faxed; or (4) an original computer-generated printout of electronic mail communication documenting the e-mail transmission of a copy of the Order to the person or entity to whom a copy of the Order was e-mailed.

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

A handwritten signature in black ink, reading "Danielle R. Blue". The signature is written in a cursive style with a horizontal line underneath the name.

Danielle R. Blue, Esq.
Hearing Examiner

State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
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EXCERPT FROM THE DRAFT MINUTES OF JULY 14, 2010

REPORTS AND RECOMMENDATIONS AND PROPOSED FINDINGS AND PROPOSED ORDERS

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

Dr. Amato asked whether each member of the Board had received, read and considered the hearing records; the Findings of Fact, Conclusions of Law, Proposed Orders, and any objections filed in the matters of: Alfred Larry Boulware, M.D.; Kevin Wayne Bowers, D.O.; Calvin Richard Brown, M.D.; Hatem Marwan Dajani, M.D.; Adam Lee Fowler; Elease Michelle Fulgham; Joseph James Koenigsmark, D.O.; Rhonda Kay Masci; Kwabena Mawulawde, M.D.; Giovanni A. Pupillo, M.D.; and Stephen Alan Straubing, M.D. A roll call was taken:

ROLL CALL:	Dr. Strafford	- aye
	Mr. Hairston	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Amato	- aye
	Mr. Albert	- aye
	Dr. Madia	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Mr. Morris	- aye
	Dr. Ramprasad	- aye

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

ROLL CALL:	Dr. Strafford	- aye
	Mr. Hairston	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Amato	- aye
	Mr. Albert	- aye
	Dr. Madia	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye

Mr. Morris - aye
Dr. Ramprasad - aye

Dr. Amato noted that, in accordance with the provision in Section 4731.22(F)(2), Ohio Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of these matters. They may, however, participate in the matter of Ms. Masci, as that case is not disciplinary in nature and concerns only Ms. Masci's qualifications for licensure. In the matters before the Board today, Dr. Talmage served as Secretary and Mr. Albert served as Supervising Member.

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

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

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

KWABENA MAWULAWDE, M.D.

Dr. Amato directed the Board's attention to the matter of Kwabena Mawulawde, M.D. He advised that objections were filed to Hearing Examiner Blue's Report and Recommendation and were previously distributed to Board members.

Dr. Amato continued that a request to address the Board has been timely filed on behalf of Dr. Mawulawde. Five minutes would be allowed for that address.

Dr. Mawulawde was accompanied by his attorney, Paul Coval.

Mr. Coval stated that Dr. Mawulawde responded to three questions in his application for restoration of his Ohio medical license. Mr. Coval stated that there is nothing in the record to suggest that Dr. Mawulawde did not answer those questions in good faith in the particular context in which he found himself at that time. Mr. Coval stated that Dr. Mawulawde also provided numerous writings to the Board prior to the issuance of his Notice of Opportunity for Hearing which explain his responses in detail. Mr. Coval stated that, in his response to the three questions, Dr. Mawulawde was not concealing anything that reflected on his competence or honesty, nor was he concealing anything that would have reflected negatively on him.

Dr. Mawulawde stated that no one has more regret than he for having to appear before the Board. Dr. Mawulawde stated that his twenty-five years of graduate medical education and practice as a surgeon and cardiothoracic surgeon are unblemished. Dr. Mawulawde stated that he has been licensed in five different states, including Ohio, in which he was licensed for ten years. Dr. Mawulawde stated that he has practiced

in more than twenty hospitals with nothing negative on his record.

Dr. Mawulawde continued that he had applied for restoration of his Ohio medical license, which had expired in 2000. Dr. Mawulawde stated that his answers to the three questions at issue were due to particular circumstances and the context in which he answered those questions are clear in the record. Dr. Mawulawde stated that it was not his intent to falsify, mislead, or deny surrendering his position, or to be surreptitious about his answers. Dr. Mawulawde stated that, when he was informed by the Board that he had not responded to the questions appropriately, he was very forthcoming and provided information in good faith via e-mail, letters, and telephone conversations. Dr. Mawulawde stated that, subsequent to being initially contacted by the Board, the Board had not gathered any information beyond that which was provided by Dr. Mawulawde himself.

