



STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614)466-3934

December 3, 1997

Terrance E. Smith, M.D.
St. Ann's Hospital
500 S. Cleveland Avenue
Columbus, OH 43081

Dear Doctor Smith

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Sharon W. Murphy, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on December 3, 1997, 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 may be taken to the Franklin County Court of Common Pleas only.

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 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

Anand G. Garg, M.D.
Secretary

AGG:jam
Enclosures

CERTIFIED MAIL RECEIPT NO. Z 395 591 688
RETURN RECEIPT REQUESTED

cc: Janice K. Van Dyne, Esq.
CERTIFIED MAIL RECEIPT NO. Z 395 591 689
RETURN RECEIPT REQUESTED

Mailed 12/5/97

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 December 3, 1997, 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 Terrance E. Smith, 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.



Anand G. Garg, M.D.
Secretary

(SEAL)

Date 12/03/97

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

TERRANCE E. SMITH, M.D.

*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on December 3, 1997.

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:

1. The certificate of Terrance E. Smith, M.D., to practice medicine and surgery in the State of Ohio shall be SUSPENDED for an indefinite period of time, but not less than thirty (30) days.
2. The State Medical Board shall not consider reinstatement of Dr. Smith's certificate to practice unless all of the following minimum requirements have been met:
 - a. Dr. Smith shall submit an application for reinstatement, accompanied by appropriate fees.
 - b. Dr. Smith shall supply documentation, acceptable to the Board, of satisfactory completion of 100 hours of approved CME, at least forty (40) hours of which shall be Category I, for each biennium, if any, during which Dr. Smith's certificate remains suspended after the effective date of this Order.

3. Upon reinstatement, Dr. Smith's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for the biennium in which his certificate is reinstated and three (3) additional biennial registration periods:
 - a. Dr. Smith shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.
 - b. Dr. Smith shall submit, within thirty (30) days of the expiration of each registration period, documentation acceptable to the Board of satisfactory completion of the requisite hours of CME.
 - c. Dr. Smith shall provide documentation of successful completion of a course or courses dealing with personal ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the biennial registration period(s) in which they are completed.
4. Upon successful completion of probation, Dr. Smith's certificate will be fully restored.

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

(SEAL)



Anand G. Garg, M.D.
Secretary

12/03/97
Date

**REPORT AND RECOMMENDATION
IN THE MATTER OF TERRENCE E. SMITH, M.D.**

The Matter of Terrence E. Smith, M.D., was heard by Melinda R. Early, Attorney Hearing Examiner for the State Medical Board of Ohio, on October 14, 1997. Subsequently, for administrative reasons, the matter was reassigned to Attorney Hearing Examiner Sharon W. Murphy, to review the hearing record and write the Report and Recommendation.

INTRODUCTION

I. Basis for Hearing

A. By letter dated August 13, 1997, the State Medical Board of Ohio [Board] notified Terrence E. Smith, M.D., that it proposed to take disciplinary action against his certificate to practice medicine and surgery in Ohio based on the following allegations:

1. In applying for registration of his certificate to practice medicine or surgery for the current registration period, Dr. Smith certified that he had completed the requisite hours of Continuing Medical Education [CME], as required by Section 4731.281, Ohio Revised Code, for the registration period of July 1, 1994, through June 30, 1996.
2. On February 14, 1997, the Board advised Dr. Smith that he must complete a CME log detailing the CME he had completed for the registration period of July 1, 1994, through June 30, 1996. Additionally, the Board instructed Dr. Smith to provide documentation of completion of at least 40 hours of Category I CME during this period. On March 24, 1997, the Board again requested documentation of Dr. Smith's CME. On March 25, 1997, Dr. Smith advised the Board that he had not obtained the required Category I CME.
3. The Board informed Dr. Smith that his inability to document 40 hours of Category I CME rebutted the presumption under Rule 4731-10-08(A), Ohio Administrative Code, that he had completed the requisite hours of CME and/or demonstrated that he had failed to keep detailed records the CME he had taken.

