

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO
GENERAL DIVISION

MEHMET AKIF SUNGURLU, M.D.,]	CASE NO. 10CVF11-16991
Appellant,]	JUDGE SHEERAN
vs.]	
STATE MEDICAL BOARD OF OHIO,]	
Appellee.]	

DECISION AND JUDGMENT ENTRY AFFIRMING THE ORDER OF
THE STATE MEDICAL BOARD OF OHIO
AND
NOTICE OF FINAL APPEALABLE ORDER

SHEERAN, J.

This case is a Revised Code 119.12 administrative appeal, by Mehmet Akif Sungurlu, M.D. (Appellant), from an Order in which the State Medical Board of Ohio permanently revoked Appellant's certificate to practice medicine and surgery in Ohio. Having reviewed the certified record, and having considered the parties' briefs, the Court hereby renders the following decision affirming the Board's Order.

Substantive and Procedural History

The facts of this case are not in dispute.

Appellant obtained his medical degree in 1981, from Ege University Izmir Faculty of Medicine in Izmir, Turkey. He moved to the United States and participated in a transitional residence at Mercy Hospital in Toledo, Ohio, from June 1986 through July 1987. From October

1987 through December 1988, Appellant participated in an internal medicine residency at Edgewater Hospital in Chicago, Illinois. From January 1989 through December 1990, he participated in an internal medicine residency at Weiss Memorial Hospital in Chicago.

At the time of the administrative hearing below (July and September 2010), Appellant conducted a solo practice in internal medicine in Oregon, Ohio, while also working in the emergency department at Henry County Hospital in Napoleon, Ohio. At the time of the administrative hearing, Appellant held active licenses to practice medicine in Ohio and Michigan, and he was board-eligible in internal medicine, i.e., he was eligible to take the examination to become board-certified in internal medicine.

From November 2005 to January 2009, Appellant undertook the care of Patient 1, a female, and from November 2006 to January 2009, Appellant undertook the care of her husband, Patient 2, both of whom have been identified in a confidential Patient Key. Despite Appellant's doctor-patient relationships with Patient 1 and Patient 2, by his own admission he engaged in the following conduct with respect to them.

From October 2006 to January 2009, Appellant had a sexual relationship with Patient 1, the sexual contact taking place on multiple occasions in Appellant's office. From November 2006 to January 2009, Appellant prescribed Oxycontin and other controlled substances to Patient 1, although the prescribing of those drugs was not clinically indicated by any legitimate medical condition of the patient. Appellant prescribed the drugs to Patient 1, in large amounts and high doses, because she threatened to expose their sexual relationship if Appellant did not prescribe the drugs to her. Appellant prescribed the drugs to Patient 1, knowing that she sold the drugs to other people. Appellant did not document, in Patient 1's medical records, all of the drugs that he prescribed to her.

From November 2006 to January 2009, at the request of Patient 1, Appellant prescribed Oxycontin and other controlled substances to Patient 2, the husband of Patient 1, knowing that Patient 1 would be receiving the drugs from her husband.

In January 2009, Appellant terminated his doctor-patient relationships with Patient 1 and Patient 2, after learning that Patient 1 had stolen Appellant's prescription pad and presented forged prescriptions to a pharmacy.

By a Notice of Opportunity dated December 9, 2009, the State Medical Board of Ohio notified Appellant that the Medical Board proposed to take disciplinary action against Appellant's certificate to practice medicine and surgery in Ohio, for one or more of the following reasons:

- (1) From in or about November 2005 to in or about January 2009, you undertook the care of Patients 1 and 2 (as identified in the attached Patient Key - Key is confidential and not subject to public disclosure). Despite your doctor-patient relationships, you have acknowledged the following:
 - (a) You had sexual contact with Patient 1, including oral sex and sexual intercourse. Further, your sexual contact with Patient 1 occurred in your office.
 - (b) You prescribed controlled substances to Patient 1 although such prescribing was not clinically indicated by a legitimate medical condition. Further, you did so because Patient 1 demanded drugs in high doses and large amounts, and threatened you.
 - (c) You prescribed controlled substances to Patient 1 and failed to document all such prescribing in Patient 1's patient record and/or chart.
 - (d) At the request of Patient 1, you prescribed controlled substances to Patient 2, the spouse of Patient 1, knowing that Patient 1 would be getting the controlled substances.
 - (e) You prescribed controlled substances to Patient 1, knowing that Patient 1 sold or diverted such controlled substances to "a bunch of people that ... pay her for [her] medications."

In the Notice of Opportunity, the Medical Board alleged that Appellant's conduct constituted:

- “[s]elling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes or a plea or guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction of, a violation of any federal or state law regulating the possession, distribution, or use of any drug,” as those clauses are used in R.C. 4731.22(B)(3);
- “[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed,” as that clause is used in R.C. 4731.22(B)(10), to wit: R.C. 2925.03, Trafficking, Aggravated Trafficking in Drugs; R.C. 2925.03, Complicity to Trafficking, Aggravated Trafficking in Drugs; and R.C. 2925.23, Illegal Processing of Drug Documents.
- “violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter or any rule promulgated by the board,” as that clause is used in R.C. 4731.22(B)(20), to wit: Ohio Adm. Code 4731-26-02. Pursuant to Ohio Adm. Code 4731-26-03(A)(1), a violation of Ohio Adm. Code 4731-26-02 also violates R.C. 4731.22(B)(6), “[a] departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established.”

The Board advised Appellant of his right to a hearing on the alleged violations, and on January 4, 2010 the Board received his written request for a hearing.

On July 8 and September 13, 2010, a Hearing Examiner conducted a hearing on the Medical Board's charges against Appellant. Appellant testified, and numerous exhibits were admitted into evidence.

On October 13, 2010, the Hearing Examiner issued a Report and Recommendation, containing a detailed examination of the evidence, findings of fact, and conclusions of law. The Hearing Examiner concluded, based upon the undisputed facts of the case, that Appellant violated the Medical Practice Act, R.C. Chapter 4731, as alleged in the Notice of Opportunity. The Hearing Examiner recommended that the Medical Board permanently revoke Appellant's

certificate to practice medicine and surgery in Ohio. The Hearing Examiner concluded the Report and Recommendation with this assessment:

Dr. Sungurlu testified that he had prescribed large doses of controlled substances to Patient 1 because she repeatedly threatened to expose their sexual relationship. To his credit, he was forthcoming during the Board investigation and the hearing with respect to his conduct. Additionally, Dr. Sungurlu presented evidence intending to demonstrate that Patient 1 was a bad person and that she had been criminally charged for causing problems for other people. Further, it is plausible that Patient 1 *had* demanded drugs in exchange for her silence concerning their sexual relationship. However, Patient 1 is not "on trial" in this matter. Regardless of what Patient 1 may have said or done, whether it be initiating sexual contact or demanding drugs, it was Dr. Sungurlu's responsibility as a physician to say "No."

The evidence establishes that Dr. Sungurlu engaged in sexual conduct with Patient 1 and that such conduct continued over a period of more than two years. During this period, he provided numerous prescriptions to Patient 1 for large doses of OxyContin [*sic*] and other controlled substances that had no legitimate medical purpose. Further, he failed to document all such prescriptions in his medical records. Moreover, he wrote prescriptions for controlled substances in the name of Patient 2 knowing that Patient 1 would actually get the medication. Finally, he provided those prescriptions knowing that Patient 1 was selling at least some of the medication. Such conduct merits the severest sanction. (Emphasis in original.)

On October 28, 2010, Appellant filed objections to the Hearing Examiner's Report and Recommendation.

The Medical Board met to consider Appellant's case on November 10, 2010, at which time the following discussion took place:

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

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

Dr. Sungurlu was represented by his attorney, Eric Plinke.

Mr. Plinke stated that this case involves serious misconduct by Dr. Sungurlu, including allegations [*sic*] of acts constituting a felony, sexual relations with a

patient, and acceding to demands for Oxycontin for which there was no medical need. Mr. Plinke stated that, while the most serious aspects and aggravated aspects of this case can lead to a visceral reaction that says permanent revocation is appropriate, Mr. Plinke noted that Dr. Sungurlu did make the correct decision which he should have made much earlier. Therefore, Dr. Sungurlu acted in a manner that shows redeemable characteristics. Mr. Plinke requested that the Board place Dr. Sungurlu on a long-term suspension in lieu of a permanent revocation. Mr. Plinke pointed out that Dr. Sungurlu had not engaged in this type of behavior before and it appears to be limited to this one instance.