Dr. Mawulawde reiterated that his record until this time has been impeccable and he had no intent to mislead the Board in any way. Dr. Mawulawde asked the Board to take this into consideration when making its decision. Dr. Mawulawde opined that a suspension of his license, as provided for in the Proposed Order, is harsh.

Dr. Amato asked if the Assistant Attorney General wished to respond. Ms. Snyder replied that she did wish to respond.

Ms. Snyder noted that Dr. Mawulawde is a very articulate individual with twenty-five years of education and many years of practice. Ms. Snyder noted that the State Medical Board of Ohio licenses physicians, educated individuals, and that the presumption for applicants is in favor of disclosure. Ms. Snyder stated that even if the applicant disagrees with what they are disclosing, it must be disclosed because it is the responsibility of the Board to decide what has merit regarding an applicant.

Ms. Snyder stated that Dr. Mawulawde submitted his application for restoration of his medical license in September 2009. At that time, Dr. Mawulawde was aware of the following three things:

1. In December 2003, his faculty appointment at the Medical College of Georgia was terminated. Dr. Mawulawde received a letter from the Medical College of Georgia to that effect and that letter is part of the record.
2. In 2007, Dr. Mawulawde was investigated by the Georgia Composite Medical Board [Georgia Board] regarding the care he provided to a 56-year-old patient at the Veteran's Affairs Medical Center in Augusta, Georgia.
3. As a result of the Georgia Board investigation, a \$60,000.00 settlement was paid on Dr. Mawulawde's behalf by the Veteran's Affairs Medical Center.

Ms. Snyder read the exact wording of Question #3 to the Board:

“Have you ever resigned from, withdrawn from, or terminated, or have you ever been requested to resign from, withdraw from, or otherwise been terminated from a position with a medical partnership, professional association, corporation, health maintenance organization, or other medical practice organization or other medical practice organization, either private or public.”

Ms. Snyder reiterated that Dr. Mawulawde answered “no” to that question.

Ms. Snyder noted that the things which Dr. Mawulawde failed to disclose are not things that the Board can readily access: A termination from a medical school and a settlement payout in a case that was never actually filed with the court. Ms. Snyder stated that as a law school student, she was taught that when in doubt, you should disclose. Ms. Snyder stated that when Dr. Mawulawde was in doubt, he choose not to disclose.

Ms. Snyder stated that Question #12 asks “have you ever been notified of any investigation” by another Board. Ms. Snyder noted that the question does not ask about pending investigations only, but all investigations. Dr. Mawulawde answered “no” to this question.

Ms. Snyder stated that Question #17 asks, in part, “Have you been a defendant in a legal action involving professional liability (malpractice) or had a professional liability claim paid on your behalf or paid such a claim yourself.” Dr. Mawulawde answered “no,” despite his knowledge that a \$60,000.00 settlement had been paid on his behalf. Dr. Mawulawde testified that he thought he did not have to disclose this payment because he had never been named as a defendant. However, Ms. Snyder stated that Question #17 clearly draws a distinction between a lawsuit that is filed and a professional liability claim paid out. Ms. Snyder stated that even if Dr. Mawulawde thought this was wrong, it should have been disclosed so that the Board could decide if it was a significant fact.

Ms. Snyder stated that she supports the Report and Recommendation as written.

Dr. Steinbergh moved to approve and confirm Ms. Blue’s Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Kwabena Mawulawde, M.D. Dr. Madia seconded the motion.

Dr. Amato stated that he would now entertain discussion in the above matter.

Dr. Talmage returned to the meeting at this time.

Dr. Madia briefly reviewed Questions #3, #12, and #17, to which Dr. Mawulawde had inappropriately answered “no.” Dr. Madia stated that Dr. Mawulawde knew that the correct answer to these questions was “yes.” Dr. Madia stated that a physician should be trustworthy and able to be relied upon. Dr. Madia opined that if Dr. Mawulawde had answered “yes” to these questions, then restoration of his medical license probably would not have been a problem.

Mr. Hairston	- aye
Dr. Stephens	- aye
Dr. Mahajan	- aye
Dr. Steinbergh	- aye
Dr. Amato	- aye
Dr. Madia	- aye
Dr. Talmage	- abstain
Dr. Suppan	- aye
Mr. Morris	- aye
Dr. Ramprasad	- aye

The motion to amend carried.

