



# STATE MEDICAL BOARD OF OHIO

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

April 14, 1995

Naba Goswami, M.D.  
111 Lexington Drive  
St. Clairsville, OH 43950

Dear Doctor Goswami:

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 the Minutes of the State Medical Board, meeting in regular session on April 12, 1995, including a Motion approving and confirming the Findings of Fact and Conclusions of Law 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 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 of the Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO

Thomas E. Gretter, M.D.

Secretary

TEG:em  
Enclosures

CERTIFIED MAIL RECEIPT NO. P 741 124 623  
RETURN RECEIPT REQUESTED

cc: James V. Maniace, Esq.

Certified Mail No. P 741 124 624  
Return Receipt Requested

*Mailed 5-5-95*



# STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43260-0315 • (614) 466-9331

## CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; attached copy of the Report and Recommendation of Sharon W. Murphy, Attorney Hearing Examiner, State Medical Board; and an excerpt of Minutes of the State Medical Board, meeting in regular session on April 12, 1995, including a Motion approving and confirming the Findings of Fact and Conclusions of Law 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 Naba Goswami, 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.

(SEAL)

Thomas E. Gretter, M.D.  
Secretary

4/18/95  
Date



# STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43260-0315 • (614) 466-3933

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

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NABA GOSWAMI, M.D.

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## ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on the 12th day of April, 1995.

Upon the Report and Recommendation of Sharon W. Murphy, Hearing Examiner, Medical Board, in this matter designated 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:

The application of Naba Goswami, M.D., for a training certificate to practice medicine and surgery in Ohio is hereby GRANTED, provided that he otherwise meets all statutory and regulatory requirements.

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

Thomas E. Gretter, M.D.

Secretary

(SEAL)

4/18/95

Date

STATE OF OHIO

REPORT AND RECOMMENDATION  
IN THE MATTER OF NABA GOSWAMI, M.D.

The Matter of Naba Goswami, M.D., was heard by Sharon W. Murphy, Esq., Hearing Examiner for the State Medical Board of Ohio, on February 6, 1995.

INTRODUCTION

I. Basis for Hearing

- A. By letter dated December 7, 1994, (State's Exhibit 1), the State Medical Board of Ohio notified Naba Goswami, M.D., that it proposed to take disciplinary action against or to refuse to register or reinstate his training certificate to practice medicine and surgery in Ohio for one or more of the following reasons:
- 1) On or about August 23, 1994, the Ohio State University Medical Center filed an application with the Board, requesting that a training certificate be issued to Dr. Goswami in order that he might undertake a clinical fellowship in cardiology from September 1, 1994, to June 30, 1995.
  - 2) On or about September 19, 1984, the South Dakota State Board of Medical and Osteopathic Examiners (South Dakota Board) refused Dr. Goswami's application for a license to practice medicine in that State based on its finding that Dr. Goswami had copied another examinee's answers during a FLEX examination in Sioux Falls, South Dakota, on June 14 and 15, 1983. The South Dakota Board concluded that Dr. Goswami's conduct was unprofessional, immoral and dishonorable, and that he failed to give satisfactory proof of good moral character.

The Board alleged that the South Dakota Board's action constituted "[t]he limitation, revocation, or suspension by another state of a license or certificate to practice issued by the proper licensing authority of that state, the refusal to license, register, or reinstate an applicant by that authority, or the imposition of probation by that authority, for an action that also would have been a violation of this chapter, except for nonpayment of fees,' as that clause is used in Section 4731.22(B)(22), Ohio Revised Code, to wit: 4731.22(A)." The Board further alleged that Dr. Goswami's conduct constituted "a failure to furnish satisfactory proof of good moral character as required by Section 4731.291(B)(1), Ohio Revised Code."

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The Board advised Dr. Goswami of his right to request a hearing.

- B. James V. Maniace, Esq., filed a written hearing request on behalf of Dr. Goswami on December 16, 1994. (State's Exhibit 2).

## II. Appearances

- A. On behalf of the State of Ohio: Betty D. Montgomery, Attorney General, by Lili C. Kaczmarek, Assistant Attorney General.
- B. On behalf of the Respondent: James V. Maniace, Esq.

