State Medical Board of Ohio

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April 12, 2006

Amy J. Chaho, M.D.
3407 Kings Mill Run
Rocky River, OH 44116

Dear Doctor Chaho:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Patricia A. Davidson, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on April 12, 2006, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order.

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

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

THE STATE MEDICAL BOARD OF OHIO

Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

CERTIFIED MAIL NO. 7003 0500 0002 4329 8432
RETURN RECEIPT REQUESTED

Cc: Aaron H. Bulloff, Esq.
CERTIFIED MAIL NO. 7003 0500 0002 4329 8456
RETURN RECEIPT REQUESTED

Mailed 4-28-06

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Patricia A. Davidson, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on April 12, 2006, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order; constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Amy J. Chaho, 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)

April 12, 2006
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF	*
	*
AMY J. CHAHO, M.D.	*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on April 12, 2006.

Upon the Report and Recommendation of Patricia A. Davidson, State Medical Board Attorney Hearing Examiner, designated in this Matter pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the modification, approval and confirmation by vote of the Board on the above date, the following Order is hereby entered on the Journal of the State Medical Board of Ohio for the above date.

It is hereby ORDERED that:

Amy J. Chaho, M.D. is **REPRIMANDED**.

Lance A. Talmage, M.D.
Secretary

(SEAL)

April 12, 2006
Date

STATE MEDICAL BOARD
OF OHIO

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REPORT AND RECOMMENDATION
IN THE CONSOLIDATED MATTERS OF AMY J. CHAHO, M.D.

The Consolidated Matters of Amy J. Chaho, M.D., were heard by Patricia A. Davidson, Hearing Examiner for the State Medical Board of Ohio, on January 31, 2006.

INTRODUCTION

I. Basis for Hearing

A. By letter dated July 13, 2005, the State Medical Board of Ohio [Board] notified Amy J. Chaho, M.D., of proposed disciplinary action against her certificate to practice medicine and surgery in Ohio. The Board's action was based on allegations that the West Virginia Board of Medicine [West Virginia Board] had issued an order denying her a medical license. Further, the Board alleged that, when it had asked Dr. Chaho to authorize the release of her licensure file by the West Virginia Board, she had not signed the authorization and had made a false statement to the Board. (State's Exhibit 1A)

The Board alleged that Dr. Chaho's conduct constitutes "[m]aking a false, fraudulent, deceptive, or misleading statement * * * in relation to the practice of medicine and surgery * * * 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 R.C. 4731.22(B)(5). In addition, the Board alleged that Dr. Chaho's conduct constitutes the "failure to cooperate in an investigation conducted by the board under division (F) of this section," as that clause is used in R.C. 4731.22(B)(35). In addition, the Board alleged that the West Virginia Board's denial of a license constitutes the "denial of a license" by "the agency responsible for regulating the practice of medicine and surgery * * * in another jurisdiction," as that clause is used in R.C. 4731.22(B)(22).

Accordingly, the Board advised Dr. Chaho of her right to request a hearing. (State's Exhibits 1A, 1M) On July 21, 2005, the Board received Dr. Chaho's request for a hearing. After several continuances, the hearing was scheduled to proceed on January 31, 2006. (State's Exhibits 1B, 1K, 1O, 1Q)

B. By letter dated January 11, 2006, the Board notified Dr. Chaho of a further allegation, that she had failed to make a required disclosure on her West Virginia application and had thus committed an additional violation of R.C. 4731.22(B)(5). The Board advised Dr. Chaho of her right to request a hearing on this matter. (State's Exhibit 1R)

On January 25, 2006, Dr. Chaho's attorney, Aaron H. Buloff, Esq., requested a hearing as to the January 2006 notice. Mr. Buloff and the State's counsel agreed to consolidate the two matters for hearing and to address both matters in the hearing already scheduled for January 31, 2006, without further continuance. (State's Exhibits 1S-1V)

II. Appearances

A. On behalf of the State of Ohio: Jim Petro, Attorney General, by Tara L. Berrien, Assistant Attorney General.

B. On behalf of the Respondent: Aaron H. Buloff, Esq.

EVIDENCE EXAMINED

I. Testimony Heard

Amy J. Chaho, M.D.

II. Exhibits Examined

A. Presented by the State

1. State's Exhibits 1A through 1W: Procedural exhibits.

2. State's Exhibit 2A: Certified copy of a December 14, 2004, letter from the West Virginia Board to Dr. Chaho.

   State's Exhibit 2B: Certified copy of the West Virginia Board's Order dated January 21, 2005, denying Dr. Chaho's application.

3. State's Exhibit 3: Copy of letter to Dr. Chaho from Charles A. Woodbeck, Enforcement Attorney for the Board, dated March 10, 2005.

4. State's Exhibit 4: Copy of Dr. Chaho's response to Mr. Woodbeck dated March 25, 2005.

5. State's Exhibit 5: Certified copies of documents maintained by the West Virginia Board regarding Dr. Chaho.

6. State's Exhibit 6: Certified copies of documents maintained by the Pennsylvania State Board of Medicine [Pennsylvania Board].

B. Presented by the Respondent

1. Respondent's Exhibit 1: Copy of a March 2005 letter from Mr. Woodbeck to Dr. Chaho (same as State's Exhibit 3).

2. Respondent's Exhibit 2: Copy of a March 2005 letter from Dr. Chaho to Mr. Woodbeck (same as State's Exhibit 4).

3. Respondent's Exhibit 3: Copy of an April 2005 letter to Dr. Chaho from the Board.

4. Respondent's Exhibits 4-5: Copies of April 2005 letters from Dr. Chaho to insurance companies.

5. Respondent's Exhibits 6-9: Copy of an April 2005 cover letter from Dr. Chaho to the Board accompanying a completed form and additional page of information.

6. Respondent's Exhibit 10: (withdrawn)

7. Respondent's Exhibit 11: Copy of two pages from Dr. Chaho's licensure application to the West Virginia Board.

8. Respondent's Exhibit 12: Copy of a completed questionnaire and cover sheet relating to Dr. Chaho's West Virginia application.

9. Respondent's Exhibit 13: Copy of three pages of instructions from the Pennsylvania Board regarding application requirements, with notes.