Dr. Sungurlu wished he could explain how much shame he felt appearing before the Board in this capacity. Dr. Sungurlu stated that he betrayed everyone, including his patients, his family, and his colleagues by allowing himself to be so easily manipulated. Dr. Sungurlu stated that, acting under pressure, he committed activities that he would never have considered otherwise. Dr. Sungurlu stated that in one moment of unforeseen weakness, what some refer to as a mid-life crisis, he put others at risk and ruined his livelihood and career, all out of fear. Dr. Sungurlu apologized for his actions.

Dr. Sungurlu asked the Board to see him not just as a deviant or irresponsible person due to this event, but as someone who is and can be a good physician and has a reputation for helping his patients and caring for them for many years. Dr. Sungurlu stated that he has raised five wonderful daughters, all of whom are either physicians or physicians-to-be. Dr. Sungurlu acknowledged that it is hard not to judge him completely by his wreckless [*sic*] and dangerous actions, but asked the Board to do so.

Dr. Sungurlu stated that he has done good things in medicine and would like to be able to show that he can do that again someday. Dr. Sungurlu asked that [the] Board be compassionate while making its decision. Dr. Sungurlu again apologized for his actions.

Dr. Amato asked if the Assistant Attorney General would like to respond. Ms. Unver stated that she would like to respond.

Ms. Unver stated that the facts of this case involve Patient 1, who first came to Dr. Sungurlu for treatment in 2005. Approximately one year later, the sexual relationship between Patient 1 and Dr. Sungurlu began, and after their first encounter Patient 1 asked for \$400.00 from Dr. Sungurlu. Dr. Sungurlu gave Patient 1 \$250.00. Dr. Sungurlu had sex with Patient 1 on another occasion, and this time she wanted medications. Dr. Sungurlu wrote a prescription for Oxycontin 80 mg and continued to do so repeatedly for over two years. Dr. Sungurlu admitted during the hearing that the dosage levels and quantities of narcotics he prescribed to Patient 1 were not justified for her condition. Ms.

Unver stated that Dr. Sungurlu knew that Oxycontin 80 mg is a very potent, dangerous narcotic, yet he continued to prescribe these for Patient 1.

Ms. Unver continued that Dr. Sungurlu also prescribed Oxyconton [sic] for Patient 2, the husband of Patient 1. Ms. Unver stated that Dr. Sungurlu was aware that the medications he was prescribing for Patient 2 were actually going to Patient 1. Further, Dr. Sungurlu knew that some of the medications he was prescribing were making their way onto the street.

Ms. Unver noted that Dr. Sungurlu's objections stated that permanent revocation of his medical license is too harsh of a sanction and that he has redeeming qualities. Ms. Unver countered that every human being has redeeming qualities, but what made Dr. Sungurlu's act so heinous [sic] is that he did not stop this relationship quickly enough, a relationship which should never have begun in the first place. Dr. Sungurlu did not move to end this relationship until a pharmacist reported that Dr. Sungurlu's prescription pad had been stolen. At that point Dr. Sungurlu knew that his actions would become known, so he chose to be truthful because he had no other choice.

Ms. Unver stated that a host of violations are involved in this case, including felonies, prescribing of medications that were inappropriate for treatment, and violation of the minimum standards of care. Ms. Unver asked what drugs were on the street due to Dr. Sungurlu's actions and how many people may be dead now because of Oxycontin 80 mg pills prescribed by Dr. Sungurlu. Ms. Unver asked what type of message the Board wanted to send to the public and to the medical students attending this meeting. Ms. Unver stated that the hearing examiner's Report and Recommendation is appropriate and that permanent revocation is the only reasonable disposition [sic] in this case.

Ms. Hairston moved to approve and confirm Mr. Porter's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Mehmet Akif Sungurlu, M.D. Dr. Strafford seconded the motion.

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

Dr. Stephens stated that the only saving grace in this case is that the medical students in attendance are reminded that they can never have sex or sexual contact with a patient under any circumstances, or do anything that could be misconstrued as sexual contact. Dr. Stephens advised the medical students that if they ever find themselves in such a situation, they should remove themselves immediately and report the incident to a supervisor. Dr. Stephens also stated that it is common sense that a physician should never have sex with a patient and then give drugs to that patient.

Dr. Stephens stated that she is in complete agreement with the Proposed Order of Permanent Revocation.

A vote was taken on Mr. Hairston's motion to approve and confirm. (Emphasis in original.)

At the conclusion of the discussion on November 10, 2010, the Medical Board voted to adopt the Hearing Examiner's Report and Recommendation, and to permanently revoke Appellant's certificate to practice medicine and surgery in Ohio. On November 12, 2010, the Board mailed its Order to Appellant.

On November 18, 2010, pursuant to R.C. 119.12, Appellant appealed the Medical Board's Order to this Court. On January 10, 2011, this Court denied Appellant's motion to suspend the Board's Order pending the Court's determination of this appeal.

Standards of Appellate Review

This Court must uphold the Medical Board's Order if the Court finds that the Order is supported by reliable, probative, and substantial evidence and is in accordance with law. R.C. 119.12; *Pons v. Ohio State Med. Bd.* (1993), 66 Ohio St. 3d 619, 621. In the absence of such a finding, the Court may reverse, vacate, or modify the Order or make such other ruling as is supported by reliable, probative, and substantial evidence and is in accordance with law. R.C. 119.12.

"Reliable" evidence is dependable; that is, it can be confidently trusted. *Our Place, Inc. v. Ohio Liquor Control Comm.* (1992), 63 Ohio St. 3d 570, 571. In order to be "reliable," there must be a reasonable probability that the evidence is true. *Id.* "Probative" evidence is evidence that tends to prove the issue in question; it must be relevant in determining the issue. *Id.*

"Substantial" evidence is evidence with some weight; it must have importance and value. *Id.*

The Supreme Court of Ohio has recognized that the General Assembly granted the Medical Board a significant measure of discretion in its disciplinary proceedings. See *Arlen v. State* (1980), 61 Ohio St. 2d 168, 174. In *Farrand v. State Med. Bd. of Ohio* (1949), 151 Ohio St. 222, 224, the Supreme Court stated the policy reason behind this broad grant of discretion:

*** The purpose of the General Assembly in providing for administrative hearings in particular fields was to facilitate such matters by placing the decision on facts with boards or commissions composed of [persons] equipped with the necessary knowledge and experience pertaining to a particular field. ***

Accordingly, when reviewing a Medical Board order, a court must accord due deference to the Board's interpretation of the technical and ethical requirements of its profession. *Pons, supra*, at the syllabus.

Analysis

As stated above, the facts of this case are not at all in dispute. As reflected by the parties' briefs, the only dispute is whether the sanction that the Medical Board imposed upon Appellant is in accordance with law.

Revised Code 4731.22(B) provides in relevant part:

(B) The [Medical Board], by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend an individual's certificate to practice, *** or reprimand or place on probation the holder of a certificate for one or more of the following reasons:

(3) Selling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes ***;

(10) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;

(20) *** [V]iolating or attempting to violate, directly or indirectly, *** any provisions of this chapter or any rule promulgated by the board.

Clearly, the record contains reliable, probative, and substantive evidence that Appellant violated R.C. 4731.22(B)(3), (10), and (20). Indeed, Appellant concedes that he committed all of the violations with which he was charged, and that, pursuant to R.C. 4731.22(B), the Medical Board was authorized to permanently revoke his medical license.

Appellant contends, however, that the Medical Board's Order was based upon improper argument by the Board's attorney, during the Board's meeting on November 10, 2010. Specifically Appellant asserts that the Board's attorney presented "false evidence" against Appellant, and that she also presented a "new claim" against Appellant.

The first statement to which Appellant takes exception is the following, in boldface type:

Ms. Unver noted that Dr. Sungurlu's objections stated that permanent revocation of his medical license is too harsh of a sanction and that he has redeeming qualities. Ms. Unver countered that every human being has redeeming qualities, but what made Dr. Sungurlu's act so heinous [*sic*] is that he did not stop this relationship quickly enough, a relationship which should never have begun in the first place. **Dr. Sungurlu did not move to end this relationship until a pharmacist reported that Dr. Sungurlu's prescription pad had been stolen. At that point Dr. Sungurlu knew that his actions would become known, so he chose to be truthful because he had no other choice.** *Board Minutes, Nov. 10, 2010, pp. 19519-19520.* (Emphasis added.)

Appellant contends that the statement by the Board's attorney, in boldface type, presented "false evidence" against Appellant. The Court does not agree.