The Board alleged that Dr. Smith's conduct, as demonstrated in paragraph (1), above, 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"; and/or "publishing a false, fraudulent, deceptive, or misleading statement,' as that clause is used in Section 4731.22(B)(5), Ohio Revised Code."

The Board further alleged that Dr. Smith's conduct, as demonstrated in paragraphs (2) and (3), above, constitutes "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter or any rule promulgated by the board,' as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Section 4731.281, Ohio Revised Code, and Rules 4731-10-03 and 4731-10-08 (as in effect prior to October 31, 1996), Ohio Administrative Code."

Finally, Dr. Smith was advised of his right to request a hearing in this matter. (State's Exhibit 1).

- B. On September 5, 1997, Janice K. Van Dyne and David W. Grauer, Esqs., requested a hearing on behalf of Dr. Smith. (State's Exhibit 2).

II. Appearances

- A. On behalf of the State of Ohio: Betty D. Montgomery, Attorney General, by Christopher E. Wasson, Assistant Attorney General.
- B. On behalf of the Respondent: Janice K. Van Dyne, Esq.

EVIDENCE PRESENTED

I. Testimony Heard

- A. Presented by the State
Debra L. Jones
- B. Presented by the Respondent
Terrence E. Smith, M.D.
Edward Boudreaud, M.D.

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II. Exhibits Examined

In addition to State's Exhibits 1 and 2, noted above, the following exhibits were identified and admitted into evidence:

A. Presented by the State

1. State's Exhibit 3: Copy of a September 8, 1997, letter to Ms. Van Dyne and Mr. Grauer from the Board advising that a hearing had been scheduled for September 15, 1997, but further advising that the hearing had been postponed pursuant to Section 119.09, Ohio Revised Code. (2 pp.)
2. State's Exhibit 4: Copy of a notice of appearance of counsel filed by Kevin P. Byers, Esq., on behalf of Dr. Smith on September 10, 1997.
3. State's Exhibit 5: Copy of a September 10, 1997, letter to Ms. Van Dyne from the Board scheduling a hearing for October 14, 1997. (2 pp.)
4. State's Exhibit 6: Copy of a notice of withdrawal of counsel filed by Kevin P. Byers, Esq., on September 16, 1997.
5. State's Exhibit 7: Copy of Dr. Smith's 1996-1998 licensure renewal application.
6. State's Exhibit 8: Copy of a February 14, 1997, letter to Dr. Smith from the Board, advising that he must complete a CME log and provide documentation of completion of 40 hours of Category I CME during the 1994-1996 registration period. (3 pp.)
7. State's Exhibit 9: Copy of a March 14, 1997, letter to Dr. Smith from the Board, again advising that he must complete a CME log and provide documentation of completion of 40 hours of Category I CME during the 1994-1996 registration period. (2 pp.)
8. State's Exhibit 10: Copy of a March 25, 1997, letter to the Board from Dr. Smith, admitting that he had not completed the required CME credits in the 1994-1996 registration period, and explaining personal difficulties during that period. (4 pp.)
9. State's Exhibit 11: Copy of CME log submitted by Dr. Smith to the Board on March 28, 1997. (2 pp.)

B. Presented by the Respondent

1. Respondent's Exhibit A: Copy of an April 15, 1997, letter from the Board to Dr. Smith advising that his file had been reviewed by the Executive Director of the Board.
2. Respondent's Exhibits B: Copy of certification that Dr. Smith completed a course on Medical Acupuncture for Physicians between November 1996 and March 1997 for 200 hours of Category I CME.
3. Respondent's Exhibits C: Copy of certification that Dr. Smith completed a Pain Management Symposium in January 1997 for a maximum of 7.5 hours Category I CME.
4. Respondent's Exhibits D: Copy of certification that Dr. Smith completed a course in Pain Medicine in February 1997 for 4.5 hours Category I CME.
5. Respondent's Exhibits E: Copy of certification that Dr. Smith attended the Annual Conference of the American Academy of Pain Medicine in February 1997 for 13.5 hours Category I CME.
6. Respondent's Exhibits F: Copy of certification that Dr. Smith attended the Medical Acupuncture Proficiency Examination Review Course in May 1997 for 22 hours Category I CME.
7. Respondent's Exhibits G: Copy of certification that Dr. Smith attended the Five Element Acupuncture for Physicians - Intermediate Program in September 1997 for 25 hours Category I CME.
8. Respondent's Exhibits H: An undated letter "To Whom It May Concern" from Kirk A. Hummer, RN, BSN, MBA, Vice President of Patient Care Services, St. Ann's Hospital, in support of Dr. Smith.
9. Respondent's Exhibits I: An October 9, 1997, letter "To Whom It May Concern" from J. Jeffrey Burnich, M.D., President, St. Ann's Hospital Medical Staff, in support of Dr. Smith.
10. Respondent's Exhibits J: An October 7, 1997, letter "To Whom It May Concern" from David A. Perdsock M.D., in support of Dr. Smith.