10. Respondent's Exhibit 14: Copy of signature page from a contract between Dr. Chaho and the Allegheny Medical Practice Network dated July 14, 2004.

11. Respondent's Exhibit 15: Copy of letter dated July 30, 2004, from Pennsylvania Board to Dr. Chaho.

12 Respondent's Exhibits 16-17: Copy of response from Dr. Chaho to the Pennsylvania Board dated August 10, 2004, and mail receipt.

13. Respondent's Exhibit 18: Copy of supplemental response from Dr. Chaho to the Pennsylvania Board dated August 25, 2004.

14. Respondent's Exhibit 19: Copy of recommendation letter dated March 3, 2005, from William Scott Taylor, M.D., Program Director, regarding Dr. Chaho's residency at Franklin Square Hospital Center, Baltimore, Maryland.

15. Respondent's Exhibits 20-22: Copies of recommendation letters from faculty members at Franklin Square Hospital Center in March and April 2005.

16. Respondent's Exhibit 23: Copy of recommendation letter dated July 22, 2005, from Donovan Dietrick, M.D., Program Director, Franklin Square Hospital Center.

17. Respondent's Exhibit 24: Copy of letter from LaMar Wyse, President/CEO of Galion Community Hospital, Galion, Ohio, regarding Dr. Chaho.

18. Respondent's Exhibit 25: Copy of letter from the American Board of Obstetrics and Gynecology informing Dr. Chaho that her board certification had been renewed.

19. Respondent's Exhibit 26: Copy of final evaluation from Franklin Square Hospital Center with a September 2005 letter from the Program Director.

20. Respondent's Exhibit 27: Copy of an amended final evaluation from Franklin Square Hospital Center with a December 2005 letter from the Program Director.

21. Respondent's Exhibit 28: Copy of a Letter of Intent signed by Dr. Chaho and Galion Community Hospital in July 2005.

22. Respondent's Exhibit 29: Copy of Dr. Chaho's curriculum vitae.

PROCEDURAL MATTERS

Following the hearing, the Hearing Examiner noted that State's Exhibit 6 included pages showing patient information and the Respondent's Social Security number. In a telephone conference on March 6, 2006, the Hearing Examiner and counsel agreed on items to be redacted from the exhibit.

In addition, the Hearing Examiner advised counsel during this conference that, upon review of State's Exhibit 5 following the hearing, the Hearing Examiner had found that only 10 of 111 pages included patient information. The Hearing Examiner proposed that, rather than seal the entire exhibit, it would be more appropriate to redact the patient information and any Social Security numbers. Counsel did not object to this modification and agreed on the specific items to be redacted. The hearing record then closed on March 6, 2006.

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.

Background

1. Amy J. Chaho, M.D., received her bachelor's degree from the University of Pennsylvania in 1983 and graduated in June 1988 from the University of Guadalajara School of Medicine in Mexico. Dr. Chaho then graduated in June 1989 from the fifth pathway program at the University of California at Irvine. In 1993, she completed a four-year residency in obstetrics and gynecology [OB/GYN] at Kern Medical Center in Bakersfield, California, affiliated with the University of California. (State's Exhibit [St. Ex.] 5 at 58, 106; Respondent's Exhibit [Resp. Ex.] 29; Transcript [Tr.] at 28, 30)

2. Dr. Chaho received her Ohio certificate in 1993 and later became board certified in OB/GYN. She testified that she was employed as a house physician at Fairview General Hospital and Lutheran Hospital in Cleveland, Ohio, from August 1993 to December 2001. From January 2002 to June 2002, Dr. Chaho was employed by Physician Staffing, Inc., to work

at Southwest General Health Center in Middleburg Heights, Ohio, and Parma Hospital in Parma, Ohio, according to her testimony. (St. Ex. 5 at 36-37, 52; Tr. at 31; Resp. Ex. 25)

3. In June 2002, Dr. Chaho left the practice of medicine and went into a retail venture with her husband. However, by March 2004, Dr. Chaho had decided to return to medicine. According to her CV, Dr. Chaho's employment in the retail venture ended in June 2004. (St. Ex. 5 at 37, 52; Tr. at 30, 44, 63-65)

4. During March and April 2004, Dr. Chaho worked on licensure applications for Pennsylvania and West Virginia. (Tr. at 63-65)

Dr. Chaho's Submission of her West Virginia Application

5. In April 2004, Dr. Chaho completed her application to practice medicine in West Virginia, including an affidavit executed on April 22, 2004, in which she swore that her answers and all the statements in the application were true and correct. On April 27, 2004, she signed the application, according to the date written next to her signature. (St. Ex. 5 at 33-38; Tr. at 32-33)

6. The application required information regarding licensure in other states, pursuant to the following instructions:

> List all licenses held in other states or jurisdictions regardless of the status of that license (i.e., active, inactive, lapsed, expired, revoked, suspended, or surrendered) and list any state or jurisdiction in which *you have ever applied for a medical license,* including those where your application was withdrawn. (Emphasis added)

(St. Ex. 5 at 36) Dr. Chaho inserted the following information (in italics):

I have applied for licensure in the following states:	Year	Granted		Permanent or Temporary	License Number	* * *	Status (see list above)
		Yes	No				
Ohio	*1993*	√		*Perm*	*35064676*	* * *	*Active*
California	*1988*	√		*Perm*	*A048854*	* * *	*Active*

(St. Ex. 5 at 36)

7. Dr. Chaho's cover letter for the West Virginia application is dated April 28, 2004. On April 30, 2004, the West Virginia Board received Dr. Chaho's application, according to the date stamp on the application. (St. Ex. 5 at 36, 38, 102; Tr. at 32)

8. In a letter dated May 14, 2004, Dr. Chaho stated that she was enclosing additional documentation for her West Virginia application. (St. Ex. 5 at 46)