The portion of the argument quoted by Appellant is taken from the Medical Board's minutes. The minutes of the Board's meetings are not verbatim, but are a summary of the proceedings. *Reed v. State Med. Bd. of Ohio*, 162 Ohio App. 3d 429, 2005-Ohio-4071, at ¶29. Because the minutes are in summary form, the Court cannot know precisely what the attorneys

argued. *Id.* However, for purposes of this appeal, the Court will accept that the summary reflects the substance of the argument. *Id.*

Counsel should be afforded great latitude in closing argument. *Reed* at ¶30, citing *State v. Champion* (1924), 109 Ohio St. 281, 289. “The assessment of whether the permissible bounds of closing argument have been exceeded is, in the first instance, a discretionary function to be performed by the trial court.” *Reed* at ¶30, quoting *Pang v. Minch* (1990), 53 Ohio St. 3d 186, paragraph three of the syllabus. Where gross and abusive conduct occurs, however, the trial court is bound to correct the prejudicial effect of counsel’s misconduct. *Reed* at ¶30, citing *Pesek v. Univ. Neurologists Assn., Inc.* (2000), 87 Ohio St. 3d 495, 501.

Initially, the Court observes that the statement by the Medical Board’s attorney was not evidence. To the contrary, it was argument, akin to the closing argument that an attorney makes at the conclusion of a civil or criminal trial, to assist the trier of fact by summarizing the evidence. The only evidence in this case was adduced at the hearing before the Hearing Examiner.

Moreover, the Court concludes that the Medical Board’s attorney argued permissible inferences that could be drawn from the evidence, and that the Board’s attorney did not engage in gross or abusive conduct. Appellant admitted that, during his two-year sexual relationship with Patient 1, he had several opportunities when he should have ended the doctor-patient relationship, but he did not do so until January 2009, when the pharmacist reported that Appellant’s prescription pad had been stolen. The Board’s attorney argued permissible inferences that could be drawn from the evidence when she stated, “At that point Dr. Sungurlu knew that his actions would become known, so he chose to be truthful because he had no other

choice.” The Court concludes that the Board’s attorney did not make an improper argument or stray from the facts of the case.

The second statement to which Appellant takes exception is the following, in boldface type:

Ms. Unver stated that a host of violations are involved in this case, including felonies, prescribing of medications that were inappropriate for treatment, and violation of the minimum standards of care. **Ms. Unver asked what drugs were on the street due to Dr. Sungurlu’s actions and how many people may be dead now because of Oxycontin 80 mg pills prescribed by Dr. Sungurlu.** *Board Minutes, Nov. 10, 2010, p. 19520.* (Emphasis added.)

Appellant contends that the Medical Board’s attorney implied that people died because of Appellant’s conduct, and thereby presented a “new claim” against Appellant, which Appellant had no opportunity to defend. For the following reasons, the Court does not agree.

Both the Fourteenth Amendment to the U.S. Constitution and the Ohio Constitution, Article I, Section 16, require that administrative proceedings comport with due process. *Macheret v. State Med. Bd. of Ohio*, 188 Ohio App. 3d 469, 2010-Ohio-3483, at ¶24. Procedural due process requires administrative agencies to provide an individual with fair notice of the precise nature of the charges that the agency will pursue at a disciplinary hearing. *Id.* Due process requires the Medical Board to furnish a charged individual with sufficient information to enable such person to challenge adverse evidence and respond to the charges. *Dahlquist v. Ohio State Med. Bd.*, Franklin App. No. 04AP-811, 2005-Ohio-2298, at ¶15, discretionary appeal not allowed, 2005-Ohio-5146.

Initially, the Court observes that the statement by the Medical Board’s attorney was, again, simply argument, this time in the form of a rhetorical question. By Appellant’s own admission, he prescribed narcotics to Patient 1, in large amounts and high doses, knowing that Patient 1 sold the drugs to other people. Appellant testified that he knew that Oxycontin was

sold on the street, and that it had occurred to him that the narcotics he prescribed to Patient 1 could be harmful to anyone else who might come into possession of those drugs.

The Medical Board's attorney, in turn, presented argument regarding the risks posed by Appellant's irresponsible and dangerous conduct. The Board's attorney was simply engaging in rhetoric when she asked the Board (without expecting an answer), "What drugs are on the street due to Dr. Sungurlu's actions, and how many people may be dead now because of Oxycontin 80 mg. pills prescribed by Dr. Sungurlu?" The Board's attorney was not presenting a "new claim" against Appellant. The Court therefore concludes that the Board's Order revoking Appellant's medical license was not based upon improper argument by the Board's attorney.

Finally, it is important to note that, in order to demonstrate a denial of due process warranting relief, Appellant must establish both a constitutional deprivation and prejudice flowing from that constitutional deprivation. *Leak v. State Med. Bd. of Ohio*, Franklin App. No. 09AP-1215, 2011-Ohio-2483, at ¶28, discretionary appeal not allowed, 129 Ohio St. 3d 1505, 2011-Ohio-5358. Assuming, arguendo, that the statements made by the Medical Board's attorney in her argument constituted a constitutional deprivation, Appellant has failed to establish that there was any prejudice flowing from those statements. The Board did not comment on the rhetorical question posed by the Board's attorney or discuss the possibility that people had died because of Appellant's conduct. There is simply no evidence that the comment had any effect on the Board's ultimate decision.

Conclusion

Having considered the entire record on appeal, the Court finds that the Medical Board's Order, permanently revoking Appellant's certificate to practice medicine and surgery in Ohio, is supported by reliable, probative, and substantial evidence and is in accordance with law. Even if

the Court were inclined to impose a more lenient sanction than permanent revocation, the Board's action is well within its statutory authority, and the Court has no authority to reverse or modify that sanction. *Henry's Café, Inc. v. Bd. of Liquor Control* (1959), 170 Ohio St. 233, paragraph three of the syllabus.

Accordingly, the Medical Board's Order is hereby **AFFIRMED**.

Electronically signed by:
JUDGE PATRICK E. SHEERAN

Copies to:

ERIC J. PLINKE, ESQ. (0059463), Counsel for Appellant
KATHERINE J. BOCKBRADER, AAG (0066472), Counsel for Appellee

Franklin County Court of Common Pleas

Date: 12-27-2011
Case Title: MEHMET AKIF SUNGURLU MD -VS- OHIO STATE MEDICAL BOARD
Case Number: 10CV016991
Type: DECISION/ENTRY

It Is So Ordered.

The image shows a handwritten signature in cursive that reads "Patrick E. Sheeran". To the right of the signature is the official seal of the Franklin County Court of Common Pleas. The seal is circular and contains the text "FRANKLIN COUNTY COURT OF COMMON PLEAS" around the perimeter and "1803" at the bottom. The signature and seal are positioned over the text "/s/ Judge Patrick E. Sheeran".

/s/ Judge Patrick E. Sheeran

IN THE FRANKLIN COUNTY COURT OF COMMON PLEAS

Mehmet Akif Sungurlu, M.D., :
 :
 Appellant, : Case No. 10 CVF 16991
 :
 v. : Judge Sheeran
 :
 State Medical Bd. of Ohio, :
 :
 Appellee. :

DECISION AND ENTRY DENYING MOTION TO STAY
(FILED NOVEMBER 22, 2010)

SHEERAN, J.

On November 22, 2010, Appellant sought a stay of the underlying administrative order in this case. That Motion is not well-taken and is DENIED.

HEALTH & HUMAN SERVICES
JAN 10 11 57 AM
Pat Sheeran 1/5/11
JUDGE PATRICK E. SHEERAN

Copies to:

All counsel

FILED
FRANKLIN COUNTY COURT
FRANKLIN CO. OHIO
2011 JAN 10 AM 10:26
CLERK OF COURTS

BEFORE THE STATE MEDICAL BOARD OF OHIO

MEHMET AKIF SUNGURLU, M.D.
4233 Nantucket Drive
Toledo, Ohio 43623

Appellant,

vs.

STATE MEDICAL BOARD OF OHIO
30 East Broad Street, 3rd Floor
Columbus, Ohio 43215

Appellee.

1 0CVF 11 16 991
Case No. _____
Judge _____

APPEAL FROM THE ENTRY
OF ORDER OF NOVEMBER 10, 2010
MAILED NOVEMBER 12, 2010

NOTICE OF APPEAL

Appellant Mehmet Akif Sungurlu, M.D., by and through counsel, and pursuant to Ohio Revised Code § 119.12, timely submits this notice of appeal from the Entry of Order of Appellee, the State Medical Board of Ohio ("Board"), which permanently revoked Appellant's certificate to practice medicine and surgery in the State of Ohio. The Board's Entry of Order is dated November 10, 2010, and was mailed on November 12, 2010. This appeal is based on the following grounds:

1. The Board's Entry of Order dated November 10, 2010, is not supported by reliable, probative, and substantial evidence and is not in accordance with the law.

A copy of the Board's Entry of Order is attached hereto as "Exhibit A."

Respectfully submitted,

DINSMORE & SHOHL LLP


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Columbus, Ohio 43215-8120
Telephone: (614) 227-4213
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Attorneys for Mehmet Akif Sungurlu, M.D.