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11. Respondent's Exhibits K: An October 9, 1997, letter "To Whom It May Concern" from David L. Louis, M.D., Chairman, Department of Orthopaedic Surgery, St. Ann's Hospital, in support of Dr. Smith.
12. Respondent's Exhibits L: Copy of an August 15, 1997, letter from Bradley J. Williams, M.D., Chairman of the Examination Committee of the American Academy of Medical Acupuncture, advising Dr. Smith that he had successfully passed a recent Proficiency Examination.

III. Post-Hearing Admissions to the Record

On the Hearing Examiner's own motion, the following exhibit is admitted to the record:

Board Exhibit A: A November 5, 1997, Entry reassigning the hearing to Attorney Hearing Examiner Sharon W. Murphy, from Melinda R. Early, for administrative reasons.

SUMMARY OF THE EVIDENCE

All transcripts of testimony and exhibits, whether or not specifically cited, were thoroughly reviewed and considered by the Attorney Hearing Examiner prior to preparing this Report and Recommendation.

1. Terrence E. Smith, M.D., graduated from the Tufts School of Medicine. He completed a fellowship in internal medicine at Harvard University in 1978. Thereafter, Dr. Smith trained at the Massachusetts General Hospital in anesthesia. He is board certified in both internal medicine and anesthesia. Dr. Smith then obtained a position as a department head in critical care at the Massachusetts General Hospital. In 1982, he began a business establishing accredited anesthesia departments across the country. (Transcript [Tr.] at 20-22).

Dr. Smith testified that he has been licensed in as many as twelve states at one time as a result of his business. He stated that he has never had any board action taken against him. He further stated that he has never had a malpractice action initiated against him. (Tr. at 22-23).

Dr. Smith is currently the Department Chair of Anesthesia and the Medical Director of the Surgical Care Center at St. Ann's Hospital in Westerville, Ohio. In addition, Dr. Smith has been certified in acupuncture through the American Academy of Medical Acupuncture. He has been involved with Mount Carmel

Hospitals' recent recognition of the practice of acupuncture as a health care specialty. (Tr. at 20-22, 28-34; Respondent's Exhibits [Resp. Exs.] A, B, F, G, L).