Dr. Chaho's Submission of her Pennsylvania Application

9. Dr. Chaho also submitted an application to the Pennsylvania Board in April 2004. No date stamp or written notation appears on the Pennsylvania application to show when the Pennsylvania Board received it. However, several dates written on the application and cover letters give an indication of timing. For example, Dr. Chaho wrote the date "3-27-04" next to her signature where she verified the truthfulness of her statements. In addition, Dr. Chaho typed the date "April 22, 2004" at the top of a narrative statement explaining one of her answers. Further, Dr. Chaho testified that she had typed the cover letter on April 22, 2004, although she had mistyped the date as "April 22, 2003," which she explained was simply a typographical error. (St. Ex. 6 at 12-15, 52; Tr. at 33-34, 39-41, 57)

   Dr. Chaho testified that, although she had prepared the cover letter on April 22, 2004, she did not mail the application on that date. Dr. Chaho testified that she did not remember exactly when she had mailed the Pennsylvania application. (Tr. at 41-43)

10. In a cover letter to the Pennsylvania Board dated April 28, 2004, Dr. Chaho stated that she was enclosing a notarized copy of her ECFMG scores, and she noted that the board should already have her fifth pathway certificate. (St. Ex. 6 at 49)

    In another cover letter dated April 28, 2004, Dr. Chaho informed the Pennsylvania Board that she was enclosing her "response to the National Data Banks." She further stated that her "application for licensure should now be complete."[1] (St. Ex. 6 at 56)

11. According to her testimony, Dr. Chaho telephoned the Pennsylvania Board at some point to inquire about her application and was informed that it had been received on May 11, 2004. (Tr. at 43-46, 67-69)

12. Dr. Chaho testified that she had made handwritten notes regarding her submission of various materials to the Pennsylvania Board. These notes indicate that she "submitted" several items on "4-22-04," including pages 1 and 2 of the application, the application fee, her CV, and her marriage license. The notes also indicate that, on "4-28-04," Dr. Chaho had sent information provided by the National Practitioner Data Bank pursuant to a self-query. Another note states: "Application 'received' 5-11-04 by them. " (Resp. Ex. 13; Tr. at 67)

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[1] A review of State's Exhibit 6 indicates that the documents provided by the Pennsylvania Board do not include a full and complete copy of an application form for Dr. Chaho. Pages 1 and 2 of the Pennsylvania application are located at pages 13 and 14 of St. Ex. 6. Page 3 of the application was not found. Page 4 of the application is located at page 58 of the exhibit. No page 5 was found. Page 6 is located at page 57 of the exhibit. No page 7 was found. Three copies of page 8 are located at pages 59, 61, and 63 of the exhibit. Two copies of page 9 are provided at pages 60 and 62. No page 10 was found. Seven copies of page 11 are located at pages 69 through 75. A separate sheet explaining an answer is at page 12 of the exhibit. Documentation regarding medical education and other matters is found throughout State's Exhibit 6.

The Denial of the West Virginia Application

13. On July 10, 2004, Dr. Chaho was interviewed by the West Virginia Board. She completed a questionnaire stating that she would begin work at Women's Health Specialists in Wheeling, West Virginia, by August 1, 2004, if her application were approved. (St. Ex. 5 at 24, 27-29)

14. In a letter dated July 12, 2004, the West Virginia Board notified Dr. Chaho that it had decided that she must take and pass the Special Purpose Examination [SPEX] to obtain a West Virginia license. (St. Ex. 5 at 24, 26-29)

15. Dr. Chaho testified that, as of July 14, 2004, she was no longer interested in licensure by the West Virginia Board because it had required the SPEX, which would delay her employment. She stated that she had been prepared to start work at the beginning of August and was waiting only for the license. Dr. Chaho testified that, when the West Virginia Board informed her that she must take the SPEX, she had "abandoned the West Virginia application," as evidenced by her signing a contract with a Pennsylvania employer on July 14, 2004. Dr. Chaho testified that, at the time she signed the contract with the Pennsylvania employer on July 14, 2004, she "no longer sought licensure in West Virginia." (Resp. Ex. 14; Tr. at 52, 78-79, 115, 120)

16. Dr. Chaho nonetheless applied to take the SPEX and paid the fee of $1000. Dr. Chaho testified that she had kept putting off the testing date because she was not sure she was going to take the SPEX. She also testified that she did not know whether the fee was refundable and did not inquire. Dr. Chaho agreed that she could have withdrawn the West Virginia application if she were no longer seeking licensure in that state. (Tr. at 47-48, 54-56)

17. On September 28, 2004, Dr. Chaho took the SPEX examination. (St. Ex. 5 at 18-20)

18. On October 7, 2004, the Federation of State Medical Boards issued the SPEX results, stating that Dr. Chaho had scored 73. That score was not a passing score for West Virginia licensure. Dr. Chaho testified that she had not passed the SPEX for two reasons: first, she had not studied for the test because she had decided to take it just for practice, because her upcoming specialty boards would otherwise be her first wholly computerized test; and, second, the SPEX focuses on general medicine, whereas she had been specializing in OB/GYN. (Tr. at 49, 85-86; St. Ex. 5 at 18-20)

19. In a letter dated December 14, 2004, the West Virginia Board notified Dr. Chaho that it had decided to deny her application based on the SPEX results and three malpractice settlements. The board further notified Dr. Chaho that she had 30 days to appeal that decision. (St. Ex. 2A)

20. In an Order dated January 21, 2005, the West Virginia Board, having received no notice of appeal, confirmed the denial of Dr. Chaho's application, as follows:

> The Board determined that Dr. Chaho is unqualified to practice medicine and surgery in the State of West Virginia, due to violating provisions of West Virginia Code §30-3-14(c)(17) and (20) and 11 CSR 1A 12.1(i) and (x), relating to failing to obtain a passing grade on the SPEX examination, an examination designed

> to assist in assessing current clinical competence requisite for general undifferentiated medical practice, demonstrating a lack of professional competence, and failing to practice medicine with that level of care, skill and treatment which is recognized by a reasonable prudent physician engaged in the same or similar specialty as being acceptable under similar conditions or circumstances.