STATE MEDICAL BOARD
OF OHIO
2010 NOV 18 PM 3:57

COMMON FILED
FRANKLIN COUNTY COURT
2010 NOV 18 PM 4:10
CLERK OF COURTS

2010 DEC -1 PM 3:14
STATE MEDICAL BOARD
OF OHIO

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of November, 2010, the foregoing Notice of Appeal was filed via hand delivery with the State Medical Board of Ohio, with a copy filed with the Franklin County Court of Common Pleas, and with an additional copy served by regular U.S. mail upon the following:

Karen Unver
Assistant Attorney General
Ohio Attorney General's Office
Health and Human Services
30 East Broad Street, 26th Floor
Columbus, Ohio 43215


Eric J. Pinke

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

November 10, 2010

Mehmet Akif Sungurlu, M.D.
4233 Nantucket Drive
Toledo, OH 43623

RE: Case No. 09-CRF-164

Dear Doctor Sungurlu:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of R. Gregory Porter, Esq., Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on November 10, 2010, including motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

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

Such an appeal must be commenced by the filing of a Notice of Appeal with the State Medical Board and the Franklin County Court of Common Pleas. The Notice of Appeal must set forth the Order appealed from and state that the State Medical Board's Order is not supported by reliable, probative, and substantive evidence and is not in accordance with law. The Notice of Appeal may, but is not required to, set forth the specific grounds of the appeal. Any such appeal must be filed within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12, Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO



Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

CERTIFIED MAIL NO. 91 7108 2133 3936 3071 7077
RETURN RECEIPT REQUESTED

Cc: Eric J. Plinke and Larry L. Lanham, II, Esqs.
CERTIFIED MAIL NO. 91 7108 2133 3936 3071 7084
RETURN RECEIPT REQUESTED

Mailed 11-12-10

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of R. Gregory Porter, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on November 10, 2010, including motions approving and confirming the Findings of Fact, Conclusions and Proposed Order of the Hearing Examiner as the Findings and Order of the State Medical Board of Ohio; constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Mehmet Akif Sungurlu, M.D., Case No. 09-CRF-164, 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, M.D.
Secretary

(SEAL)

November 10, 2010

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

CASE NO. 09-CRF-164

MEHMET AKIF SUNGURLU, M.D.

*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on November 10, 2010.

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 approval and confirmation by vote of the Board on the above date, the following Order is hereby entered on the Journal of the State Medical Board of Ohio for the above date.

It is hereby ORDERED that:

The certificate of Mehmet Akif Sungurlu, 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 the notification of approval by the Board.



Lance A. Talmage, M.D.
Secretary

(SEAL)

November 10, 2010

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

In the Matter of

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Case No. 09-CRF-164

Mehmet Akif Sungurlu, M.D.,

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Hearing Examiner Porter

Respondent.

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REPORT AND RECOMMENDATION

Basis for Hearing

By letter dated December 9, 2009, the State Medical Board of Ohio [Board] notified Mehmet Akif Sungurlu, M.D., that it had proposed to take disciplinary action against his certificate to practice medicine and surgery in Ohio. The Board based its proposed action on allegations including that Dr. Sungurlu had engaged in sexual contact with a patient, that he had prescribed controlled substances to that patient that were not clinically indicated and did so because she demanded them and threatened him, that he failed to document such prescribing in the patient's medical record, that he prescribed controlled substances to the patient's husband knowing that the patient would receive the drugs, and that he prescribed controlled substances to the patient while knowing that the patient sold the medication to others. The Board further alleged that Dr. Sungurlu's acts, conduct and/or omissions constitute:

- “[s]elling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction of, a violation of any federal or state law regulating the possession, distribution, or use of any drug,” as those clauses are used in Section 4731.22(B)(3), Ohio Revised Code.
- “[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed,” as that clause is used in Section 4731.22(B)(10), Ohio Revised Code. The Board alleged several felonious acts:
 - Section 2925.03, Ohio Revised Code, Trafficking, Aggravated Trafficking in Drugs;
 - Section 2923.03, Ohio Revised Code, Complicity, as applied to Section 2925.03, Ohio Revised Code, Trafficking, Aggravated Trafficking in Drugs; and/or
 - Section 2925.23, Ohio Revised Code, Illegal Processing of Drug Documents.
- “violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board,” as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-26-02, Ohio Administrative Code. Pursuant to Rule 4731-26-03(A)(1), Ohio Administrative Code, a violation of Rule 4731-26-02, Ohio Administrative Code, also violates Section 4731.22(B)(6), Ohio Revised Code, and is “[a] departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established.”

Accordingly, the Board advised Dr. Sungurlu of his right to request a hearing in this matter, and received his written request on January 4, 2010. (State's Exhibit [St. Ex.] 3)

Appearances

Richard Cordray, Attorney General, and Karen A. Unver, Assistant Attorney General, for the State of Ohio. Eric J. Plinke and Larry L. Lanham II, Esqs., for Dr. Sungurlu.

Hearing Dates: July 8 and September 13, 2010

SUMMARY OF THE EVIDENCE

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

Background

1. Mehmet Akif Sungurlu, M.D., obtained his medical degree in 1981 from Ege University Izmir Faculty of Medicine in Izmir, Turkey. He moved to the United States and participated in a transitional residency at Mercy Hospital in Toledo, Ohio, from 1986 through 1987. From 1987 through December 1988, he participated in an internal medicine residency at Edgewater Hospital in Chicago, Illinois, and, from January 1989 through December 1990, he participated in an internal medicine residency at Weiss Memorial Hospital in Chicago. (Respondent's Exhibit [Resp. Ex.] A)
2. Dr. Sungurlu has a solo practice of internal medicine in Oregon, Ohio, and also works at the emergency department at Henry County Hospital in Napoleon, Ohio. Dr. Sungurlu is board-eligible in internal medicine. He holds active licenses to practice medicine in Ohio and Michigan. (Hearing Transcript Volume I [Tr. Vol. I] at 15, 45, 55-56; Resp. Ex. A)

Prior Board Action

3. On August 8, 2001, the Board issued a notice of opportunity for hearing on the ground that, although Dr. Sungurlu responded to the Board's third request for information and provided documentation of 40 hours of Category I CME, he "failed to complete and sign the CME log and [he] failed to list any Category II CME." Dr. Sungurlu failed to respond to two subsequent requests for the missing information and to sign the CME log. (St. Ex. 4)

On October 10, 2001, the Board entered a Findings, Order, and Journal Entry [FOJE] against Dr. Sungurlu based upon his failure to respond to a Board audit of his continuing medical education [CME] credits for the 1998 – 2000 CME acquisition period. The Board suspended Dr. Sungurlu's certificate for an indefinite period of time, imposed conditions for reinstatement, and ordered that he provide acceptable documentation of satisfactory completion of the required

hours of CME for two complete CME acquisition periods following reinstatement. The order became effective 30 days following the mailing of the order. (St. Ex. 4)

4. Dr. Sungurlu testified that the episode giving rise to the 2001 FOJE resulted from a misunderstanding. He further testified that it was ultimately resolved without his license ever being actually suspended. (Tr. Vol. I at 28-32)

Dr. Sungurlu's Prescribing of Controlled Substances to Patients 1 and 2

5. Patient 1, a female born in 1973, first visited Dr. Sungurlu on November 29, 2005. At that time, he treated her for a shoulder injury and prescribed Ultram and Zanaflex. (Tr. Vol. I at 22-23; St. Ex. 1 at 41-43)
6. Dr. Sungurlu acknowledged that he and Patient 1 had had a sexual relationship that began in late 2006. Dr. Sungurlu testified that Patient 1 had initiated the sexual relationship, and that the first incident had occurred in his office, after hours. He believes this happened on October 31, 2006. Dr. Sungurlu testified that Patient 1 had had an appointment earlier that day, that he had given her his cell phone number, and that she had returned after his office closed. Dr. Sungurlu further testified that, after they had sexual contact, Patient 1 demanded money, \$400. Dr. Sungurlu testified that he had been surprised because he "didn't know there was a price attached to it." Dr. Sungurlu testified that he gave her \$250 because he did not have \$400. (Tr. Vol. I at 15-16, 34-37, 50-51; St. Ex. 1 at 37)
7. Patient 1 next visited Dr. Sungurlu's office on November 14, 2006, complaining of right shoulder pain and left ankle pain. Dr. Sungurlu prescribed OxyContin 80 mg #60 with instructions to take one tablet twice per day. (St. Ex. 1 at 36; Tr. Vol. I at 23)
8. Dr. Sungurlu testified that, at her November 14, 2006, visit, Patient 1 demanded that he prescribe medication to her, and threatened to expose their sexual relationship "to everybody"; namely, her husband and her lawyer. Dr. Sungurlu testified: "[A]t that point I was very uncomfortable but, you know—you know, I have five daughters, they are all in medicine, and, you know, I'm happily married. Therefore, at that point I just thought that it would be better to keep this unexposed, so I gave in to her demands." Dr. Sungurlu added that, at that time, he did not know that she would continue asking him for prescriptions. (Tr. Vol. I at 37-40; Tr. Vol. II at 15)
9. From October 2006 to January 2009, Patient 1 visited Dr. Sungurlu 27 times. On 24 of those visits, he documented prescribing controlled substances to her as follows:

