



State Medical Board of Ohio

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February 9, 2005

Emeka Obinna Ekwulugo, M.D.
5211 W. Ridge Road
Erie, PA 16506

Dear Doctor Ekwulugo:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Sharon W. Murphy, Esq., Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on February 9, 2005, 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 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, Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO

Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

CERTIFIED MAIL NO. 7002 2410 0002 3141 3253
RETURN RECEIPT REQUESTED

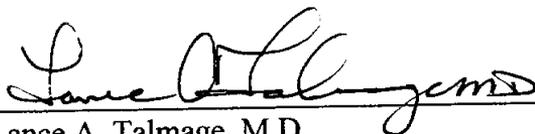
Cc: Douglas E. Graff, Esq.
CERTIFIED MAIL NO. 7002 2410 0002 3141 3260
RETURN RECEIPT REQUESTED

MAILED 2-10-05

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Sharon W. Murphy, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on February 9, 2005, 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 Emeka Obinna Ekwulugo, M.D., as it appears in the Journal of the State Medical Board of Ohio.

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



Lance A. Talmage, M.D.
Secretary

(SEAL)

February 9, 2005
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

EMEKA OBINNA EKWULUGO, M.D.

*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on February 9, 2005.

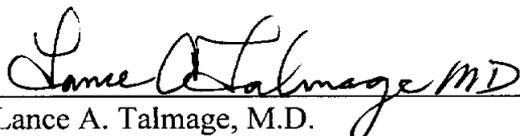
Upon the Report and Recommendation of Sharon W. Murphy, State Medical Board Attorney Hearing Examiner, designated in this Matter pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the approval and confirmation by vote of the Board 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 application of Emeka Obinna Ekwulugo, M.D., for restoration of his certificate to practice medicine and surgery in the State of Ohio is PERMANENTLY DENIED.

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

(SEAL)


Lance A. Talmage, M.D.
Secretary

February 9, 2005

Date

REPORT AND RECOMMENDATION
IN THE MATTER OF EMEKA OBINNA EKWULUGO, M.D.

The Matter of Emeka Obinna Ekwulugo, M.D., was heard by Sharon W. Murphy, Esq., Hearing Examiner for the State Medical Board of Ohio, on November 1, 2004.

INTRODUCTION

I. Basis for Hearing

A. By letter dated August 11, 2004, the State Medical Board of Ohio [Board] notified Emeka Obinna Ekwulugo, M.D., that it had proposed to take disciplinary action against or to deny his application for restoration of his certificate to practice medicine and surgery in Ohio. The Board based its proposed action on allegations that Dr. Ekwulugo had provided false information in an application for licensure in Ohio, in an application for restoration of his license to practice in Ohio, and in an application to a residency program. The Board further alleged that Dr. Ekwulugo's conduct constitutes:

- “‘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”;
- “‘fraud, misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the board,’ as that clause is used in Section 4731.22(A), Ohio Revised Code”;
- “‘publishing a false, fraudulent, deceptive, or misleading statement,’ as that clause is used in Section 4731.22(B)(5), Ohio Revised Code, as in effect prior to March 9, 1999”; and
- “[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, podiatry, 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.”

(State's Exhibit 1A).

B. On September 9, 2004, Douglas E. Graff, Esq., submitted a written hearing request on behalf of Dr. Ekwulugo. (State's Exhibit 1B).

II. Appearances

- A. On behalf of the State of Ohio: Jim Petro, Attorney General, by Kyle C. Wilcox, Assistant Attorney General.
- B. On behalf of the Respondent: Douglas E. Graff, Esq.

EVIDENCE EXAMINED

I. Testimony Heard

- A. Presented by the State
 - 1. Emeka Obinna Ekwulugo, M.D., as if on cross-examination
 - 2. Kay Rieve
- B. Presented by the Respondent
Emeka Obinna Ekwulugo, M.D.

II. Exhibits Examined

- A. Presented by the State
 - 1. State's Exhibits 1A through 1J: Procedural exhibits.
 - 2. State's Exhibit 2: Certified copies of documents regarding Dr. Ekwulugo maintained by the Board. (Note: a patient name was redacted by the Hearing Examiner post-hearing).
 - 3. State's Exhibits 4, 5, and 6: Copies of letters to Dr. Ekwulugo from Renee Miskimmin, M.D., Program Director of the Hamot Family Practice Residency, Erie, Pennsylvania.
 - 4. State's Exhibit 7: Copy of a House Staff Physician Agreement signed by Dr. Ekwulugo and an Associate Administrator of the Brookdale Hospital Medical Center in Brooklyn, New York.
 - 5. State's Exhibit 9: Copy of an October 1987 letter regarding Dr. Ekwulugo from Richard J. Calame, M.D., Director of Obstetrics & Gynecology, The Brookdale Hospital Medical Center, to Frederick Clare, M.D., Department of Obstetrics & Gynecology, Metropolitan Hospital Center.

Report and Recommendation

In the Matter of Emeka Obinna Ekwulugo, M.D.

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6. State's Exhibits 10 and 11: Copies of letters from M. Maurice Abitbol, M.D., Chairman, Department of Obstetrics & Gynecology, Jamaica Hospital, in Jamaica, New York, to Dr. Ekwulugo.
 7. State's Exhibit 12: Copy of an Application for House Officer submitted by Dr. Ekwulugo to the Jamaica Hospital.
 8. State's Exhibit 13: Certified copies of documents pertaining to Dr. Ekwulugo maintained by the Hamot Health Foundation.
 9. State's Exhibit 16: Copies of documents entitled "Program Director/Advisor Session" pertaining to Dr. Ekwulugo and written by Dr. Miskimmin.
 10. State's Exhibit 17: Copy of a November 1989 statement pertaining to Dr. Ekwulugo signed by a medical extern on rotation in the Department of Obstetrics and Gynecology at the Jamaica Hospital. [Note: With the agreement of the parties, a patient name was redacted by the Hearing Examiner post-hearing.]
 11. State's Exhibit 18: Copies of memoranda pertaining to Dr. Ekwulugo maintained by the Metropolitan Hospital Center. [Note: With the agreement of the parties, some statements, including a patient name, were redacted by the Hearing Examiner post-hearing.]
 12. State's Exhibits 19 and 20: State Medical Board of Ohio's Closing Argument and the State Medical Board of Ohio's Rebuttal Closing Argument, respectively.
- B. Presented by the Respondent
1. Respondent's Exhibit A: Curriculum vita of Dr. Ekwulugo.
 2. Respondent's Exhibit B: Copy of an October 15, 1987, letter from Dr. Calame to Dr. Clare.
 3. Respondent's Exhibits C and D: Letters of recommendation written on behalf of Dr. Ekwulugo to the Jamaica Hospital.
 4. Respondent's Exhibit E: Copy of a release for information regarding Dr. Ekwulugo sent from the Western Ohio Health Care Plan to the Metropolitan Hospital Center.
 5. Respondent's Exhibit F: Copy of a June 1988 Metropolitan Hospital Center Housestaff Evaluation Record pertaining to Dr. Ekwulugo.