(St. Ex. 2B; St. Ex. 5 at 5-7)

Dr. Chaho's Withdrawal of her Pennsylvania Application

21. After the Pennsylvania Board reviewed Dr. Chaho's application, it sent her a letter dated July 30, 2004, requesting that she provide further information. On August 10 and August 25, 2004, Dr. Chaho sent information in response. (Resp. Ex. 15-18; St. Ex. 6 at 9-15)

22. By letter dated September 30, 2004, Dr. Chaho received notice that the Pennsylvania Board had determined that it would be inclined to grant her a license on the condition that she receive a favorable evaluation of competency from an independent assessment program. The letter explained that Dr. Chaho could appeal this determination if she chose not to participate in the evaluation. (St. Ex. 6 at 3-5; Tr. at 34-36)

    Dr. Chaho testified that, after receiving this notice that she must pass an evaluation or pursue an appeal in order to obtain a license in Pennsylvania, she had decided to cease pursuing the Pennsylvania license. According to Dr. Chaho, an additional factor was that, a few days before she received the notice, her prospective employer in Pennsylvania had withdrawn its offer due to the delay. Dr. Chaho testified that these events prompted her to pursue her third offer, which was in Ohio. (Tr. at 35-39, 75-84, 120; Resp. Exs. 16-18)

23. On October 4, 2004, while the Pennsylvania and West Virginia applications were still pending, Dr. Chaho entered a one-year residency program in OB/GYN at Franklin Square Hospital Center, in Baltimore, Maryland. She explained that she took the position because she needed paid employment and wanted to refresh her skills, among other reasons. (Tr. at 18, 88; Resp. Ex. 27)

24. Dr. Chaho testified that, in December 2004, she had informed the Pennsylvania Board that she wished to withdraw her application. A handwritten note in the Pennsylvania Board's file, dated April 20, 2005, confirms that Dr. Chaho withdrew her application. (Tr. at 36; St. Ex. 6 at 2)

Correspondence with the Ohio Board in 2005

25. In a letter dated March 10, 2005, Charles A. Woodbeck, an Enforcement Attorney for the Board, wrote to Dr. Chaho as follows:

    > We understand you recently applied for licensure from the West Virginia Board of Medicine. We would appreciate you authorizing the release of your West

> Virginia Board license file to the State Medical Board of Ohio, since you have an active Ohio license.
>
> Please complete, and sign in the presence of a Notary Public, the enclosed Release form. We have included a self-addressed, pre-paid return envelope.
>
> Should you have any questions on this matter, please give me a call * * *.

(St. Ex. 3, Resp. Ex. 1)

26. Dr. Chaho responded in a letter to Mr. Woodbeck dated March 25, 2005, which was postmarked March 30, 2005, stating as follows:

> Thank you for your letter regarding my old application to West Virginia. I originally applied to West Virginia *but have since decided not to pursue licensure in that state.* It seems that their malpractice crisis is worse than Ohio's. I was not aware that I needed to inform Ohio of *a mere application* for licensure in another state. This was not an issue when I moved to Ohio from California. Is there some new regulation I need to be aware of?

(St. Ex. 4; Resp. Ex. 2) (Emphasis added)

27. Dr. Chaho acknowledged that, when she had responded to Mr. Woodbeck's letter in March 2005, she had described the events in West Virginia as a "mere application for licensure" and had not mentioned that the license had been denied. However, she explained that she had believed that, if the Ohio Board knew about the West Virginia application, then it already knew about the denial, and already had access to the application. Dr. Chaho asserted that she had not understood what Mr. Woodbeck's letter was requesting, that the Ohio Board wanted the entire file. Consequently, she had not understood why the Ohio Board "would be asking for something that they already had," according to her testimony. (Resp. Exs. 1-2; St. Exs. 3-4; Tr. at 53-54, 119)

    Dr. Chaho further testified that she had little experience with releases and had not understood about agreeing "to release and ever hold harmless the West Virginia Board of Medicine." In addition, she stated that she had "felt threatened" by the letter and had thought, "What did they want? Why did they want it? How would it affect me?" Dr. Chaho explained that, although the Board's letter had invited her to ask questions via telephone, she had thought it wiser to make a written response. (Tr. at 96-97)

    In addition, Dr. Chaho testified that she had expected to get a response to her inquiry. However, she testified that she had never gotten a response. (Tr. at 96-98)

28. Dr. Chaho insisted that her intention had always been to cooperate with the Board. To demonstrate this, she presented evidence of her cooperation with the Board's other request during the same period of time. First, Dr. Chaho submitted a letter that she had received from the Board's Secretary, dated April 5, 2005, in which the Secretary had explained that the Board had received information regarding malpractice settlements paid on her behalf and that the Board

wanted her to provide a "written response to the attached inquiries within 30 days." The Secretary cautioned that "Failure to fully respond within that time could result in subpoena or other proceedings." (Resp. Ex. 3; Tr. at 101-104, 109, 127, 129, 133)

Second, Dr. Chaho submitted documents showing her response to this request: her letters to insurance companies dated April 21, 2005, asking them to provide information to assist her in responding to the Board; her written response to the Board's questions; and her letter to the Board dated April 24, 2005, in which she described her current residency program, provided contact information for insurers, and inquired as to further information that the Board might wish to have. [2] (Resp. Ex. 3-9)

29. On July 25, 2005, while Dr. Chaho was engaged in her residency in Baltimore, she signed a "Letter of Intent for Physician Recruitment Agreement" with Galion Community Hospital. On August 1, 2005, LaMar Wyse, President/CEO of the hospital, wrote to the Ohio Board regarding the Board's July 13 letter to Dr. Chaho (the notice of opportunity for hearing). (Resp. Exs. 24, 28)

    Mr. Wyse explained that the hospital had a signed letter of intent for Dr. Chaho "to establish an OB/GYN practice in Galion following completion of her training in Baltimore." He stated that the community had an "extreme need for women's health services" because there was only one OB/GYN specialist based in a county with more than 45,000 people. Mr. Wyse applauded the Board for working to "keep bad people and bad physicians from practicing medicine in Ohio," and he expressed the belief that "Dr. Chaho is both a good person and a good physician," based on Dr. Chaho's interviews with him and others at the hospital and based on their review of her training and references. Mr. Wyse indicated that Dr. Chaho had been candid with the hospital regarding her circumstances, and he expressed the hope that the Board would favorably consider Dr. Chaho's situation. (Resp. Exs. 24, 28)