2. Debra L. Jones, Chief of CME, Records, and Renewal for the Board, testified at hearing on behalf of the State. Ms. Jones testified that a physician licensed in Ohio must obtain one hundred hours of CME [continuing medical education] per biennium. She further stated that at least 40 of those hours must be Category I, which applies to medical education obtained from accredited programs approved by the American Medical Association or the Ohio State Medical Association. (Tr. at 10-11).
3. On May 1, 1996, Dr. Smith signed the 1996-1998 biennial renewal application for his certificate to practice medicine and surgery in Ohio. The renewal card advised that a physician licensed prior to July 1, 1994, must complete at least 40 hours of Category I CME between July 1, 1994, and June 30, 1996. When he signed his renewal card on May 1, Dr. Smith certified, under penalty of loss of his certificate to practice medicine, that he had completed, or would complete, the requisite CME credit hours before June 30, 1996. Dr. Smith had not yet completed any Category I CME for that period. (Tr. at 12-13, 42-46; State's Exhibit [St. Ex.] 7).
4. On February 14, 1997, the Board notified Dr. Smith that he must submit to the Board, within three weeks of the notice, a CME log and documentation verifying completion of 40 hours of Category I CME. An agent of Dr. Smith signed the certified mail receipt, but Dr. Smith did not respond to the notice. Accordingly, on March 24, 1997, the Board sent Dr. Smith a second notice requesting completion of the log and the provision of adequate documentation. The Board further advised that if Dr. Smith did not contact the Board within ten days, the Board would take disciplinary action against his certificate. (Tr. at 13-14, St. Exs. 8, 9).
5. By letter dated March 25, 1997, Dr. Smith advised the Board that during the period from July 1994 through June 1996, he "had neither the time nor money to obtain the required CME I credit hours." Moreover, Dr. Smith testified that he had not been able to take the required courses because he had been dealing with various personal problems. He stated that his company began to disintegrate in late 1993, which resulted in multiple bankruptcy proceedings. He was also involved in extensive litigation regarding divorce proceedings. In addition, during that time, he had had to move his residence from Boston to Westerville, Ohio, on very short notice. Finally, Dr. Smith stated that he had been integrally involved in restructuring the surgery/anesthesia departments at St. Ann's Hospital during that time period. (Tr. at 23-28; St. Ex. 10).

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Dr. Smith attached a log of CME with his March 25, 1997, letter. The log included no Category I CME for the relevant registration period. However, Dr. Smith did document over 200 hours of Category I CME obtained after June 30, 1996. (St. Ex. 11).

6. Dr. Smith testified that he had not meant to deceive the Board when he completed his renewal application. He stated that he had "assumed" that CME courses taken subsequent to the registration period would be considered by the board "if [he] could get to someone at the board and let them know what a horrible two year period [he had] had." (Tr. at 23-24, 43).

Nevertheless, despite his insistence that he did not intend to deceive the Board, Dr. Smith admitted that he had read the paragraph which advised that the penalty for falsely reporting completion of adequate CME was the loss of his right to practice medicine in Ohio. He further admitted that at the time he signed the renewal application, he had been aware of Ohio's CME requirements. Dr. Smith admitted that at the time he signed the renewal application, he had been aware that he had not obtained any Category I CME for that period. Finally, despite his assumption that credit hours obtained after the renewal period would be accepted by the Board, he admitted that he had not contacted the Board to confirm that his assumption was correct. (Tr. at 42-46). Dr. Smith described his conduct merely as an "error in judgment." (Tr. at 44).

7. Dr. Smith testified that he will never again fail to obtain adequate CME, or fail to report facts accurately to the Board. (Tr. at 37).
8. Edward Boudreaud, M.D., testified on behalf of Dr. Smith. Dr. Boudreaud is the senior vice-president for medical affairs at Mount Carmel Health System. Dr. Boudreaud had been on staff at St. Ann's Hospital since 1985. He has been familiar with Dr. Smith since 1995. Dr. Boudreaud testified as to Dr. Smith professional abilities and character, and concluded that Dr. Smith is a physician committed to education. (Tr. at 47-51).

Dr. Smith submitted additional letters of support. (Resp. Ex. H-K) [It should be noted, however, that the State did not have an opportunity to cross-examine the authors of these letters.]

FINDINGS OF FACT

1. Terrence E. Smith, M.D., renewed his certificate to practice medicine and surgery in Ohio for the 1996-1998 biennial registration period. The instructions that accompanied Dr. Smith's 1996-1998 renewal application specified that a minimum of

40 hours of Category I CME must be completed between July 1, 1994, and June 30, 1996. In submitting the application, Dr. Smith certified that he had completed, or would complete, the requisite hours of CME for the 1994-1996 biennial registration period.