6. Respondent's Exhibit G: Copy of a March 1992 recommendation for Dr. Ekwulugo completed by Dr. Abitbol.
7. Respondent's Exhibit H: Copy of a June 1992 Authorization for Admission to the Written Examination of the American Board of Obstetrics and Gynecology pertaining to Dr. Ekwulugo.
8. Respondent's Exhibit I: Copy of a September 1994 memorandum to Dr. Abitbol pertaining to Dr. Ekwulugo.
9. Respondent's Exhibit J: Copy of a June 1994 request for evaluation of Dr. Ekwulugo from Touchette Regional Hospital, Centreville, Illinois, to the Jamaica Hospital.
10. Respondent's Exhibit K: Copy of a May 2002 letter from Wayne Cohen, M.D., the Jamaica Hospital, to Dr. Miskimmin.
11. Respondent's Exhibit L: Copy of a June 2002 letter from Dr. Miskimmin to Terrence Leigh, Ed.D., of the American Board of Family Practice.
12. Respondent's Exhibit M: Copy of a June 2002 letter from Richard B. Williams, M.D., F.A.C.P., Program Director of the Internal Medicine and Transitional Year Residencies at Harbor Hospital Center to Dr. Miskimmin.
13. Respondent's Exhibit N: Copy of a March 2003 letter from Dr. Miskimmin to Dr. Leigh.
14. Respondent's Exhibit O: Copy of a 2002 "Individual Conference Attendance" sheet pertaining to Dr. Ekwulugo.
15. Respondent's Exhibit P: Copy of a September 2002 document entitled "Personal Advisor Session," pertaining to Dr. Ekwulugo and signed by Michael S. Wolkomir, M.D.
16. Respondent's Exhibit Q: Copy of an ACGME "List of Programs by Sponsor" for the year ending June 2005.
17. Respondent's Exhibit R: Copy of an ACGME "List of withdrawn programs," for the year ending June 2005.
18. Respondent's Exhibit S: Copy of an Internet document regarding "Hamot Residency Programs."

19. Respondent's Exhibit T: Copy of July 1994 policy and procedure for "Evaluation and Advancement of Resident Physicians" for Hamot Health Foundation.
20. Respondent's Exhibit U: Respondent's Closing Argument.

Note: Pages of some exhibits were numbered by the Hearing Examiner post-hearing.

PROFFERED MATERIALS

State's Exhibit 8: See Procedural Matters, paragraph 1, below, and the Hearing Transcript at pages 69-70 and 138.

PROCEDURAL MATTERS

1. At hearing, the State introduced a copy of a Department of Labor Relations Notice and Statement of Charges pertaining to Dr. Ekwulugo issued by the Metropolitan Hospital Center. Dr. Ekwulugo objected to the document because the State introduced the document to show that Dr. Ekwulugo had been "warned" or "disciplined" during his residency at Metropolitan Hospital Center.

Dr. Ekwulugo argued that the Statement of Charges is prejudicial to Dr. Ekwulugo, that it does not constitute a warning, and that the State does not have any evidence of a final action. Dr. Ekwulugo's objection was sustained. Nevertheless, the document was proffered on behalf of the State. (State's Exhibit 8; Hearing Transcript at 61-70, 138). Should the Board choose to do so, however, the Board may vote to overrule the decision of the Hearing Examiner, and admit State's Exhibit 8 into evidence.

2. At the close of the hearing, the parties agreed to submit written closing arguments. The final written argument was filed on December 20, 2004. The hearing record closed at that time. (See Hearing Transcript at 237-239).

SUMMARY OF THE EVIDENCE

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

General Background

1. Emeka Obinna Ekwulugo, M.D., was born in Onitsha, Nigeria. Dr. Ekwulugo testified that he is proficient in English, as he started speaking English as a baby. He relocated to the

United States in 1973, when he was twenty years old. Dr. Ekwulugo testified that his emigration had been sponsored by a missionary society in Nigeria. Dr. Ekwulugo received an undergraduate degree from the Nebraska Wesleyan University. Thereafter, he received a Masters degree in anatomy from Howard University in Washington, D.C. In 1983, he received a medical degree from the Howard University College of Medicine. (Hearing Transcript [Tr.] at 14-19, 142-147; State's Exhibit [St. Ex.] 2 at 1, 26, 35, 45).

Dr. Ekwulugo testified that he is currently teaching anatomy and physiology at Great Lakes Institute of Technology in Erie, Pennsylvania. He does not hold any active medical licensure at this time. (Tr. at 13-14, 15-16; St. Ex. 2 at 3).