Additional Testimony Regarding the Concurrent Preparation and Filing of the Applications

30. Dr. Chaho testified that the process of completing the licensure applications for West Virginia and Pennsylvania had been involved and time-consuming. She explained that the process had involved lengthy application forms, voluminous documentation from various sources, and requests to several institutions to send documents directly. She explained that she had worked on both applications during the same period of time in March and April 2004. She testified that, at the time she had answered the question on the West Virginia application about prior applications in other states, her answer had been correct: she had not previously submitted an application to the Pennsylvania Board nor was one pending before that board when she wrote her answer. She stated that she had not thought to list an incomplete application on which she

[2] The State objected to these exhibits, asserting that they were not relevant and could be unduly prejudicial to Dr. Chaho, but Dr. Chaho persisted, and the evidence was admitted for the limited purpose of demonstrating that Dr. Chaho had cooperated fully with the Board's request for information in its April 5, 2005, letter. (Tr. at 101-102, 127, 129, 133; see, also, "Legal Issue" in this report.)

was working and which had not yet been submitted. Dr. Chaho testified that she had no reason to hide her Pennsylvania application from the West Virginia Board, and that she had no intent to mislead. (Tr. at 39-42, 44-45, 63-73, 111)

Completion of the Residency and Specialty Board Recertification

31. In October 2005, Dr. Chaho completed her one-year OB/GYN residency at Franklin Square Hospital Center in Baltimore. Faculty members and program directors praised her in written recommendations. In December 2005, Donovan Dietrick, M.D., Program Director, provided a copy of Dr. Chaho's final evaluations and noted that, although no letter or number grades are used, her evaluations "would compare to a 4+" on a five-point scale. (Resp. Ex. 19-23, 26-27; Tr. at 90-92)

32. By letter dated August 3, 2005, the American Board of Obstetrics and Gynecology notified Dr. Chaho that she had "satisfactorily passed the Maintenance of Certification evaluation process given on June 27, 2005," and that her board certification had been renewed for six years. (Resp. Ex. 25; Tr. at 30-31)

LEGAL ISSUE

During the hearing, the State asked the Hearing Examiner to exclude exhibits relating to the incidents underlying Dr. Chaho's malpractice settlements. The State explained that evidence regarding those incidents was not relevant in the present matter and should not be considered. Specifically, the State urged that "the Board should not consider [Respondent's Exhibits 3 through 8, relating to malpractice claims] when imposing a sanction" and emphasized that "the Board is not taking action on any underlying conduct of competence or lack thereof or any malpractice actions or claims." (Tr. at 127)

The State made clear that "we are not here for a minimal standards case or any kind of competence issues." Therefore, the State explained, it is "not appropriate to look at the underlying conduct of malpractice actions or competence or lack thereof." The State emphasized that Respondent's Exhibits 3 though 8 had been admitted solely to demonstrate Dr. Chaho's cooperation with a Board request for information and that the evidence was otherwise "irrelevant" to the issues in the present hearing. (Tr. at 127, 101-102; Tr. at 129, 133)

The Hearing Officer concurs. In the pertinent notice of opportunity for hearing, the Board has not alleged that Dr. Chaho's level of care or skill fell below minimal standards in any instance of patient care. At the hearing, the State did not attempt to prove any instance of substandard patient care. Consequently, the evidence in the record regarding specific patients and their care is not relevant to the allegations in the notices of opportunity for hearing, and was not considered by the Hearing Examiner in determining the Findings of Fact, Conclusions of Law, or Proposed Order.

FINDINGS OF FACT

1. Amy J. Chaho, M.D., mailed an "Application for a License to Practice Medicine Without Restriction for Graduates of Unaccredited Medical Schools" to the Pennsylvania State Board of Medicine [Pennsylvania Board] on a date between April 22 and April 27, 2004, inclusive.[3] The date on which Dr. Chaho mailed the Pennsylvania application cannot be established with greater certainty, given the present record. The evidence does not include a date stamp or other notation by the Pennsylvania Board showing the date of receipt. Although the cover letter was prepared on April 22, 2004, that does not conclusively establish when it was mailed.

   However, subsequent cover letters to accompany supplemental submissions were dated April 28, 2004, so it is highly probable that the first cover letter and the initial application materials were mailed prior to April 28, 2004. In sum, the credible evidence is sufficient to establish that the Pennsylvania application was mailed prior to April 28, 2004, but no earlier than April 22, 2004.

2. Dr. Chaho also submitted an application for a license to practice medicine and surgery in West Virginia. This application included her sworn affidavit, executed on April 22, 2004, declaring that her answers and all statements in the application were true and correct.

   Dr. Chaho mailed the application to the West Virginia Board on April 28, 2004, which was the date on the cover letter, or on April 29, 2004. The application was received by the West Virginia Board on April 30, 2004, according to the date that was stamped on it.

   On page four of the West Virginia application, Dr. Chaho answered a question regarding prior applications in other states. The instructions stated:

   > List all licenses held in other states or jurisdictions regardless of the status of that license (i.e., active, inactive, lapsed, expired, revoked, suspended, or surrendered) and list any state or jurisdiction in which you have ever applied for a medical license, including those where your application was withdrawn.

   In response to this question, Dr. Chaho listed her licenses in Ohio and California. She did not list the Pennsylvania application.

3. At the time that Dr. Chaho mailed her West Virginia application, she had already mailed her Pennsylvania application: the Pennsylvania application had been mailed between April 22 and April 27, 2004, inclusive, whereas the West Virginia application was not mailed until April 28 or 29, 2004. Neither application was complete when mailed, however, and Dr. Chaho continued to mail required documentation to both the Pennsylvania and West Virginia Boards.

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[3] On the cover letter accompanying the application, Dr. Chaho typed the date of "April 22, 2003." However, that was a typographical error, as she had intended to type "April 22, 2004."

Although the Pennsylvania application may be viewed as "pending" at the time that Dr. Chaho mailed her West Virginia application, the evidence is insufficient to establish an intent to give an untruthful or inaccurate answer on the West Virginia application when stating that the only prior licenses or applications were in Ohio and California. The response on the West Virginia application was true when it was written down, and any inaccuracy resulting from the subsequent mailing sequence of the 2004 applications was inadvertent.