2. On or about February 14, 1997, the Board advised Dr. Smith that he must complete a CME log detailing the CME he had completed for the registration period of July 1, 1994, through June 30, 1996. Additionally, the Board advised Dr. Smith that he would be required to submit documentation verifying completion of at least 40 hours of Category I CME. Dr. Smith did not respond to the Board's notice.
3. On or about March 24, 1997, the Board sent Dr. Smith a second notice requesting completion of the log and the provision of adequate documentation. The Board further advised that if Dr. Smith did not contact the Board within ten days, the Board would take disciplinary action against his certificate.
4. On or about March 28, 1995, Dr. Smith advised the Board that he had completed no Category I CME during the registration period of July 1, 1994, through June 30, 1996.
5. In completing and submitting his application for renewal, Dr. Smith intentionally misrepresented to the Board that he had completed 40 hours of Category I CME during the registration period of July 1, 1994, through June 30, 1996.

CONCLUSIONS OF LAW

1. The Findings of Fact support a conclusion that Terrence E. Smith, M.D., in failing to complete any Category I CME, violated a "provision of this chapter or any rule promulgated by the board," as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Section 4731.281, Ohio Revised Code, and Rules 4731-10-03 and 4731-10-08 (as in effect prior to October 31, 1996), Ohio Administrative Code."
2. The Findings of Fact support a conclusion that Dr. Smith'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" and "publishing a false, fraudulent, deceptive, or misleading statement," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code."

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The evidence revealed that Dr. Smith endured very difficult circumstances between 1994 and 1996. Nevertheless, his personal difficulties do not mitigate the seriousness of his conduct. Dr. Smith certified to the Board, under penalty of the loss of his right to practice medicine in this state, that he would complete the requisite Category I CME before the end of the registration period. Dr. Smith made this certification despite his full knowledge of the CME requirements and his belief that he would not meet those requirements.

Dr. Smith's argument that his misrepresentation was merely an "error in judgment" is not acceptable. Dr. Smith testified that he had "assumed" that the Board would accept hours acquired subsequent to the relevant period. However, he made no attempts to confirm his assumptions. Moreover, when the Board first requested a CME log from Dr. Smith, Dr. Smith chose not to respond. It was only when he was threatened with disciplinary action that Dr. Smith admitted to the Board that he had obtained no Category I CME during the registration period of July 1, 1994, through June 30, 1996. Accordingly, Dr. Smith's assertion that he did not intend to deceive the Board is not credible.

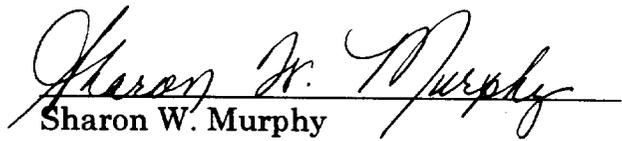
PROPOSED ORDER

It is hereby ORDERED that:

1. The certificate of Terrence E. Smith, M.D., to practice medicine and surgery in the State of Ohio shall be **SUSPENDED** for an indefinite period of time, but not less than thirty (30) days.
2. The State Medical Board shall not consider reinstatement of Dr. Smith's certificate to practice unless all of the following minimum requirements have been met:
 - a. Dr. Smith shall submit an application for reinstatement, accompanied by appropriate fees.
 - b. Dr. Smith shall supply documentation, acceptable to the Board, of satisfactory completion of 100 hours of approved CME, at least forty (40) hours of which shall be Category I, for each biennium, if any, during which Dr. Smith's certificate remains suspended after the effective date of this Order.

3. Upon reinstatement, Dr. Smith's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for the biennium in which his certificate is reinstated and three (3) additional biennial registration periods:
 - a. Dr. Smith shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.
 - b. Dr. Smith shall submit, within thirty (30) days of the expiration of each registration period, documentation acceptable to the Board of satisfactory completion of the requisite hours of CME.
 - c. Dr. Smith shall provide documentation of successful completion of a course or courses dealing with personal ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the biennial registration period(s) in which they are completed.
4. Upon successful completion of probation, Dr. Smith's certificate will be fully restored.

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


Sharon W. Murphy
Attorney Hearing Examiner



EXCERPT FROM THE DRAFT MINUTES OF DECEMBER 3, 1997

REPORTS AND RECOMMENDATIONS

Ms. Noble announced that the Board would now consider the findings and orders appearing on the Board's agenda.