2. At hearing, Dr. Ekwulugo testified that he had completed a rotating internship at Harbor Medical Center from January to December 1984. Dr. Ekwulugo stated that, after completing his internship, he had returned to Nigeria, where he worked as a "Medical Officer" at Riverside Hospital in Onitsha, Nigeria, until 1986. (Tr. at 143; St. Ex. 13 at 71).
3. In July 1986, Dr. Ekwulugo entered an obstetrics and gynecology residency program in the first post-graduate year [PGY-1] at Brookdale University Hospital [Brookdale Residency] located in Brooklyn, New York. In January 1987, Dr. Ekwulugo contracted to serve as a PGY-2 resident in the Brookdale Residency from July 1987, through June 1988. Nevertheless, Dr. Ekwulugo stated that, after completing PGY-1 in June 1987, he had transferred to the Metropolitan Hospital Medical Center [Metropolitan Residency] in Manhattan. Dr. Ekwulugo was released from his contract with the Brookdale Residency to serve as an PGY-2 resident. (Tr. at 19-21, 149-151; St. Ex. 7; St. Ex. 9; Respondent's Exhibit [Resp. Ex.] B).
4. Dr. Ekwulugo left the Metropolitan Residency in March 1988. In a March 11, 1988, memorandum to Frederick Clare, M.D., Department of Obstetrics & Gynecology, Metropolitan Hospital Center, the Chief Resident at the Metropolitan Residency advised as follows:

This is to inform you that Dr. Ekwulugo has been missing since our last meeting on 3/10/88 at 2 P.M. He has been paged several times, no answer. He was last seen on 3/10/88 at 5:30 P.M. His work was left unfinished; 2 elective admissions (patient names redacted) and no operative note on (patient name redacted) post C-section.

This morning we received no call from him. Numerous attempts have been made to contact him, no answer.

(St. Ex. 18 at 2; St. Ex. 9).

5. Dr. Ekwulugo testified that he had left for Nigeria in late March 1988. He remained in Nigeria until early to mid 1989. (Tr. at 21-22, 71-72, 78-79, 82).

6. On or about June 20, 1989, Dr. Ekwulugo submitted an Application for House Officer to the Jamaica Hospital Medical Center located in Jamaica, New York, [Jamaica Residency]. In the application, Dr. Ekwulugo failed to list or otherwise acknowledge his Brookdale Residency. (St. Ex. 12).

By letter dated June 20, 1989, Vladimir Brotanek, M.D., Ph.D., Associate Professor in the Department of Obstetrics and Gynecology in the Metropolitan Residency wrote to M. Maurice Abitbol, M.D., Chairman of Department of Obstetrics & Gynecology at the Jamaica Hospital, in support of Dr. Ekwulugo. Dr. Brotanek wrote, among other things, that Dr. Ekwulugo is “a man of unimpeachable character who is held in high esteem not only by his peers by also by his subordinates alike. His sense of responsibility coupled with his energetic and curious mind blend well with the high degree of academic prowess he has demonstrated.” Dr. Brotanek “highly” recommended Dr. Ekwulugo to Dr. Abitbol. (Resp. Ex. C).

Both Dr. Brotanek and Gustavo Moreno, M.D., Acting Chief of Service of the Department of Obstetrics and Gynecology in the Metropolitan Residency, noted that Dr. Ekwulugo had not completed his training due to problems in returning from his country following a vacation. (Resp. Exs. C and D).

7. Dr. Ekwulugo entered the Jamaica Residency in July 1989. (Tr. at 21-22).
8. By letter dated November 16, 1989, Dr. Abitbol advised Dr. Ekwulugo that it had been brought to Dr. Abitbol’s attention that Dr. Ekwulugo had used abusive language to a patient. More specifically, Dr. Abitbol wrote as follows:

This patient delivered in Brookdale Hospital, subsequently developed a complication after discharge, and then was brought to our hospital. This in no way allows you to be abusive, and to refer to her as “the garbage” from another institution.

This type of behavior makes me wonder if you really are ready to take the responsibility of chief resident next year. I am reconsidering it and the final decision will depend on how much maturity you can demonstrate in the coming months.

Be aware that repetition of such incidents may lead to non-renewal of your contract next year or even dismissal from the program.

(St. Ex. 10) (See also St. Ex. 17).

9. By letter dated June 12, 1991, Dr. Abitbol suspended Dr. Ekwulugo from the position of chief resident and terminated his operating room privileges. This action was based on Dr. Ekwulugo’s having failed to complete approximately 300 “medical records charts.”

Moreover, Dr. Abitbol advised that, should Dr. Ekwulugo fail to complete the charts by the end of June 1991, he would not graduate from the residency program. (St. Ex. 11). Nevertheless, Dr. Ekwulugo satisfactorily completed the Jamaica Residency on June 30, 1991. (Tr. at 171; St. Ex. 2 at 36; St. Ex. 13 at 72).

10. On or about July 12, 1991, Dr. Ekwulugo submitted to the Board an Application for Certificate – Medicine or Osteopathic Medicine [Original Application]. By signing the Original Application, Dr. Ekwulugo certified that the information provided therein was true. The Board granted Dr. Ekwulugo a license on October 30, 1991. (St. Ex. 2 at 27, 34).
11. As part of the Original Application process, Dr. Ekwulugo was required to “list ALL postgraduate training (internship, residency or clinical fellowship), undertaken in the U.S. or Canada.” Nevertheless, Dr. Ekwulugo failed to include any information regarding his Brookdale Residency. (St. Ex. 2 at 26).

In addition, Dr. Ekwulugo was required to “list ALL activities” in the Resume portion of the Original Application. Nevertheless, Dr. Ekwulugo falsely stated that he had been a medical officer at Riverside Hospital in Onitsha, Nigeria, from January 1985 to June 1987, and that he had been in the Metropolitan Residency from July 1987 to June 1988. Finally, Dr. Ekwulugo failed to disclose his true activities during the period of March 10 through July 1, 1988. (St. Ex. 2 at 29).

Finally, Dr. Ekwulugo answered “No” in response to question number 4 in the “Additional Information” section of his Original Application, which asks:

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, or postdoctoral training program?

(St. Ex. 2 at 31).