4. In an Order dated January 21, 2005, the West Virginia Board denied Dr. Chaho's application for a license to practice medicine and surgery, as follows:

> The Board determined that Dr. Chaho is unqualified to practice medicine and surgery in the State of West Virginia, due to violating provisions of West Virginia Code §30-3-14(c)(17) and (20) and 11 CSR 1A 12.1(i) and (x), relating to failing to obtain a passing grade on the SPEX examination, an examination designed to assist in assessing current clinical competence requisite for general undifferentiated medical practice, demonstrating a lack of professional competence, and failing to practice medicine with that level of care, skill and treatment which is recognized by a reasonable prudent physician engaged in the same or similar specialty as being acceptable under similar conditions or circumstances. (Emphasis in original)

5. On or about March 10, 2005, the State Medical Board of Ohio [Ohio Board] sent a letter to Dr. Chaho, asking her to sign an authorization permitting the West Virginia Board to release her licensure application file to the Ohio Board.

   On or about March 25, 2005, Dr. Chaho responded. She did not enclose the signed authorization but stated as follows in a letter:

> Thank you for your letter regarding my old application to West Virginia. I originally applied to West Virginia but have since decided not to pursue licensure in that state. It seems that their malpractice crisis is worse than Ohio's. I was not aware that I needed to inform Ohio of a mere application for licensure in another state. This was not an issue when I moved to Ohio from California. Is there some new regulation I need to be aware of?

6. The import of Dr. Chaho's letter, based on both the affirmative statements as well as the omissions, was two-fold: that the proceedings before the West Virginia Board consisted of "a mere application" and that Dr. Chaho had voluntarily chosen to discontinue her efforts to be licensed in West Virginia. The truth, however, was the West Virginia Board had denied her application on substantive grounds at a time when she still had an interest in being licensed in that state.

   Dr. Chaho's testimony was not credible when she asserted that she had had no further interest in practicing in West Virginia as of July 14, 2004, nor was she credible in explaining her reasons for taking the SPEX after that date. The documentary evidence shows that, throughout the months of July, August, and September 2004, Dr. Chaho was pursuing all her options, keeping all her "irons in the fire," so to speak. On July 10, 2004, Dr. Chaho avowed her intent

to work in West Virginia and then she took the SPEX on September 28, 2004, never having withdrawn her West Virginia application.

In addition, her testimony included a number of other inconsistencies. For example, Dr. Chaho indicated in her March 2005 letter to the Ohio Board that she had rejected West Virginia because that state was experiencing a malpractice crisis. However, she later testified in the hearing that she had rejected West Virginia because the SPEX requirement would prevent her from starting work as planned.

In sum, Dr. Chaho did not rule out West Virginia until she failed the SPEX. Therefore, her omissions and affirmative statements in her March 2005 letter were most likely intended to distort the truth.

7. In its letter dated March 10, 2005 (see Finding of Fact 5 above), the Ohio Board expressed to Dr. Chaho that it would appreciate her authorizing a release of her West Virginia license file, and invited her to ask questions that she might have. Dr. Chaho responded by letter with adequate promptness. She did not refuse to sign the release but asked for more information.

CONCLUSIONS OF LAW

1. The denial of a medical license to Amy J. Chaho, M.D., by the West Virginia Board of Medicine [West Virginia Board], as set forth above in Finding of Fact 4, constituted an action "taken by the agency responsible for regulating the practice of medicine and surgery * * * in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand," as that clause is used in R.C. 4731.22(B)(22).

2. Dr. Chaho's omissions and affirmative statements in her March 2005 letter to the Ohio Board, as set forth above in Findings of Fact 5 and 6, constitute "[m]aking a * * * misleading statement * * * in relation to the practice of medicine and surgery * * * 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 R.C. 4731.22(B)(5).

3. Dr. Chaho's omissions and affirmative statements in her March 2005 letter to the Ohio Board, as set forth above in Findings of Fact 5 and 6, also constitute a "failure to cooperate in an investigation conducted by the board under division (F) of this section" as that clause is used in R.C. 4731.22(B)(35).

4. Dr. Chaho's conduct in answering the question on the West Virginia licensure application regarding other licensure applications, as set forth above in Findings of Fact 1, 2, and 3, does not constitute "[m]aking a false, fraudulent, deceptive, or misleading statement * * * in relation to the practice of medicine and surgery * * * 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 R.C. 4731.22(B)(5).

To the extent that Dr. Chaho submitted her Pennsylvania application several days before she submitted her West Virginia application, the evidence is insufficient to establish a knowing or intentional failure to disclose the requested information on the West Virginia application. The evidence indicates that the two applications were being prepared at the same time and that the answer on the West Virginia application was correct when written.

5. The evidence is insufficient to establish that Dr. Chaho's conduct in failing to return a signed release with her letter dated March 25, 2005, as set forth in Findings of Fact 5 and 7, constituted a "failure to cooperate in an investigation conducted by the board under division (F) of this section" as that clause is used in R.C. 4731.22(B)(35).

* * * * *

Two sanctionable events are set forth in the Conclusions of Law: the denial of a license by another jurisdiction, and the making of a misleading statement to the Ohio Board. With respect to the licensure denial, the West Virginia Board relied on two grounds, failure to pass the SPEX and concern regarding Dr. Chaho's competence and her level of care, skill, and treatment.

With respect to the first ground, no sanction is proposed on the basis of Dr. Chaho's score of 73 on the SPEX. As a duly licensed and board-certified physician in Ohio, Dr. Chaho was not required to take or pass the SPEX, and her score of 73 was not an event that in and of itself would constitute a violation of Ohio law or otherwise subject an Ohio physician to disciplinary action.

Second, with respect to the West Virginia Board's determination regarding Dr. Chaho's competence and level of care, skill, and treatment, the State has strongly urged that this Board should not address issues of competence or minimal standards in the present disciplinary action. The Hearing Examiner, concurring with that limitation, has not based a proposed sanction on those grounds.