Ms. Noble asked whether each member of the Board had received, read, and considered the hearing record, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Russell B. Allison, M.D.; Theresa E. Boyd, M.D.; Joseph C. Carver, M.D.; John C. Cheek, M.D.; Katherine A. Humes, M.D.; Muneer Mirza, D.P.M.; Laura Rosenbaum-Bloom, M.D.; Terrance E. Smith, M.D.; and Paul W. Wilson, D.O.

A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Heidt	- aye
	Dr. Egner	- aye
	Mr. Sinnott	- aye
	Dr. Buchan	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Ms. Noble	- aye

Mr. Sinnott indicated that he did not read the materials in the matter of Joseph C. Carver, M.D., and Paul W. Wilson, D.O., as his firm had earlier represented both physicians.

Ms. Noble 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. Heidt	- aye
	Dr. Egner	- aye
	Mr. Sinnott	- aye
	Dr. Buchan	- aye
	Dr. Stienecker	- aye

Dr. Agresta	- aye
Dr. Garg	- aye
Dr. Steinbergh	- aye
Ms. Noble	- aye

In accordance with the provision in Section 4731.22(C)(1), 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.

Ms. Noble 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.

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REPORT AND RECOMMENDATION IN THE MATTER OF TERRANCE E. SMITH, M.D.

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

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

VOTE:	Mr. Albert	- abstain
	Dr. Heidt	- abstain
	Dr. Egner	- aye
	Mr. Sinnott	- aye
	Dr. Buchan	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.



STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

August 13, 1997

Terrance E. Smith, M.D.
St. Ann's Hospital
500 S. Cleveland Avenue
Westerville, OH 43081-8998

Dear Dr. Smith:

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

- (1) In applying for registration of your certificate to practice medicine or surgery for the current registration period, you certified that you had completed during the last biennial period of acquisition of Continuing Medical Education (CME) (July 1, 1994 - June 30, 1996), the requisite hours of CME as required by Section 4731.281, Ohio Revised Code.
- (2) By a certified mail letter dated February 14, 1997, for which your agent signed on February 18, 1997, the State Medical Board of Ohio informed you that you were required to complete a log listing your CME for the July 1, 1994 - June 30, 1996, period and to provide documentation that you had actually completed at least forty (40) hours of Category I CME credits. By a certified mail letter dated March 24, 1997, for which your agent signed on March 26, 1997, the State Medical Board again requested that you submit documentation of your CME credits for the July 1, 1994 - June 30, 1996 period. By letter dated March 25, 1997, you stated that you had not obtained the required Category I CME.
- (3) Your inability to document at least forty hours of Category I CME as detailed in the above paragraph (2) rebuts the presumption under Rule 4731-10-08(A), Ohio Administrative Code, that you did complete the requisite hours of CME, and/or demonstrates that you failed to keep detailed records of CME taken.

mailed 8/25/97

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

Further, your acts, conduct, and/or omissions in certifying to the State Medical Board that you had completed the statutorily required CME, as set forth in the above paragraph (1), when you had not, in fact, done so, constitute "publishing a false, fraudulent, deceptive, or misleading statement," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (2) and (3) above, individually and/or collectively, constitute "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board," as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Section 4731.281, Ohio Revised Code, and Rules 4731-10-03 and 4731-10-08 (as in effect prior to October 31, 1996), Ohio Administrative Code.

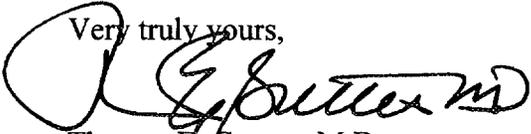
Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty (30) days of the time of mailing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

You are further advised that 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 (30) days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand or place you on probation.

Terrance E. Smith, M.D.
Page 3

Copies of the applicable sections are enclosed for your information.

Very truly yours,

Thomas H. Gretter, M.D.
Secretary

TEG/caf
Enclosures

CERTIFIED MAIL #P152 984 727
RETURN RECEIPT REQUESTED

rev.2/15/95

STATE MEDICAL BOARD
OF OHIO
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