12. In March 1992, the Chief of Obstetrics and Gynecology of the Metropolitan Residency completed an Information Request regarding Dr. Ekwulugo submitted by the Western Ohio Health Care Plan. In completing the Information Request, the Chief of Obstetrics and Gynecology advised that the Metropolitan Residency had not “sanctioned or reprimanded [Dr. Ekwulugo] for any reason other than charts.” (Resp. Ex. E).
13. In March 1992, Dr. Abitbol completed a request for information regarding Dr. Ekwulugo which had been submitted by Choice Care of Cincinnati, Ohio. In completing the request for information, Dr. Abitbol advised that, while at the Jamaica Residency, Dr. Ekwulugo had not “been warned, censured, disciplined, had admissions monitored, or privileges limite[d].” (Resp. Ex. G).

14. Dr. Ekwulugo testified that, after completing the Jamaica Hospital residency, he had accepted a position as an associate director in a private practice in Middletown, Ohio. He remained there until 1994. Dr. Ekwulugo then accepted a position in Illinois, where he remained until 2000. Thereafter, Dr. Ekwulugo resided in Nigeria until 2002. (Tr. at 22-23).
15. On July 1, 2002, Dr. Ekwulugo entered the Hamot Family Practice Residency [Hamot Residency], in Erie, Pennsylvania, as a PGY-1 resident. Because Dr. Ekwulugo had been awarded advanced standing in some areas by the American Board of Family Practice, it was anticipated that, after completing two months of PGY-1, he would be advanced to the PGY-2. Nevertheless, in October 2002, Renee Miskimmin, M.D., Program Director of the Hamot Residency, noted that evaluations of Dr. Ekwulugo had revealed deficits in Dr. Ekwulugo's organizational skills, verbal presentation skills, and potential knowledge base. Accordingly, his PGY-1 rotations were extended. (St. Ex. 13 at 2, 38-39, 67-70).

By letter dated December 2, 2002, Dr. Miskimmin issued a written warning to Dr. Ekwulugo. In the written warning, Dr. Miskimmin advised that Dr. Ekwulugo had failed to attend the required number of conferences and that, should it happen again, Dr. Ekwulugo would be placed on academic probation. (St. Ex. 4; St. Ex. 13 at 29).

On December 12, 2002, Dr. Miskimmin met with Dr. Ekwulugo, Dr. Ekwulugo's physician advisor, and an attending physician, in a Program Director/Resident Meeting. Regarding that meeting, Dr. Miskimmin wrote that she had had some concerns regarding Dr. Ekwulugo's skills. In light of that, she imposed a plan of action tailored to address Dr. Ekwulugo's deficiencies. (St. Ex. 13 at 27-28).

On January 29, 2003, Dr. Miskimmin met with Dr. Ekwulugo in another Program Director/Resident Meeting. In a written summary of that meeting, Dr. Miskimmin wrote that she had reviewed Dr. Ekwulugo's performance regarding the previously imposed "action plan." Dr. Miskimmin noted that Dr. Ekwulugo had failed to improve in a number of areas, including attending conferences, completing patient notes in a timely manner, completing a log book, approaching attendings for feedback, and providing appropriate patient care. Dr. Miskimmin further noted that Dr. Ekwulugo would not pass his staff medicine rotation and that he would not successfully complete his internship year. Therefore, she had advised Dr. Ekwulugo that the Hamot Residency would not renew his contract for the following year. Accordingly, by letter dated January 29, 2003, Dr. Miskimmin advised Dr. Ekwulugo that his residency contract would not be renewed as of June 30, 2003. (St. Ex. 5; St. Ex. 13 at 16-18).

In a March 5, 2003, Resident Evaluation of Dr. Ekwulugo, a Hamot Residency instructor wrote, in part, as follows:

He is difficult to teach because, while he is never discourteous or rude, it's obvious he cannot take constructive criticism well – he does not ask for

more info, but suggests he likes to do it differently from what I suggest. In general, asks very few questions and does not assimilate past learning experiences into the next admission.

Unfortunately, Dr. Ekwulugo is still not performing to the level of a new intern despite the fact that he's rotated through [pediatrics] three times.

(St. Ex. 13 at 11).

On March 25, 2003, Dr. Miskimmin met with Dr. Ekwulugo and Dr. Ekwulugo's advisor. Dr. Miskimmin noted that an incident had occurred in which Dr. Ekwulugo had not responded to multiple pages while on-call. Dr. Miskimmin further noted that there had been previous incidents of the same nature. (St. Ex. 16 at 2-3).

By letter dated March 26, 2003, Dr. Miskimmin advised the American Board of Family Practice that advanced credit which had previously been given to Dr. Ekwulugo should be reconsidered. Dr. Miskimmin further advised as follows:

Dr. Ekwulugo has been performing as an intern at the Hamot Family Practice Residency Program since 7/1/02. During this time it has become evident that Dr. Ekwulugo's skills in the area of adult medicine are considerably behind. I would recommend at this time that he not be given advanced credit for adult medicine or emergency medicine, since this does relate not only to adult medicine but also involves pediatrics which is an area that Dr. Ekwulugo does have considerable deficits. At this time I cannot comment on Dr. Ekwulugo's skills in the areas of maternity care, gynecological care, or general surgery, since he has not spent sufficient time on these rotations to be able to make a decision. However, I do believe it is reasonable to have Dr. Ekwulugo have an evaluation period on these same rotations to be sure that his skills are what one would expect.

(St. Ex. 13 at 4).

By letter dated March 26, 2003, Dr. Miskimmin advised Dr. Ekwulugo that he had been removed from clinical responsibilities as of that date. Dr. Miskimmin further advised that the residency program would continue to pay him throughout the remainder of his contract, which was to expire on June 30, 2003. (St. Ex. 6; St. Ex. 13 at 2, 5).

Dr. Ekwulugo requested that Dr. Miskimmin reconsider her decision to remove him from clinical responsibilities. Dr. Miskimmin denied his request, and wrote the following:

I explained to [Dr. Ekwulugo] that, unfortunately, after reviewing his file and considering the accommodations that have already been made for Dr. Ekwulugo within the program, I cannot at this point in good conscience

continue to allow him to provide patient care because of concerns for patient safety.

(St. Ex. 16 at 6).