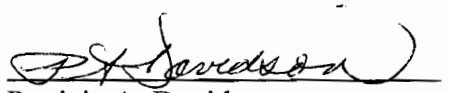
Next, Dr. Chaho equivocated in her letter to the Board in March 2005. She omitted part of the truth and stretched the rest. However, the sanction proposed is not as harsh as those that may be seen in cases where a physician, after being placed on notice that he or she is formally certifying the truth and accuracy of a document such as a licensure application or CME report, has unequivocally certified a falsehood. Similarly, her failure to cooperate in an investigation did not rise to the level of completely refusing to speak with an investigator or making efforts to evade an investigator. The failure to cooperate was minimal.

PROPOSED ORDER

It is hereby ORDERED that:

The certificate of Amy J. Chaho, M.D., to practice medicine and surgery in the State of Ohio shall be SUSPENDED for thirty days.

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



Patricia A. Davidson
Hearing Examiner

State Medical Board of Ohio

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EXCERPT FROM THE DRAFT MINUTES OF APRIL 12, 2006

REPORTS AND RECOMMENDATIONS

Dr. Robbins announced that the Board would now consider the findings and orders appearing on the Board's agenda. He noted that the case of Gary Ray Lutz, D.O., which was scheduled for this meeting, would be considered at a later time due to the inability to achieve timely service of the Report and Recommendation on Dr. Lutz.

Dr. Robbins 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: Amy J. Chaho, M.D.; Jeffrey James Fierra, M.D.; Gary Ray Lutz, D.O.; and David A. Rath, M.D.; A roll call was taken:

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

Dr. Robbins 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. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye

Dr. Robbins 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. In the matters before the Board today, Dr. Talmage served as Secretary and Mr. Albert served as Supervising Member.

Dr. Robbins 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.

AMY J. CHAHO, M.D.

Dr. Robbins directed the Board's attention to the matter of Amy J. Chaho, M.D. He advised that no objections were filed to Hearing Examiner Davidson's Report and Recommendation.

MR. BROWNING MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF AMY J. CHAHO, M.D. DR. KUMAR SECONDED THE MOTION.

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

Dr. Kumar noted that Dr Chaho holds a current license in Ohio. This matter pertains to licensure applications she filed in Virginia and Pennsylvania. Both states were in the process of denying her applications pending her meeting certain requirements. West Virginia wanted her to take the SPEX, and Pennsylvania wanted an independent evaluation of her competence. She did not report that to the Ohio Board. Dr. Kumar indicated that questions were raised in both states due to some cases she handled while working in Ohio, which they felt to be below minimal standards. Dr. Kumar noted that Dr. Chaho's standard of care is not the issue before the Board at this time. He stated that she was not forthcoming on licensure applications. She tried to hide the West Virginia and Pennsylvania actions.

Dr. Kumar stated that he doesn't have any real qualm with the Proposed Order, suspending Dr. Chaho's license for 30 days; but he would like to require that she pass courses in professional and personal ethics.

Dr. Egner stated that she feels a little differently about this case. She noted that Dr. Chaho didn't come to the Board's attention through misrepresenting on a renewal application. She got a call from this Board and explained that she had withdrawn her West Virginia application, which was partly true but not entirely true. Later, West Virginia denied her a license. Dr. Egner stated that she can certainly see where Dr. Chaho didn't tell West Virginia about her Pennsylvania application, because it appears that she was filing them simultaneously. Dr. Egner commented that the Hearing Examiner found that Dr. Chaho's offenses were minimal. Dr. Egner stated that she would be in favor of dismissing this case. Had Dr. Chaho lied on

her renewal application to the Board, it would have been a whole different story.

Dr. Kumar stated that, in a sense, he feels the same way, and he could go along with what Dr. Egner is proposing. Dr. Kumar stated that he does believe that there are ethics issues involved, and the Board needs to take those into consideration. Dr. Kumar suggested issuing a reprimand and requiring Dr. Chaho to complete ethics courses.

Dr. Buchan stated that he came to the meeting today anticipating offering an amendment to reprimand had Dr. Chaho appeared before the Board. He believes that she didn't tell the Board the truth, and that she tried to avoid doing so. Dr. Buchan stated that a reprimand is appropriate. However, since Dr. Chaho did not appear, he would support the Proposed Order, as written.

Mr. Browning recommended issuing a reprimand in this case. He stated that he thinks that Dr. Chaho deserves a reprimand. He stated that the Board should handle this case in the way it deserves to be handled, whether Dr. Chaho is here or not. Mr. Browning stated that he would agree to require Dr. Chaho to complete ethics courses, if that is what the Board wishes.

DR. KUMAR MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF DR. CHAHO WITH AN ORDER REPRIMANDING DR. CHAHO AND REQUIRING HER TO COMPLETE A PERSONAL ETHICS COURSE. DR. VARYANI SECONDED THE MOTION.

Dr. Egner asked whether a reprimand is reportable to the National Practitioners Data Bank.

Ms. Thompson stated that it is.

Dr. Buchan stated that he would prefer to just reprimand Dr. Chaho and leave it at that. He believes that Dr. Chaho does get the message.

Mr. Browning agreed.

Dr. Davidson also agreed, stating that the addition of the course requirement makes this case look more serious than it was.

Dr. Kumar agreed to remove the course requirement from his motion. Dr. Varyani, as second, also agreed.

A vote was taken on Dr. Kumar's motion:

Vote:		
	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye

Mr. Browning	- aye
Dr. Davidson	- aye

The motion carried.

MR. BROWNING MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF AMY J. CHAHO, M.D. DR. VARYANI SECONDED THE MOTION. A vote was taken:

Vote:

Mr. Albert	- abstain
Dr. Egner	- aye
Dr. Talmage	- abstain
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Dr. Davidson	- aye

The motion carried.

State Medical Board of Ohio

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January 11, 2006

Amy Jane Chaho, M.D.
3407 Kings Mill Run
Rocky River, Ohio 44116

Dear Doctor Chaho:

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 July 13, 2005, the Board issued a citation to you. That matter is pending.

(2) On or about April 27, 2004, you caused to be submitted an application for a license to practice medicine and surgery to the West Virginia Board of Medicine [West Virginia Application]. After being duly sworn on or about April 22, 2004, you signed the West Virginia Application "Affidavit" certifying that your answers and all statements made therein were true and correct.