Date	Medication and Quantity
10/31/06	Xanax 1 mg #90, three refills
11/14/06	OxyContin 80 mg #90
01/09/07	OxyContin 80 mg #90
	Xanax 2 mg #90, three refills

Date	Medication and Quantity
02/05/07	OxyContin 80 mg #120
02/27/07	OxyContin 80 mg #90
09/27/07	OxyContin 80 mg #90 Xanax 2 mg #90, three refills
10/25/07	OxyContin 80 mg #90
11/19/07	OxyContin 80 mg #90
12/20/07	No prescription documented
01/07/08	No controlled substance prescription documented
01/21/08	Didrex 50 mg #30 Xanax 2 mg #90, three refills
02/18/08	OxyContin 80 mg #90
03/18/08	OxyContin 80 mg #90
05/20/08	Percocet 10/325 #90 Valium 2 mg #60
05/29/08	OxyContin 80 mg #90
06/12/08	Percocet 10/650 #90
06/30/08	OxyContin 80 mg #[illegible] Xanax 2 mg #90, three refills
07/15/08	Percocet 10/650 #120
08/07/08	OxyContin 80 mg #90
09/18/08	OxyContin 80 mg #90
10/07/08	OxyContin 80 mg #90 Xanax 2 mg #120, one refill
11/03/08	OxyContin 80 mg #90 Percocet 5/325 #[illegible]
11/20/08	No controlled substance prescription documented
12/02/08	OxyContin 80 mg #90
12/16/08	Percocet 5/325 #60
01/05/09	OxyContin 80 mg #90 Xanax 2 mg #120, no refills
01/15/09	No controlled substance prescription documented

(St. Ex. 1 at 10-37)

10. Dr. Sungurlu acknowledged that, although Patient 1 had had a legitimate pain complaint concerning her shoulder, the controlled substances, dosage levels, and quantities that he had prescribed were not justified by her condition. (Tr. Vol. I at 16-18)
11. Dr. Sungurlu testified that he wrote controlled substance prescriptions to Patient 1 because he had been “forced.” Dr. Sungurlu testified that, when he says that he was “forced” by Patient 1 to write the prescriptions, he does not mean there was physical force or any threat of physical harm. Rather, he means that Patient 1 threatened to expose their sexual relationship. Dr. Sungurlu testified that he complied with her demands for prescriptions to protect his name and his family. (Tr. Vol. I at 16-18, 54-55; St. Ex. 6 at 28)
12. Dr. Sungurlu presented a printout of several text messages from Patient 1 in which she threatened to expose their sexual relationship. Dr. Sungurlu testified that there were many other, similar text messages that had been sent to another phone. Dr. Sungurlu further testified that he did not reply to Patient 1’s text messages. (Resp. Ex. D; Tr. Vol. II at 9-13, 22)
13. Following their first sexual contact in October 2006, Dr. Sungurlu continued to engage in a sexual relationship with Patient 1. In his responses to Board interrogatories, Dr. Sungurlu stated that he had had sexual contact with Patient 1 on 10 to 12 occasions. He further stated that on two of those occasions they had had vaginal intercourse and on the other occasions they had had oral sex. The last such encounter occurred in January 2009. (St. Ex. 6 at 14-14A)
14. Dr. Sungurlu continued to prescribe controlled substances to Patient 1 even though Patient 1 had told him that she was selling her medication. Dr. Sungurlu stated in his responses to Board interrogatories: “She told me on couple occasions. She has apparently a bunch of people that they pay her for medications.” (St. Ex. 6 at 37; see also Tr. Vol. I at 19)
15. Patient 2, a male born in 1954 and married to Patient 1, first visited Dr. Sungurlu on November 27, 2006. At that visit, Dr. Sungurlu prescribed OxyContin 80 mg #120 with instructions to take one tablet four times per day as needed. Dr. Sungurlu testified that he had prescribed controlled substances to Patient 2 at Patient 1’s request, knowing that Patient 1 would receive the medication. Dr. Sungurlu testified that he did so because he had been “forced” by Patient 1. (St. Ex. 2 at 22-24; Tr. Vol. I at 18-19, 25)
16. Dr. Sungurlu’s medical record for Patient 2 also reflects a prescription issued on November 27, 2007, for Percocet 5/325 #90. Moreover, Dr. Sungurlu acknowledged that he had written additional prescriptions for OxyContin to both Patient 1 and Patient 2 but did not record them in the patients’ medical records. Dr. Sungurlu testified that this happened because he was very busy and would forget, and asserted that his failure to document the prescriptions had not been intentional. (Tr. Vol. I at 18, 27; St. Ex. 2 at 12)
17. Dr. Sungurlu testified that he had ended his physician-patient relationship with Patient 1 when he discovered that two prescriptions for OxyContin dated January 15, 2009—one for OxyContin 80 mg #90 and the other for OxyContin 40 mg #90—had been written from his

prescription pad with his signatures “traced.” One of those prescriptions was in the name of Patient 2. (Tr. Vol. I at 23-24; St. Ex. 1 at 2; St. Ex. 2 at 1)

Dr. Sungurlu testified that, on January 18, 2009, he had received a call from a pharmacist who was suspicious about those two prescriptions. The pharmacy faxed copies of the prescriptions to Dr. Sungurlu, and Dr. Sungurlu told the pharmacist not to fill them. Dr. Sungurlu further testified that, the following day, Patient 1 “sort of stormed in[to] the office, and that’s the time she threatened me the most. At this time I told her, you know, we are done, you can go do whatever you like to.” By letter dated January 19, 2009, Dr. Sungurlu terminated the physician/patient relationship with Patient 1 effective February 19, 2009. (Tr. Vol. I at 52-54; St. Ex. 1 at 6; see also Tr. Vol. I at 44-45; Tr. Vol. II at 13-15; St. Ex. 6 at 33)

18. Dr. Sungurlu testified that, after he had terminated Patient 1 from his practice, she came to his office on several occasions “yelling and screaming,” and that a couple of times his office staff called the police because of her behavior. Dr. Sungurlu presented a copy of a police incident report concerning one of those incidents that occurred on July 21, 2009, approximately six months after he had terminated her as a patient. Dr. Sungurlu further testified that she continued calling him and sending him text messages on his cell phone. (Tr. Vol. I at 45, 48; Tr. Vol. II at 16-19; Resp. Ex. G)
19. On June 23, 2009, Dr. Sungurlu was visited by a Board Enforcement Investigator and completed a written statement concerning his relationship with Patient 1. Dr. Sungurlu stated:

I started a forbidden relationship with one of my patients, [Patient 1], about 2y ago after she came on me and that relation soon turned into an abusive one where I was extorted literally by providing narcotics to her. Our relations involved couple sexual intercourses and several but not more than a dozen maximum oral sexes, and none of those were initiated by me. All these went on about 2y until one day I got a call from a pharmacy where somebody was trying to collect some medications that I did not write although there was my signature on the script. When I confronted [Patient 1] she threatened me but since I could not anymore sustain this abusive relation I discharged her from my practice. And apparently she did what she said she would do if I did not do what she wanted, but I feel relieved from the burden of carrying this bad memory on my shoulders. I do regret fullheartedly that I ever got involved with her no matter how it started, but I am not sorry that I terminated her.

(St. Ex. 5)

20. The following exchange took place with respect to Dr. Sungurlu’s written statement:

Q. [By Ms. Unver] Now I want to talk about—in your statement you talk about sexual intercourse a couple times and then not more than a dozen times oral sex.

How does this work into what’s going on here with this relationship?

I mean, is this a give and take sort of relationship, or how is it—you know, what's going on here?

A. [By Dr. Sungurlu] No. I really didn't have any—frankly, and I'm saying this honestly, I didn't really have any, you know, desire or anything, but it was just because I think she just thought that by doing that she will be able to able to keep me in her hands longer.

Q. Well, I'm—

A. And I—you know, I participated, obviously.

Q. Were you a willing participant in the sexual aspect of this relationship?

A. I was willing because I re—I didn't really want to do it but she said, that's all right, and so—and I obtained—I never asked her, let's do it or I never said, okay, let's do it. I always resisted. But I ended up doing it anyways, though.