16. On or about December 12, 2003, Dr. Ekwulugo submitted to the Board an application for restoration of his license to practice medicine and surgery [Restoration Application]. The Restoration Application is currently pending. By signing the Restoration Application, Dr. Ekwulugo certified that the information provided therein was true. (St. Ex. 2 at 24-25).

In the “Additional Information” section of his Restoration Application, Dr. Ekwulugo answered “No” in response to question number 4 which asks:

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?

(St. Ex. 2 at 13).

17. The hearing record contains two curriculum vitae for Dr. Ekwulugo. One he submitted to a residency program in approximately 2002, and the second he submitted to the Board at hearing. A comparison of the two curriculum vitae, in part, reveals the following:

<u>1991 Application</u> [PG Programs Only]	<u>Hamot CV</u>	<u>Hearing CV</u>	<u>Residency/Institution</u>
1/1984-12/1984	1983-1984	1/1984-12/1984	Harbor Medical Center
	<i>1984-1986</i>	<i>1/1985-6/1986</i>	Riverside Hospital, Nigeria
<i>[Omitted]</i>	<i>1986-1988</i>	<i>1986-1987</i>	Brookdale Residency
7/1987-6/1988	<i>[Omitted]</i>	<i>7/1987-3/1988</i>	Metropolitan Residency
	1988-1989	5/1988-6/1989	Riverside Hospital, Nigeria
7/1989-6/1991	1989-1991	7/1989-6/1991	Jamaica Residency
[App. predates]	1991-1994	1991-1994	Middletown, Ohio
[App. predates]	<i>1994-1999</i>	<i>8/1994-9/2000</i>	Centerville, Illinois

[App. predates] 1999-2002 11/2000-5/2002 Riverside Hospital, Nigeria

[App. predates] [CV predates] 7/2002-3/2003 Hamot Residency

(St. Ex. 13 at 76; St. Ex. 2 at 29; Resp. Ex. A).

18. Regarding his transition from the Brookdale Residency to the Metropolitan Residency, Dr. Ekwulugo explained that he had left the Brookdale Residency, which is located in Brooklyn, for the Metropolitan Residency, which is located in Manhattan, because he had been, by that time, living in Manhattan rather than Brooklyn. Dr. Ekwulugo testified that that Brooklyn is “a long distance” from Manhattan, and that it often took him three hours to get home in the evening. He added that he also had friends in the Metropolitan Residency. Dr. Ekwulugo explained that he had lived in Brooklyn when he first moved to New York but that, by the time he started the Brookdale Residency, he had moved from Brooklyn to Manhattan. Upon review of records maintained by the Metropolitan Residency, however, Dr. Ekwulugo acknowledged that those records list his address as being in Brooklyn. Dr. Ekwulugo could not explain why the Metropolitan Residency records listed his address as Brooklyn even though he had supposedly left Brooklyn at least one year before entering the Metropolitan Residency. (Tr. at 19-20, 50-54, 61, 149-152, 231-235).
19. Regarding his departure from the Metropolitan Residency in March 1988, Dr. Ekwulugo testified that the need for “vacation” had arisen on the spur of the moment. He explained that he had needed to address a family problem in Nigeria. Being the oldest son, it had been Dr. Ekwulugo’s obligation to return to Nigeria to help the family. (Tr. at 71-72, 78).

Dr. Ekwulugo further testified that, when he left the Metropolitan Residency early on March 10, 1988, he had reported his departure to the fourth year resident who was the leader of his group. He stated that the Chief Resident had not been aware of his departure on that date because the Chief Resident had not been the leader of his group. (Tr. at 154-160).

Dr. Ekwulugo testified that, although the leader of his group had given him permission to leave on March 10, 1988, the Chief Resident had felt that Dr. Ekwulugo should not have left. Dr. Ekwulugo stated that that had been the reason that the Chief Resident wrote the memorandum regarding his being missing from the program. (Tr. at 218-219).

Dr. Ekwulugo testified that he had returned to speak with Dr. Clare a few or several days later, and that Dr. Clare had arranged for his leave to be taken as vacation. Dr. Ekwulugo testified that he had had a private conversation with Dr. Clare regarding his need to leave the United States and that, initially, Dr. Clare had not supported his decision to leave. (Tr. at 71-72, 78-79, 82).

Dr. Ekwulugo testified that he had not left the country until the end of March due to the time required to obtain the necessary documentation. Dr. Ekwulugo stated that the problem with Dr. Clare and the Metropolitan Residency had been “straightened out” before Dr. Ekwulugo left for Nigeria. (Tr. at 79, 82).

When asked why he had not continued to participate in the Metropolitan Residency after March 10, despite the fact that he had not left the country until the end of March, Dr. Ekwulugo responded:

I was trying to convince the program that I was going to go. They didn’t let me go immediately. I started talking to them because after a while they did let me go.

(Tr. at 214). He added that it had been a few weeks before the Metropolitan Residency had advised him that he had permission to leave. He further stated that it had taken some time to prepare himself and his family for the trip. (Tr. at 215-216).

20. When asked why he had had to leave the Metropolitan Residency so urgently, despite the fact that he had not left the country for several weeks, Dr. Ekwulugo testified as follows:

Because I -- First of all, I left that day to -- you know -- I can’t remember the details, everything in detail, but I know that in a nutshell that we had a conference and it was decided that I can eventually leave. * * * Well, you know, I can’t recall the detail of what’s everything that, you know, how it happened. And but I know that I did my -- I told her that I was leaving and what was the reason why I left early. There must be a reason why I left. I can’t remember in detail why I left early.

(Tr. at 221-225). Dr. Ekwulugo’s inability to recall the reason he left the hospital that day continued for the next several minutes. When Dr. Ekwulugo’s attorney suggested that a call from Dr. Ekwulugo’s family in Nigeria may have been one of the reasons, however, Dr. Ekwulugo testified that a call from his family had been one of the reasons. (Tr. at 225-231).