On page four of the West Virginia Application, you were required to: "List all licenses held in other states or jurisdictions regardless of the status of that license (i.e., active, inactive, lapsed, expired, revoked, suspended, or surrendered) and list any state or jurisdiction in which you have ever applied for a medical license, including those where your application was withdrawn." You made the below entries:

I have applied for licensure in the following states:	Year	Granted *** YES ***	Permanent or Temporary	License Number	Licensure Based Upon: FLEX ***	Status (see list above)
Ohio	1993	X	Perm	350646676	X	Active
California	1988	X	Perm	A048854	X	Inactive

Mailed 1-12-06

In fact, you failed to disclose that on or about April 22, 2003, you submitted an "Application for a License to Practice Medicine Without Restriction for Graduates of Unaccredited Medical Schools" to the Pennsylvania State Board of Medicine [Pennsylvania Application].

The Pennsylvania Application, which was subsequently withdrawn, was pending when you submitted your West Virginia Application.

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

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.

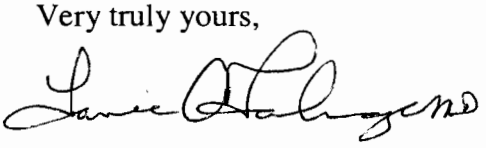
You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at 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 # 7003 0500 0002 4330 3488
RETURN RECEIPT REQUESTED

cc: Aaron H. Bulloff, Esq.
Kadish, Hinkel and Weibel, LPA
1717 East Ninth Street, Suite 2112
Cleveland, Ohio 44114

CERTIFIED MAIL # 7003 0500 0002 4333 4406
RETURN RECEIPT REQUESTED

State Medical Board of Ohio

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

July 13, 2005

Amy Jane Chaho, M.D.
3407 Kings Mill Run
Rocky River, Ohio 44116

Dear Doctor Chaho:

In accordance with R.C. Chapter 119., 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 you or place you on probation for one or more of the following reasons:

(1) On or about January 21, 2005, the West Virginia Board of Medicine (West Virginia Board) issued an Order confirming the denial of licensure notice you had received on or about December 17, 2004.

The West Virginia Board determined you are unqualified to practice medicine and surgery in the State of West Virginia and voted unanimously to deny you a license, due to violating provisions of the West Virginia Code and Rules relating to failing to obtain a passing grade on the SPEX examination, demonstrating a lack of professional competence, and failing to practice medicine with that level of care, skill and treatment which is recognized by a reasonable prudent physician engaged in the same or similar specialty as being acceptable under similar conditions or circumstances.

A copy of the West Virginia Board Order is attached hereto and incorporated herein.

(2) On or about March 10, 2005, the State Medical Board of Ohio (Ohio Board) requested you sign an authorization permitting the West Virginia Board to release your licensure application file to the Ohio Board.

On or about March 25, 2005, you responded to the Ohio Board, without signing the authorization, stating:

* * *

> I originally applied to West Virginia but have since decided not to pursue licensure in that state. It seems that their malpractice crisis is worse than Ohio's. I was not aware that I needed to inform Ohio of a mere application for licensure in another state.

* * *

Mailed 7.14.05

In fact, you did not decide "not to pursue licensure in that state;" the West Virginia Board had notified you on or about December 17, 2004, they had determined you were unqualified for licensure in West Virginia and denied your application for licensure, as provided in paragraph one (1) above.

The West Virginia Board Order, as alleged in paragraph one (1) above, constitutes "[a]ny of the following actions taken by the agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or the limited branches of medicine in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand," as that clause is used in R.C. 4731.22(B)(22).

Further, your acts, conduct, and/or omissions, as alleged in paragraph two (2) above, individually and/or collectively, constitute "[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board," as that clause is used in R.C. 4731.22(B)(5).

Further, your acts, conduct, and/or omissions, as alleged in paragraph two (2) above, individually and/or collectively, constitute a "failure to cooperate in an investigation conducted by the board under division (F) of this section..." as that clause is used in R.C. 4731.22(B)(35).

Pursuant to R.C. Chapter 119., 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, R.C. 4731.22(L), 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/cw
Enclosures

CERTIFIED MAIL # 7003 0500 0002 4340 6424
RETURN RECEIPT REQUESTED

BEFORE THE WEST VIRGINIA BOARD OF MEDICINE

STATE MEDICAL BOARD
OF OHIO
2005 FEB 22 A 11: 36

IN RE:

AMY JANE CHAHO, M.D.

ORDER

The West Virginia Board of Medicine ("Board") at its regular meeting on November 8, 2004, reviewed the status of the application of Amy Jane Chaho, M.D., ("Dr. Chaho") for a license to practice medicine in the State of West Virginia, and voted unanimously to deny her such a license. The Board determined that Dr. Chaho is unqualified to practice medicine and surgery in the State of West Virginia, due to violating provisions of West Virginia Code §30-3-14(c)(17) and (20) and 11 CSR 1A 12.1(i) and (x) relating to failing to obtain a passing grade on the SPEX examination, an examination designed to assist in assessing current clinical competence requisite for general undifferentiated medical practice, demonstrating a lack of professional competence, and failing to practice medicine with that level of care, skill and treatment which is recognized by a reasonable prudent physician engaged in the same or similar specialty as being acceptable under similar conditions or circumstances.

The Board's denial of Dr. Chaho's application for license in the State of West Virginia was forwarded to her and was received by her on December 17, 2004. Said notice of denial provided a clear statement of appeal rights, declaring that if Dr. Chaho wished to appeal the decision of the Board, she should do so within thirty (30) days after the date upon which notice was received by her.

No appeal having been received, this matter of licensure denial to Dr. Chaho is therefore, by this Order, **CONFIRMED,** effective December 17, 2004, the date upon which notice of said licensure denial was received by Dr. Chaho.

Dated this 21st day of January, 2005.

West Virginia Board of Medicine

Angelo N. Georges, M.D.
President

Catherine Slemp, M.D., M.P.H.
Secretary

STATE MEDICAL BOARD
OF OHIO
2005 FEB 22 A 11: 36