## EVIDENCE EXAMINED

### I. Testimony Heard

Presented by the Respondent: Naba Goswami, M.D.

### II. Exhibits Presented

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: December 19, 1994, letter to James V. Maniace, Esq., from the Board, advising that a hearing had been set for December 30, 1994, and further advising that the hearing had been postponed pursuant to Section 119.09, Ohio Revised Code.
2. State's Exhibit 4: December 21, 1994, letter to Mr. Maniace from the Board, scheduling the hearing for February 2, 1995. (2 pp.)
3. State's Exhibit 5: Respondent's January 17, 1995, Motion for Continuance. (3 pp.)
4. State's Exhibit 6: January 18, 1995, Entry granting Respondent's Motion for Continuance and rescheduling the hearing to February 6, 1995.

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5. State's Exhibit 7: Respondent's January 23, 1995, Motion to Take Testimony of William Chapman by Deposition. (4 pp.)
6. State's Exhibit 8: January 24, 1995, Entry granting Respondent's Motion to Take Testimony of William Chapman by Deposition.
7. State's Exhibit 9: Copy of the application for a training certificate filed with the Board on August 23, 1994, on Dr. Goswami's behalf by the Ohio State University Medical Center.
8. State's Exhibit 10: Certified copies of the Notice of Hearing, Findings of Fact and Conclusions of Law, and Decision, filed October 3, 1984, by the South Dakota Board. (12 pp.)
9. State's Exhibit 11 (as amended): Copies of Sections 36-4-11, 36-4-28, and 36-4-30, South Dakota Codified Laws, as in effect December, 1983. (11 pp.)
10. State's Exhibit 12: Copy of Section 4731.291, Ohio Revised Code.

B. Presented by the Respondent

1. Respondent's Exhibit 1: Copy of Dr. Goswami's February 12, 1974, Degree of Bachelor of Medicine and Surgery issued by the University of Gaubati.
2. Respondent's Exhibit 2: Copy of Dr. Goswami's September 29, 1981, certificate from the Educational Commission for Foreign Medical Graduates.
3. Respondent's Exhibit 3: Copy of the certificate of Dr. Goswami's internship from July 1, 1981, through June 30, 1982, at the District of Columbia General Hospital, Georgetown University Medical Service.
4. Respondent's Exhibit 4: Copy of the certificate of completion of Dr. Goswami's second year of residency in internal medicine from July 1, 1982, through June 30, 1983, at Saint Luke's Hospital, a teaching hospital of Case Western Reserve University.
5. Respondent's Exhibit 5: Copy of the certificate of completion of Dr. Goswami's third year of residency in internal medicine from July 1, 1983, through June 30, 1984, at Saint Luke's Hospital.

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6. Respondent's Exhibit 6: Copy of Dr. Goswami's license to practice medicine in West Virginia, issued by the West Virginia Board of Medicine on May 16, 1988.
7. Respondent's Exhibit 7: Copy of Dr. Goswami's license to practice medicine in Georgia, issued by the State of Georgia on July 1, 1993.
8. Respondent's Exhibit 8: July 22, 1994, letter to Dr. Goswami from the Ohio Valley Medical Center in Wheeling, West Virginia, granting him staff privileges in the department of internal medicine. (3 pp.)
9. Respondent's Exhibit 9: April 12, 1994, letter to Dr. Goswami from the Ohio State University Medical Center informing him that he had been selected to participate in a one-year postgraduate cardiology fellowship.
10. Respondent's Exhibit 10: Transcript of the January 25, 1995, deposition of William S. Chapman. (18 pp.)
11. Respondent's Exhibit 11: Recommendation by James S. Kessel, M.D., received by the Board as part of Dr. Goswami's August 10, 1994, application for licensure. (2 pp.)
12. Respondent's Exhibit 12: Recommendation by A.H. Morad, M.D., received by the Board as part of Dr. Goswami's August 10, 1994, application for licensure. (2 pp.)
13. Respondent's Exhibit 13: January 25, 1995, letter to Mr. Maniace from Joseph T. Skaggs, M.D., member of the Board of Medicine in the State of West Virginia from 1982 to 1993.