21. Dr. Ekwulugo testified that he had planned to go to Nigeria and return to the Metropolitan Residency, but that he had had difficulty returning to the United States from Nigeria. He testified that he had worked in Nigeria until 1989. When he returned, his position in the Metropolitan Residency was no longer available. Therefore, he entered the program at the Jamaica Residency. Dr. Ekwulugo testified that he had completed that program in 1991. (Tr. at 21-22, 160-161).
22. Dr. Ekwulugo testified that he remembers the incident in which he had been accused of using abusive language toward a patient at the Jamaica Hospital. Dr. Ekwulugo further testified that he remembers Dr. Abitbol speaking to him about the incident.

Dr. Ekwulugo denied that he had used abusive language, and explained that the patient had been an intravenous drug abuser who was very agitated. Dr. Ekwulugo stated that the patient had caused problems for other staff members and security had been called to intervene. Dr. Ekwulugo added that the patient had had a lot of influence in the hospital because she was the mother of one of the matrons, or senior nurses, in the hospital. (Tr. at 85-88).

Dr. Ekwulugo testified that he could not recall if Dr. Abitbol had threatened him with disciplinary action if such an incident should recur. Dr. Ekwulugo testified that he did not remember, in part, because Dr. Abitbol had “used these words like that all the time.” (Tr. at 87).

23. Dr. Ekwulugo stated that he had not acknowledged in his restoration application that his privileges as Chief Resident at the Jamaica Hospital had been suspended for failure to complete medical records. He stated that he had not mentioned it because it had been “a common occurrence.” In fact, Dr. Ekwulugo testified that he could not remember how many times his privileges as Chief Resident at the Jamaica Hospital had been suspended for failure to complete medical records. On the other hand, Dr. Ekwulugo testified that he had not really been suspended from his position as Chief Resident, because the program could not have functioned if that had happened. (Tr. at 93-96).

24. Dr. Ekwulugo stated that he did not believe that he had been warned or disciplined during his Jamaica Residency, in part, because Dr. Abitbol had stated in the 1992 request for information regarding Dr. Ekwulugo that Dr. Ekwulugo had not “been warned, censured, disciplined, had admissions monitored, or privileges limite[d].” Nevertheless, Dr. Ekwulugo admitted that he had not seen that document prior to the hearing. (Resp. Ex. G; Tr. at 173-174, 176).

25. Dr. Ekwulugo stated that, after living in Nigeria between 2000 and 2002, he had realized that his primary care skills were deficient. Dr. Ekwulugo also testified that he had needed additional Continuing Medical Education Credits. Therefore, when he returned to the United States in 2002, he did so with an intention to obtain experience in primary care. For that reason, he decided to enter the Hamot Residency. (Tr. at 23-24, 190-192, 212).

Dr. Ekwulugo testified that he had remained at the Hamot Residency for nine months. Dr. Ekwulugo explained that he had not intended to complete the residency program, but had wanted only to rotate through the various departments. Dr. Ekwulugo further explained that, because it had been so long since he had attended medical school, his performance had been less than satisfactory. Nevertheless, he stated that the instructors had been very understanding and encouraged him to withdraw, adding that it would not be held against him since it had been so long since he had completed medical school. (Tr. at 24, 32-38).

Dr. Ekwulugo acknowledged, however, that the Hamot Residency had refused to renew his contract and Dr. Miskimmin had advised him that he could no longer see patients at Hamot. Dr. Ekwulugo explained that Dr. Miskimmin had made that decision because he had not answered a number of pages while he was on call. Dr. Ekwulugo argued, however, that he had failed to respond to the call because his senior resident had told him that she would respond to the page but that the senior resident had not done so in a timely manner. (Tr. at 39-41).

Finally, Dr. Ekwulugo testified that the Hamot Family Practice Residency had closed in 2004. (Tr. at 206; Resp. Ex. R).

26. Dr. Ekwulugo testified that, after leaving the Hamot Residency, he had decided to return to the practice of obstetrics and gynecology. He stated that he had been offered a position in Cleveland, Ohio, which is why he had submitted an application for restoration of his certificate to practice in Ohio. (Tr. at 24).
27. Dr. Ekwulugo acknowledged that, when he submitted his December 12, 2003, Restoration Application, he had answered “No” to question number 4 which asked, in part, whether he had “ever been warned by” a residency. (Tr. at 29-30; St. Ex. 2 at 13).

Dr. Ekwulugo explained that he had not considered the warning for failure to attend sufficient conferences a warning that warranted reporting on the application. Dr. Ekwulugo testified that all residents get similar warnings. (Tr. at 31-32).

Dr. Ekwulugo further acknowledged that he had answered “No” to question number 4 which also asked, in part, whether he had ever “been refused renewal of a contract by” a residency. (Tr. at 38; St. Ex. 2 at 13). Dr. Ekwulugo acknowledged, however, that “from a legal point of view,” he had been refused renewal of his contract with the Hamot Residency and should have answered “Yes.” Nevertheless, Dr. Ekwulugo reasoned that,

I wasn't thinking about going to Hamot as if I was doing a residency program. I thought I finished my residency program. So in my mindset I wasn't thinking about the Hamot program as if I'm doing a residency program because I wasn't really going through it as to become a family physician.

(Tr. at 38). Dr. Ekwulugo concluded that he had not considered his experience at the Hamot Residency to be a residency for him. (Tr. at 209-210).

28. Dr. Ekwulugo testified that his failure to mention the Brookdale Residency in his application for licensure was merely an oversight. Dr. Ekwulugo explained that he had had no reason to hide the Brookdale Residency since he had done well there. (Tr. at 50-54, 61, 150-152).

29. Dr. Ekwulugo testified that his claim in the resume portion of his application that he had worked at Riverside Hospital from January 1985 to June 1987, when in fact he had worked only until 1986, was also merely an oversight. (Tr. at 60-61).
30. Dr. Ekwulugo testified that his claim in the resume portion of his application that he had worked at the Metropolitan Residency from July 1987 to June 1988, when in fact he had worked only until March 1988, had not been an oversight; rather, it had been “a mistake on [his] part.” (Tr. at 60-61).
31. Dr. Ekwulugo testified that he has not worked as a physician since leaving the Hamot Residency. (Tr. at 235).
32. Dr. Ekwulugo testified that he had passed the written examination for board certification in obstetrics and gynecology. Dr. Ekwulugo testified that he has not yet taken and passed the oral examinations for board certification. He stated that he is board eligible. (Tr. at 181-183).