Dr. Steinbergh moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order, as amended, in the matter of Kwabena Mawulawde, M.D. Dr. Madia seconded the motion.

ROLL CALL:	Dr. Strafford	- aye
	Mr. Hairston	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Amato	- aye
	Mr. Albert	- abstain
	Dr. Madia	- aye
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Mr. Morris	- aye
	Dr. Ramprasad	- aye

The motion carried.

State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
med.ohio.gov

March 10, 2010

Case number: 010-CRF- 028

Kwabena Mawulawde, M.D.
950 Stevens Creek Road, #I-7
Augusta, GA 30907

Dear Doctor Mawulawde:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio [Board] intends to determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery, or to reprimand you or place you on probation for one or more of the following reasons:

- (1) On or about September 14, 2009, you caused to be submitted an Application for License Restoration – Medicine or Osteopathic Medicine [Restoration Application] to the Board. Your Restoration Application is currently pending. By signing the Affidavit and Release of Applicant as part of your Restoration Application, you certified that the information provided therein was true.
- (2) In the “Additional License Restoration Information” section of your Restoration Application you answered “NO” to questions numbered 3, 4, 12 and 17 which ask, respectively, the following:

Have you ever resigned from, withdrawn from, or terminated, or have you ever been requested to resign from, withdraw from, or otherwise been terminated from, a position with a medical partnership, professional association, corporation, health maintenance organization, or other medical practice organization, either private or public?

Have you ever resigned from, withdrawn from, or have you ever been warned by, censured by, disciplined by, been put on probation by, been requested to withdraw from, dismissed from, been refused renewal of a contract by, or expelled from, a medical school, clinical clerkship, externship, preceptorship, residency, or graduate medical education program?

Mailed 3-11-10

Have you ever been notified of any investigation concerning you by any board, bureau, department, agency, or other body, including those in Ohio, with respect to a professional license?

Have you been a defendant in a legal action involving professional liability (malpractice), or had a professional liability claim paid on your behalf, or paid such a claim yourself? If yes, include the case name, case number, court and address, date filed, and a summary of the underlying events. Indicate current status, including amount of settlement or judgment, if any. In addition, ask your malpractice insurance carrier(s) to provide a complete claims history report for the last 10 years to the State Medical Board of Ohio. If your current carrier has provided coverage for less than 10 years, ask your previous carrier to submit a claims history report to the Board.

- (a) In fact, you were notified by letter dated August 29, 2003, that your faculty appointment in the Department of Surgery at the Medical College of Georgia would be terminated effective December 31, 2003.
 - (b) In fact, you were notified by letter dated October 29, 2007, that the Georgia Composite State Board of Medical Examiners had concluded an investigation of a complaint filed against you.
 - (c) In fact, in or about February 2006, a settlement of \$60,000.00 was paid on your behalf by the Veterans Affairs Medical Center located in Augusta, Georgia.
- (3) You informed the Board in your Restoration Application that, as of the time you submitted the application, you had not actively practiced medicine and surgery from May 2006 through at least August 2009.

Your acts, conduct, and/or omissions as alleged in paragraphs (1) and (2) above, individually and/or collectively, constitute “[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board,” as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

Further, your failure to be engaged in the active practice of medicine and surgery for a period in excess of two years prior to your application for restoration, as alleged in paragraph (3) above, constitutes cause for the Board to exercise its discretion under Section 4731.22, Ohio Revised Code, to require additional evidence of your fitness to resume practice.

Kwabena Mawulawde, M.D.

Page 3

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

You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

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

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, provides that "[w]hen the board refuses to grant a certificate to an applicant, revokes an individual's certificate to practice, refuses to register an applicant, or refuses to reinstate an individual's certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate."

Copies of the applicable sections are enclosed for your information.

Very truly yours,

Handwritten signature of Lance A. Talmage, M.D. in black ink, with the initials 'L.A.T.' and 'M.D.' visible.

Lance A. Talmage, M.D.
Secretary

LAT/DPK/flb
Enclosures

CERTIFIED MAIL #91 7108 2133 3936 3067 2871
RETURN RECEIPT REQUESTED

cc: George W. McGriff, Esq.
600 Colonial Park Drive
Roswell, GA 33075

CERTIFIED MAIL #91 7108 2133 3936 3067 2864
RETURN RECEIPT REQUESTED