Q. So when she had office visits with you would this be when the sexual contact would take place?

A. The—the—actually, the sexual contact, which was, you know, including the first one, probably not more than three times, and that happened after hours. But the oral sex, most time she did it during the office visit.

Q. But it was usually after hours, when other patients were not there?

A. Correct.

Q. All right.

And when would you write the Oxy scripts for her would that also be after hours, or would that be during—

A. No. Most of the time it is during the office visit but I did write couple times after hours, as well.

Q. Did you ever think about cutting this relationship off or—

A. Well, I thought but, you know, as I said, she was threatening me. She'd send me—I forgot to bring my cell phone, but I think you had access to my accounts.

She would send the things, you know, I'm going to tell my lawyer, I'm going to tell my husband and, you know, expose you. So as I said, I didn't want to

ruin—you know, especially—I was, you know, worried about what happened to my daughters, and because of that I just kept playing her game until she did that thing.

Q. The scripts?

A. The scripts, right. When that happened I just said, this is it, because if I don't do anything now—because it changed, you know, it became more aggressive, because now she's imitating my signature and stuff.

(Tr. Vol. I at 41-44)

Additional Information

21. Dr. Sungurlu testified that, following his first sexual encounter with Patient 1, there were no further demands for cash. Dr. Sungurlu further testified that there was no demand for payment, either cash or medication, at the time of the sexual encounters. Moreover, Dr. Sungurlu stated that he never asked Patient 1 for sex as a condition for issuing prescriptions to her. (Tr. Vol. I at 67; St. Ex. 6 at 14A)
22. Dr. Sungurlu presented copies of journal reports from the Toledo Municipal Court with respect to two criminal actions filed against Patient 1. Neither of those actions involves Dr. Sungurlu. (Tr. at 29-30) The first journal report shows that Patient 1 had been charged with Telecommunications Harassment in January 2010, and that that matter had not yet been resolved by June 2010. (Resp. Ex. C) The second journal report shows that an anti-stalking protection order had been issued against Patient 1 in January 2009 and that, in December 2009, she was ordered to execute a Peace Bond. (Resp. Ex. E)
23. Dr. Sungurlu testified that he is aware that OxyContin 80 mg is a very potent, dangerous medication: "I never wrote anybody 80s otherwise, even mostly cancer patients, 40 was maximum for most of them." Dr. Sungurlu further testified:

I tried to fight it as much as I could, but I didn't realize that it will come to that point. And as I said, she would always ask and, you know, pressure me.

I was hoping that it will end somehow. For almost a year she disappeared, and I was very happy. I thought it was done. Then she came back. Turned out she was in jail or something. I don't know what the reason was.

But then she started to do the same thing again.

(Tr. Vol. I at 41; see also Tr. Vol. I at 66)

24. When asked why he had not refused Patient 1's demands at the outset, Dr. Sungurlu replied:

Well, the first time, as I said, I don't know what started it in the first place. It was a moment of weakness, maybe, might be midlife crisis. That's the way it started.

At first I didn't have any idea that it will take this shape, this route, but once it started to go that way at that point I couldn't stop it because I was threatened that I would be exposed.

I didn't want to hurt my wife and family, as well as my name and my practice, and I might get into trouble, which ultimately happened anyways afterwards.

(Tr. Vol. I at 57-58)

25. Dr. Sungurlu presented four letters of support from medical colleagues. The authors of those letters praise Dr. Sungurlu's abilities as a physician and his personal integrity. (Resp. Ex. B)

RELEVANT STATUTES AND RULES

1. Section 2923.03, Ohio Revised Code, Complicity, states in relevant part as follows:

(A) No person, acting with the kind of culpability required for the commission of an offense, shall do any of the following:

* * *

(2) Aid or abet another in committing the offense;

* * *

2. Section 2925.03, Ohio Revised Code, Trafficking, Aggravated Trafficking in Drugs, states in relevant part as follows:

(A) No person shall knowingly do any of the following:

(1) Sell or offer to sell a controlled substance;

* * *

(B) This section does not apply to any of the following:

(1) Manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons *whose conduct is in accordance with* Chapters 3719., 4715., 4723., 4729., 4730., 4731., and 4741. of the Revised Code.¹ (Emphasis added)

¹ In a case that concerned a physician charged with trafficking in drugs who had been accused of demanding sexual favors in exchange for prescriptions, the Supreme Court of Ohio ruled, "[W]e hold that a physician who unlawfully issues a prescription for a controlled substance not in the course of the bona fide treatment of a patient is guilty of selling a controlled substance in violation of R.C. 2925.03." *State v. Sway* (1984), 15 Ohio St.3d 112, 115.

3. Section 2925.23, Ohio Revised Code, Illegal Processing of Drug Documents, states in relevant part as follows:

(A) No person shall knowingly make a false statement in any prescription, order, report, or record required by Chapter 3719. or 4729. of the Revised Code.

* * *

(E) Divisions (A) and (D) of this section do not apply to licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons *whose conduct is in accordance with* Chapters 3719., 4715., 4723., 4725., 4729., 4730., 4731., and 4741. of the Revised Code. (Emphasis added)

4. Rule 4731-26-01, Ohio Administrative Code, defines “sexual misconduct”:

(G) “Sexual misconduct” means behavior that exploits the physician-patient relationship in a sexual way, whether verbal or physical, and may include the expression of thoughts, feelings, or gestures that are sexual or that reasonably may be construed by a patient as sexual. Sexual misconduct includes the following:

* * *

(3) Sexual conduct between a licensee and patient whether or not initiated by, consented to, or participated in by a patient, and any conduct with a patient that is sexual or may be reasonably interpreted as sexual, including but not limited to, the following:

- (a) Sexual intercourse, genital to genital contact;
- (b) Oral to genital contact;
- (c) Oral to anal contact, genital to anal contact;
- (d) Kissing in a romantic or sexual manner;
- (e) Encouraging the patient to masturbate in the presence of the licensee or masturbation by the licensee while the patient is present;
- (f) Offering to provide practice-related services, such as drugs, in exchange for sexual favors; and
- (g) Performing an intimate examination or consultation without clinical justification.

* * *

5. Rule 4731-26-02, Ohio Administrative Code, states:

(A) A licensee shall not engage in sexual misconduct with a patient, key third party, or chaperone.

- (B) Conduct included within the definition of sexual misconduct occurring between a licensee and a former patient constitutes sexual misconduct and is prohibited if it meets any of the following criteria:
- (1) The conduct occurred within ninety days after the physician-patient relationship was terminated;
 - (2) The conduct occurred between a psychiatrist and a person to whom the physician formerly provided psychiatric or mental health services, in violation of the code of ethics of the American Psychiatric Association; or
 - (3) The board determines that the conduct constitutes sexual misconduct upon consideration of the following factors:
 - (a) The duration of the physician-patient relationship;
 - (b) The nature of the medical services provided;
 - (c) The lapse of time since the physician-patient relationship ended;
 - (d) The extent to which the patient confided personal or private information to the licensee;
 - (e) The degree of emotional dependence that the former patient has on the licensee; and
 - (f) The extent to which the licensee used or exploited the trust, knowledge, emotions, or influence derived from the previous physician-patient relationship.

FINDINGS OF FACT

1. From November 2005 to January 2009, Mehmet Akif Sungurlu, M.D., undertook the care of Patient 1, and from November 2006 to January 2009, he undertook the care of Patient 2, as identified on a confidential Patient Key. Despite his doctor-patient relationships, Dr. Sungurlu acknowledged the following:
 - (a) Dr. Sungurlu had sexual contact with Patient 1, including oral sex and sexual intercourse, on multiple occasions. Further, Dr. Sungurlu's sexual contacts with Patient 1 occurred in his office.
 - (b) Dr. Sungurlu prescribed controlled substances to Patient 1 although such prescribing was not clinically indicated by a legitimate medical condition. Further, he did so because Patient 1 demanded drugs in high doses and large amounts, and threatened him.
 - (c) Dr. Sungurlu prescribed controlled substances to Patient 1 and failed to document all such prescribing in Patient 1's medical record.
 - (d) At the request of Patient 1, Dr. Sungurlu prescribed controlled substances to Patient 2, the spouse of Patient 1, knowing that Patient 1 would be getting the controlled substances.

- (e) Dr. Sungurlu prescribed controlled substances to Patient 1, knowing that Patient 1 sold or diverted such controlled substances to “a bunch of people that * * * pay her for [her] medications.”