In his application for restoration, however, Dr. Ekwulugo stated that he had been board certified in obstetrics and gynecology in June 1991. (Tr. at 15-16; St. Ex. 2 at 3).

33. Kay Rieve testified at the request of the Hearing Examiner. Ms. Rieve testified that she is the Administrative Officer for the Board. In that capacity, Ms. Rieve is familiar with the application documents used by the Board. Ms. Rieve stated that the Board considers an application for licensure to consist of both the Request for Application and the Application itself. (Tr. at 99-112, 123).

FINDINGS OF FACT

1. On or about December 12, 2003, Emeka Obinna Ekwulugo, M.D., submitted to the Board an application for restoration of his license to practice medicine and surgery in Ohio [Restoration Application]. The Restoration Application is currently pending. By signing the Restoration Application, Dr. Ekwulugo certified that the information provided therein was true.
2. Dr. Ekwulugo answered “No” in response to question number 4 in the “Additional Information” section of his Restoration Application, which asks:

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?

- a. In fact, on December 2, 2002, Dr. Ekwulugo was issued a written warning regarding his failure to attend sufficient conferences while he was a resident in family practice at the Hamot Family Practice Residency [Hamot Residency] located in Erie, Pennsylvania.
 - b. Moreover, on January 29, 2003, Dr. Ekwulugo was notified that the Hamot Residency would not renew his residency contract due in part to unsatisfactory rotation completion.
 - c. Further, on March 26, 2003, Dr. Ekwulugo was removed from clinical responsibilities at the Hamot Residency due in part to patient safety concerns.
3. On or about July 12, 1991, Dr. Ekwulugo submitted to the Board an Application for Certificate – Medicine or Osteopathic Medicine [Original Application]. By signing the Original Application, Dr. Ekwulugo certified that the information provided therein was true.
 4. As part of the Original Application process, Dr. Ekwulugo was required to “list ALL postgraduate training (internship, residency or clinical fellowship), undertaken in the U.S. or Canada.” Nevertheless, Dr. Ekwulugo failed to list the fact that he had been in an obstetrics and gynecology residency program at Brookdale University Hospital [Brookdale Residency] located in Brooklyn, New York, from July 1986 to June 1987.
 5. As part of the Original Application process, Dr. Ekwulugo was required to “list ALL activities” in the Resume portion of the Original Application.
 - a. Although Dr. Ekwulugo stated that he had been a “Medical Officer” at Riverside Hospital in Onitsha, Nigeria, from January 1985 to June 1987, he had; in fact, been in the Brookdale Residency from July 1986 to June 1987.
 - b. Further, Dr. Ekwulugo indicated in the Resume that he had been an obstetrics and gynecology resident at Metropolitan Hospital Center [Metropolitan Residency], affiliated with New York Medical College and located in New York, New York, from July 1987 to June 1988. In fact, Dr. Ekwulugo had failed to report to work at the Metropolitan Residency after on or about March 10, 1988. Moreover, Dr. Ekwulugo failed to disclose his activities after March 10, 1988.
 6. Dr. Ekwulugo answered “No” in response to question number 4 in the “Additional Information” section of his Original Application, which asks:

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, or postdoctoral training program?

- a. On November 16, 1989, Dr. Ekwulugo was warned by the obstetrics and gynecology residency associated with the Jamaica Hospital Medical Center [Jamaica Residency] located in Jamaica, New York, about using abusive language to a patient, specifically about his having referred to the patient as “garbage.” Moreover, Dr. Ekwulugo was advised that a repetition of such conduct could lead to dismissal or nonrenewal of his residency contract.
 - b. Further, on June 12, 1991, Dr. Ekwulugo was suspended from the position of chief resident by the Jamaica Residency because he had failed to complete approximately 300 medical records charts.
7. On or about June 20, 1989, Dr. Ekwulugo submitted an application to the Jamaica Residency. In that application, Dr. Ekwulugo failed to list or otherwise identify his Brookdale Residency.
 8. The State did not provide sufficient evidence that Dr. Ekwulugo inappropriately answered “No” in response to question number 4 in the “Additional Information” section of Dr. Ekwulugo’s Original Application based on the allegation that,

On or about June 7, 1988, the Metropolitan Residency issued a notice to [Dr. Ekwulugo] advising that [Dr. Ekwulugo was] subject to discipline, up to and including termination, for being absent from [his] position in the residency program and for misconduct, to wit, falsification of records due to [his] having falsified [his] status on his employment residency records.

(See Procedural Matters, paragraph 1, above.)

CONCLUSIONS OF LAW

1. The conduct of Emeka Obinna Ekwulugo, M.D., as set forth in Findings of Fact 3 through 6, constitutes “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.
2. The conduct of Dr. Ekwulugo as set forth in Findings of Fact 1 and 2 constitutes “fraud, misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the board,” as that clause is used in Section 4731.22(A), Ohio Revised Code.

3. The conduct of Dr. Ekwulugo as set forth in Findings of Fact 3 through 7 constitutes “publishing a false, fraudulent, deceptive, or misleading statement,” as that clause is used in Section 4731.22(B)(5), Ohio Revised Code, as in effect prior to March 9, 1999.
4. The conduct of Dr. Ekwulugo as set forth in Findings of Fact 1 and 2 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, podiatry, 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.

* * * * *

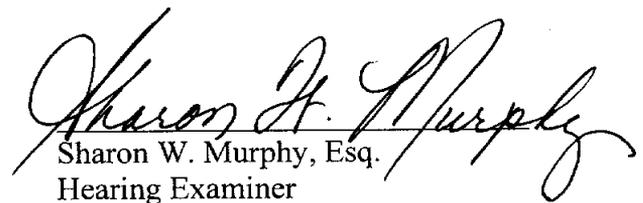
Dr. Ekwulugo made a number of untruthful statements in his applications for licensure in Ohio, in curriculum vitae, and in an application to a residency program. Moreover, since the omitted information would have revealed numerous problems in Dr. Ekwulugo’s post-graduate studies, the evidence supports a conclusion that Dr. Ekwulugo intended to deceive the Board when he completed his applications for licensure. Such a pattern of deceit indicates that Dr. Ekwulugo cannot be trusted to hold a certificate to practice in this state. Accordingly, permanent denial of his application for restoration is appropriate.

PROPOSED ORDER

It is hereby ORDERED that:

The application of Emeka Obinna Ekwulugo, M.D., for restoration of his certificate to practice medicine and surgery in the State of Ohio is PERMANENTLY DENIED.

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


Sharon W. Murphy, Esq.
Hearing Examiner



State Medical Board of Ohio

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

EXCERPT FROM THE DRAFT MINUTES OF FEBRUARY 9, 2005

REPORTS AND RECOMMENDATIONS

Dr. Davidson announced that the Board would now consider the findings and orders appearing on the Board's agenda. She asked whether each member of the Board had received, read, and considered the hearing records, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Emeka Obinna Ekwulugo, M.D.; Wenshi Gao, M.D.; Mahesh Chand Goel, M.D.; and Willie L. Josey, M.D. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye
	Ms. Sloan	- aye

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

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye
	Ms. Sloan	- aye

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

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

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

EMEKA OBINNA EKWULUGO, M.D.

.....

DR. GARG MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF EMEKA OBINNA EKWULUGO, M.D. DR. STEINBERGH SECONDED THE MOTION.

.....

A vote was taken on Dr. Garg's motion to approve and confirm:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.



State Medical Board of Ohio

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August 11, 2004

Emeka Obinna Ekwulugo, M.D.
5211 W. Ridge Road
Erie, PA 16506

Dear Doctor Ekwulugo:

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 December 12, 2003, you submitted to the Board an application for restoration of your license to practice medicine and surgery [Restoration Application]. The Restoration Application is currently pending. By signing the Restoration Application, you certified that the information provided therein was true.
- (2) You answered "No" in response to question number 4 in the "Additional Information" section of your Restoration Application, which asks:

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?

- (a) In fact, on or about December 2, 2002, you were issued a written warning regarding your failure to attend sufficient conferences while you were a resident in family practice at the Hamot Family Practice Residency [Hamot Residency] located in Erie, Pennsylvania.
- (b) Further, on or about January 29, 2003, you were notified that the Hamot Residency would not renew your residency contract due in part to unsatisfactory rotation completion.

Mailed 8-12-04

- (c) Further, on or about March 26, 2003, you were removed from clinical responsibilities at the Hamot Residency due in part to patient safety concerns.
- (3) On or about July 12, 1991, you submitted to the Board an Application for Certificate – Medicine or Osteopathic Medicine [Original Application]. By signing the Original Application, you certified that the information provided therein was true.
- (4) As part of the Original Application process, you were required to “list ALL postgraduate training (internship, residency or clinical fellowship), undertaken in the U.S. or Canada.”

You failed to list the fact that you were in an OB/GYN residency program at Brookdale University Hospital [Brookdale Residency] located in Brooklyn, New York, from in or about July 1986 to in or about June 1987.

- (5) You were required to “list ALL activities” in the Resume portion of the Original Application.
 - (a) Although you stated that you were a “Medical Officer” at Riverside Hospital in Onitsha, Nigeria, from January 1985 to June 1987; in fact, from in or about July 1986 to June 1987 you were in the Brookdale Residency.
 - (b) Further, you indicated in the Resume that you were an OB/GYN resident at Metropolitan Hospital Center [Metropolitan Residency], affiliated with New York Medical College and located in New York, New York, from July 1987 to June 1988; in fact, you failed to report to work at the Metropolitan Residency after on or about March 10, 1988, and you further failed to disclose your activities after on or about March 10, 1988.
- (6) You answered “No” in response to question number 4 in the “Additional Information” section of your Original Application, which asks:

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, or postdoctoral training program?

 - (a) In fact, on or about June 7, 1988, the Metropolitan Residency issued a notice to you advising that you were subject to discipline, up to and including termination, for being absent from your position in the residency program and for misconduct, to wit, falsification of records due to your having falsified your status on your employment residency records.

- (b) Further, on or about November 16, 1989, you were warned by the OB/GYN residency associated with the Jamaica Hospital Medical Center [Jamaica Residency] located in Jamaica, New York, about using abusive language to a patient, specifically having referred to the patient as “garbage” and advised that a repetition could lead to dismissal or nonrenewal.
 - (c) Further, on or about June 12, 1991, you were suspended from the position of chief resident by the Jamaica Residency as you had failed to complete approximately 300 “medical records charts.”
- (7) On or about June 20, 1989, you caused to be submitted to the Jamaica Residency an application. You failed to list or otherwise identify your Brookdale Residency in said application.

Your acts, conduct, and/or omissions as alleged in paragraphs (3) through (6) above, individually and/or collectively, constitute “fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the board,” as that clause is used in Section 4731.22(A), Ohio Revised Code, as in effect prior to March 9, 1999.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (1) and (2) above, individually and/or collectively, constitute “fraud, misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the board,” as that clause is used in Section 4731.22(A), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (3) through (7) above, individually and/or collectively, constitute “publishing a false, fraudulent, deceptive, or misleading statement,” as that clause is used in Section 4731.22(B)(5), Ohio Revised Code, as in effect prior to March 9, 1999.

Further, your acts, conduct, and/or omissions 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, podiatry, 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.

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.

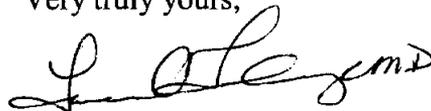
You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at 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/blt
Enclosures

CERTIFIED MAIL # 7000 0600 0024 5144 3057
RETURN RECEIPT REQUESTED

cc: Eric Plinke, Esq.
Porter, Wright, Morris & Arthur
41 S. High St.
Columbus, OH 43215-6194

CERTIFIED MAIL # 7000 0600 0024 5144 3064
RETURN RECEIPT REQUESTED