CONCLUSIONS OF LAW

1. The acts, conduct, and/or omissions of Mehmet Akif Sungurlu, M.D., as set forth in Findings of Fact 1(b), 1(d), and 1(e), individually and/or collectively, constitute “[s]elling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes * * *,” as that clause is used in Section 4731.22(B)(3), Ohio Revised Code.
2. Dr. Sungurlu’s acts, conduct, and/or omissions as set forth in Findings of Fact 1(b), 1(d), and 1(e), individually and/or collectively, constitute “[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed,” as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2925.03, Ohio Revised Code, Trafficking, Aggravated Trafficking in Drugs.
3. Dr. Sungurlu’s acts, conduct, and/or omissions as set forth in Findings of Fact 1(d) and 1(e), individually and/or collectively, constitute “[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed,” as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2923.03, Ohio Revised Code, Complicity, as applied to Section 2925.03, Ohio Revised Code, Trafficking, Aggravated Trafficking in Drugs.
4. Dr. Sungurlu’s acts, conduct, and/or omissions as set forth in Finding of Fact 1(d), individually and/or collectively, constitute “[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed,” as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2925.23, Ohio Revised Code, Illegal Processing of Drug Documents.
5. Dr. Sungurlu’s acts, conduct, and/or omissions that occurred on or after November 30, 2006, as set forth in Finding of Fact 1(a), individually and/or collectively, constitute “violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board,” as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-26-02, Ohio Administrative Code.
6. Pursuant to Rule 4731-26-03(A)(1), Ohio Administrative Code, a violation of Rule 4731-26-02, Ohio Administrative Code, as set forth in Conclusion of Law 5, above, also violates Section 4731.22(B)(6), Ohio Revised Code, and is “[a] departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established.”

RATIONALE FOR THE PROPOSED ORDER

Dr. Sungurlu testified that he had prescribed large doses of controlled substances to Patient 1 because she repeatedly threatened to expose their sexual relationship. To his credit, he was forthcoming during the Board investigation and the hearing with respect to his conduct. Additionally, Dr. Sungurlu presented evidence intending to demonstrate that Patient 1 was a bad person and that she had been criminally charged for causing problems for other people. Further, it is plausible that Patient 1 *had* demanded drugs in exchange for her silence concerning their sexual relationship. However, Patient 1 is not "on trial" in this matter. Regardless of what Patient 1 may have said or done, whether it be initiating sexual contact or demanding drugs, it was Dr. Sungurlu's responsibility as a physician to say "No."

The evidence establishes that Dr. Sungurlu engaged in sexual conduct with Patient 1 and that such conduct continued over a period of more than two years. During this period, he provided numerous prescriptions to Patient 1 for large doses of OxyContin and other controlled substances that had no legitimate medical purpose. Further, he failed to document all such prescriptions in his medical records. Moreover, he wrote prescriptions for controlled substances in the name of Patient 2 knowing that Patient 1 would actually get the medication. Finally, he provided those prescriptions knowing that Patient 1 was selling at least some of the medication. Such conduct merits the severest sanction.

PROPOSED ORDER

It is hereby ORDERED that:

The certificate of Mehmet Akif Sungurlu, 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 the notification of approval by the Board.



R. Gregory Porter
Hearing Examiner

State Medical Board of Ohio

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

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EXCERPT FROM THE DRAFT MINUTES OF NOVEMBER 10, 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: Imam Michel Bastawros, M.D.; Darrell A. Hall, M.D.; Wesley Frank Hard, M.D.; Florence Beth Matyas, M.D.; Mehmet Akif Sungurlu, M.D.; and Edward Wai Wong, M.D. A roll call was taken:

ROLL CALL:	Dr. Strafford	- aye
	Mr. Hairston	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Suppan	- aye
	Dr. Amato	- aye
	Mr. Albert	- aye
	Dr. Madia	- aye
	Dr. Talmage	- aye
	Dr. Steinbergh	- aye
	Mr. Morris	- 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. Suppan	- aye
	Dr. Amato	- aye
	Mr. Albert	- aye
	Dr. Madia	- aye
	Dr. Talmage	- aye
	Dr. Steinbergh	- aye
	Mr. Morris	- 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. In the matters before the Board today, Dr. Talmage served as Secretary and Mr. Albert served as Supervising Member. In addition, Dr. Mahajan served as Acting Secretary in the matter of Darrell A. Hall, M.D.; and Dr. Amato served as Acting Supervising Member in the matter of Wesley Frank Hard, M.D.; therefore, those Board members may not vote in those respective matters. Dr. Amato stated that all Board members may vote on the matter of Imam Michel Bastawros, M.D., as that case is not disciplinary in nature and only involves the respondent's qualifications for licensure.

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.

.....
MEHMET AKIF SUNGURLU, M.D.
.....

Mr. Hairston moved to approve and confirm Mr. Porter's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Mehmet Akif Sungurlu, M.D. Dr. Mahajan seconded the motion.

.....
A vote was taken on Mr. Hairston's motion to approve and confirm:

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

December 9, 2009

Case number: 09-CRF-164

Mehmet Akif Sungurlu, M.D.
4233 Nantucket Drive
Toledo, Ohio 43623

Dear Doctor Sungurlu:

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) From in or about November 2005 to in or about January 2009, you undertook the care of Patients 1 and 2 (as identified in the attached Patient Key – Key is confidential and not subject to public disclosure). Despite your doctor-patient relationships, you have acknowledged the following:
 - (a) You had sexual contact with Patient 1, including oral sex and sexual intercourse. Further, your sexual contact with Patient 1 occurred in your office.
 - (b) You prescribed controlled substances to Patient 1 although such prescribing was not clinically indicated by a legitimate medical condition. Further, you did so because Patient 1 demanded drugs in high doses and large amounts, and threatened you.
 - (c) You prescribed controlled substances to Patient 1 and failed to document all such prescribing in Patient 1's patient record and/or chart.
 - (d) At the request of Patient 1, you prescribed controlled substances to Patient 2, the spouse of Patient 1, knowing that Patient 1 would be getting the controlled substances.

Mailed 12-10-09

- (e) You prescribed controlled substances to Patient 1, knowing that Patient 1 sold or diverted such controlled substances to “a bunch of people that . . . pay her for [her] medications.”

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

Further, your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute “[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed,” as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2925.03, Ohio Revised Code, Trafficking, Aggravated Trafficking in Drugs.

Further, your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute “[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed,” as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2923.03, Ohio Revised Code, Complicity, to wit: Section 2925.03, Ohio Revised Code, Trafficking, Aggravated Trafficking in Drugs.

Further, your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute “[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed,” as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2925.23, Ohio Revised Code, Illegal Processing of Drug Documents.

Further, your acts, conduct, and/or omissions that occurred on or after November 30, 2006, as alleged in paragraph (1) above, individually and/or collectively, constitute “violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board,” as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-26-02, Ohio Administrative Code. Pursuant to Rule 4731-26-03(A)(1), Ohio Administrative Code, a violation of Rule 4731-26-02, Ohio Administrative Code, also violates Section 4731.22(B)(6), Ohio Revised Code, “[a] departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established.”

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,



Lance A. Talmage, M.D.
Secretary

LAT/DSZ/flb
Enclosures

CERTIFIED MAIL #91 7108 2133 3936 3070 8785
RETURN RECEIPT REQUESTED



State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: www.state.oh.us/med/

October 10, 2001

Mehmet Sungurlu, M.D.
2737 Navarre Avenue, Suite 204
Oregon, OH 43616

Dear Doctor Sungurlu:

Please find enclosed a certified copy of the Findings, Order and Journal Entry approved and confirmed by the State Medical Board meeting in regular session on October 10, 2001.

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 a Notice of Appeal with the State Medical Board of Ohio and 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 of the Ohio Revised Code.

Very truly yours,


Anand G. Garg, M.D.
Secretary

AGG:jam
Enclosures

CERTIFIED MAIL RECEIPT NO. 7000 0600 0024 5147 2651
RETURN RECEIPT REQUESTED

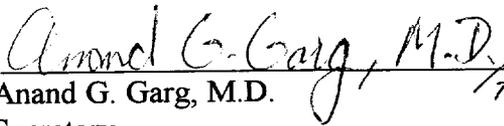
Cc: Kevin P. Byers, Esq.
CERTIFIED MAIL RECEIPT NO. 7000 0600 0024 5147 2644
RETURN RECEIPT REQUESTED

Mailed 10-30-01

CERTIFICATION

I hereby certify that the attached copy of the Findings, Order and Journal Entry approved by the State Medical Board, meeting in regular session on October 10, 2001, constitutes a true and complete copy of the Findings, Order and Journal Entry in the Matter of Mehmet Sungurlu, M.D., as it appears in the Journal of the State Medical Board of Ohio.

This Certification is made by the authority of the State Medical Board of Ohio in its behalf.


Anand G. Garg, M.D. ^{TAD}
Secretary

(SEAL)

October 10, 2001
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

MEHMET SUNGURLU, M.D.

*

*

FINDINGS, ORDER AND JOURNAL ENTRY

By letter dated August 8, 2001, notice was given to Mehmet Sungurlu, M.D., that the State Medical Board intended to consider disciplinary action against his license to practice medicine and surgery in Ohio, and that he was entitled to a hearing if such hearing was requested within thirty (30) days of the mailing of said notice. In accordance with Section 119.07, Ohio Revised Code, said notice was sent via certified mail, return receipt requested, on August 9, 2001, to the address of record of Dr. Sungurlu, that being 2737 Navarre Avenue, Suite 204, Oregon, OH 43616.

A signed certified mail receipt was returned to the Medical Board offices, documenting proper service of the notice. Dr. Sungurlu responded to the Board's notice and requested a hearing. However, his request was received two days after the thirty day period allowed for filing such a request had expired.

WHEREFORE, for the reasons outlined in the August 8, 2001 notice of opportunity for hearing, which is attached hereto and incorporated herein, it is hereby ORDERED:

1. The certificate of Mehmet Sungurlu, M.D., to practice medicine and surgery in the State of Ohio shall be **SUSPENDED** for an indefinite period of time.
2. The Board shall not consider reinstatement of Dr. Sungurlu's certificate to practice until all of the following minimum requirements are met:
 - a. Dr. Sungurlu shall submit an application for reinstatement, accompanied by appropriate fees.
 - b. Dr. Sungurlu shall provide a completed and signed CME log that is acceptable as determined by the Board or its designated representative of satisfactory completion

of 60 hours of Category II CME, for the period from July 1, 1996 to June 30, 1998.

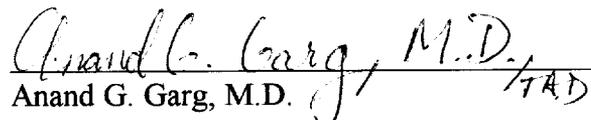
It shall be Dr. Sungurlu's responsibility to work with appropriate Board staff to ascertain what will be considered as satisfactory documentation and to obtain the same.

- c. Dr. Sungurlu shall provide documentation acceptable as determined by the Board or its designated representative of satisfactory completion of 125 hours of CME, at least 50 hours of which shall be Category I and 60 hours of Category II CME, for the period of July 1, 1998 to January 1, 2001.
 - d. Dr. Sungurlu shall supply documentation acceptable to the Board of satisfactory completion of the requisite hours of CME for each complete biennium, if any, during which Dr. Sungurlu certificate remains suspended.
 - e. In the event that Dr. Sungurlu has not been engaged in the active practice of medicine for a period of more than two (2) years prior to his application for reinstatement, Dr. Sungurlu shall take and pass the SPEX examination or any similar written examination which the Board may deem appropriate to assess his clinical competency.
3. Subsequent to reinstatement, Dr. Sungurlu shall provide documentation acceptable to the Board of satisfactory completion of the requisite number of hours of CME for the CME acquisition period in effect at the time of reinstatement, and for two complete CME acquisition periods thereafter. This documentation shall be due in the Board's offices within thirty (30) days of the conclusion of each CME acquisition period.

This ORDER shall become effective thirty (30) days after the mailing of notification of approval by the State Medical Board of Ohio.

This ORDER is hereby entered upon the Journal of the State Medical Board of Ohio for the 10th day of October, 2001, and the original thereof shall be kept with said Journal.

(SEAL)


Anand G. Garg, M.D. *AGD*
Secretary

October 10, 2001

Date

**U.S. Postal Service
CERTIFIED MAIL RECEIPT**

(Domestic Mail Only; No Insurance Coverage Provided)

7000 0600 0024 5140 5925

CITE *JAM*

Postage	\$ 1.86
Certified Fee	2.10
Return Receipt Fee (Endorsement Required)	1.50
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 4.86



Recipient's Name: Mehmet Sungurlu, M.D.
 Street, Apt. No.: 2737 Navarre Avenue
 Suite 204
 City, State, ZIP: Oregon, OH 43616

PS Form 3800, February 2000 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

 Mehmet Sungurlu, M.D.
 2737 Navarre Avenue
 Suite 204
 Oregon, OH 43616

2. Article Number (Copy from service label)

7000 0600 0024 5140 5925

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) *NICOLE VONGT* B. Date of Delivery *4/8/13*
 C. Signature *Nicole Vongt* Agent Addressee
 D. Is delivery address different from item 1? Yes No
 If YES, enter delivery address below:

CITE *JAM*

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

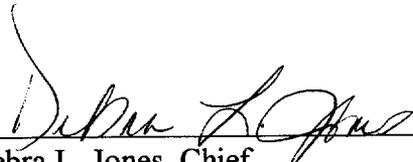
AFFIDAVIT

I, Debra Jones, being duly cautioned and sworn, do hereby depose and say:

- 1) That I am employed by the State Medical Board of Ohio (hereinafter, "The Board")
- 2) That I serve the Board in the position of Chief, Continuing Medical Education, Records, and Renewal;
- 3) That in such position I am the responsible custodian of all public licensee records maintained by the Board pertaining to individuals who have received certificates issued pursuant to Chapter 4731., Ohio Revised Code;
- 4) That I have this day carefully examined the records of the Board pertaining to Mehmet Sungurlu, M.D.
- 5) That based on such examination, I have found the last known address of record of Mehmet Sungurlu, M.D. to be:

2737 Navarre Avenue
Suite 204
Oregon, OH 43616

- 6) Further, Affiant Sayeth Naught.



Debra L. Jones, Chief
Continuing Medical Education,
Records and Renewal

Sworn to and signed before me, Angela D. Fields, Notary
Public, this 25th day of September, 2001.



ANGELA D. FIELDS
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES 05/11/06



Notary Public



State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: www.state.oh.us/med/

August 8, 2001

Mehmet Sungurlu, M.D.
2737 Navarre Avenue
Suite 204
Oregon, OH 43616

Dear Doctor Sungurlu:

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) In applying for registration of your certificate to practice medicine and surgery for the 1998-2000 period, you certified that you had completed or would complete the requisite hours of Continuing Medical Education (CME) as required by Section 4731.281, Ohio Revised Code, during the last biennial period of acquisition of CME (July 1, 1996 - June 30, 1998).
- (2) By a certified mail letter dated in or about July 1999, the State Medical Board of Ohio informed you that you were required to complete a log listing your Category II CME for the July 1, 1996 - June 30, 1998 period and to provide documentation that you had actually completed at least forty (40) hours of Category I CME credits. By certified mail letter dated August 28, 2000, the State Medical Board again requested that you submit documentation of your Category I CME credits and a completed log of Category II CME for the July 1, 1996 - June 30, 1998 period. By certified mail letter dated October 31, 2000, the State Medical Board again requested that you submit documentation of your Category I CME credits and a completed log of Category II CME for the July 1, 1996 - June 30, 1998 period. Although you responded on December 12, 2000, by providing documentation of 40 hours of Category I CME, you failed to complete and sign the CME log and you failed to list any Category II CME.

By certified mail letter dated December 13, 2000, the State Medical Board informed you that it was in receipt of the Category I CME documentation, but that

Mailed 8.9.01

you needed to complete and sign the enclosed log listing your Category II CME credits. Further, by certified mail letter dated March 6, 2001, the State Medical Board again requested that you complete and sign the enclosed log listing your Category II CME credits for the July 1, 1996 - June 30, 1998 period. You have failed to provide a completed log for Category II CME for the above period.

- (3) Your lack of response to the notices as detailed in the above paragraph (2) rebuts the presumption under Rule 4731-10-08(A), Ohio Administrative Code, that you did complete the requisite hours of CME, and/or demonstrates that you failed to keep detailed records of CME taken.

Your acts, conduct and/or omissions in certifying to the State Medical Board that you had completed the statutorily required CME, as set forth in the above paragraph (1), when you had not, in fact, done so, constitute "fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the board," as that clause is used in Section 4731.22(A), Ohio Revised Code, as in effect prior to March 9, 1999.

Further, your acts, conduct and/or omissions in certifying to the State Medical Board that you had completed the statutorily required CME, as set forth in the above paragraph (1), when you had not, in fact, done so, constitute "[p]ublishing 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 failure to respond to the audit notices, to obtain the requisite CME, and/or to submit documentation of same, as alleged in the above paragraphs (2) and (3) constitutes "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board," as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Section 4731.281, Ohio Revised Code, as in effect prior to March 9, 1999, and Rules 4731-10-03 and 4731-10-08, Ohio Administrative Code.

Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty (30) days of the time of mailing of this notice.

You are further advised that, 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.

Mehmet Sungurlu, M.D.

Page 3

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

Enclosures

CERTIFIED MAIL #7000 0600 0024 5140 5925
RETURN RECEIPT REQUESTED