C. Post-Hearing Admission to the Record

By the Hearing Examiner's own Motion, the following exhibits are hereby admitted into evidence:

1. Respondent's Exhibit 14: List of Respondent's Exhibits, which Respondent submitted at hearing with his exhibits.
2. State's Exhibit 13: State's February 14, 1994, Motion to Reopen the Record to allow the State to submit an amended version of State's Exhibit 11. (2 pp.)

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3. Board Exhibit A: February 21, 1995, Entry granting the State's Motion to Reopen the Record and admitting the amended version of State's Exhibit 11.

### PROCEDURAL MATTERS

On February 21, 1995, the hearing record was reopened for the limited purpose of admitting an amended version of State's Exhibit 11, pursuant to the State's previously filed Motion to Reopen the Record. The original version of State's Exhibit 11 contained copies of relevant sections of the South Dakota Codified Laws as they existed in 1994. The amended version contains copies of the same sections as they existed in 1983, the time period relevant to the South Dakota action.

### SUMMARY OF THE EVIDENCE

1. In 1974, Naba Goswami, M.D., graduated from the University of Gaubati, India, with the degree of Bachelor of Medicine and Surgery. (Respondent's Exhibit 1). He received his ECFMG certification on September 29, 1981. (Respondent's Exhibit 2). Dr. Goswami completed a one year internship at the District of Columbia General Hospital, through the Georgetown University Medical Service, on June 30, 1982. (Respondent's Exhibit 3). He spent the next two years at Saint Luke's Hospital, Cleveland, Ohio, where he completed the second and third years of a residency in internal medicine on June 30, 1984. (Respondent's Exhibits 4 and 5).
2. Dr. Goswami sat for a FLEX examination in Sioux Falls, South Dakota, on June 14, 15, and 16, 1983. (State's Exhibit 10, South Dakota Findings of Fact and Conclusions of Law at 3). Shortly thereafter, one of the proctors at the examination reported to the South Dakota Board that Dr. Goswami had copied the answers of another examinee. (Hearing Transcript [Tr.] at 34).
3. Dr. Goswami testified that he took the exam in June of 1983 and should have received the results by August. When he did not hear from the South Dakota Board by August, he started calling them. By December the South Dakota Board notified him that they thought he may have copied answers from another examinee. (Tr. at 19-20). Dr. Goswami denied that anyone had accused him of cheating on the day of the examination. (Tr. at 20).
4. On January 20, 1984, the South Dakota Board held a hearing on the allegation. At the hearing, the South Dakota Board heard the sworn testimony of witnesses and reviewed exhibits. The South Dakota Board also considered the answer sheets from the FLEX examination. The South Dakota Board found that Dr. Goswami "did, in fact, use means, devices and helps by copying answers to test questions

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from the test answer sheets of another examinee." The South Dakota Board further found that such conduct was "immoral, dishonorable, and unprofessional," and that Dr. Goswami had failed to give satisfactory proof of good moral character. (State's Exhibit 10, South Dakota Findings of Fact and Conclusions of Law at 4-5). The South Dakota Board refused to grant Dr. Goswami's application for a South Dakota license to practice medicine. (State's Exhibit 10, South Dakota Board Decision).

5. Dr. Goswami testified that he had denied the allegation at the time of the South Dakota hearing. (Tr. at 21). He further testified that the individual from whom he had allegedly copied answers filed an affidavit on behalf of Dr. Goswami, stating that he hadn't seen Dr. Goswami attempting to look at his answer sheet. (Tr. at 22).

Dr. Goswami testified that during the course of its investigation, the South Dakota Board offered him the opportunity to retake the FLEX examination, and stated that they would "just forget the whole thing." (Tr. at 22-23). Dr. Goswami stated that he refused the offer because he "did not copy, [or] do anything wrong." (Tr. at 23).

Dr. Goswami subsequently appealed the decision of the South Dakota Board because he thought the decision unfair. The appeal was unsuccessful. (Tr. at 23-24).

6. Dr. Goswami took the FLEX examination again in West Virginia in 1985. (Tr. at 28). He received a license to practice medicine and surgery in the State of West Virginia on May 16, 1988. (Respondent's Exhibit 6). He also received a license to practice medicine and surgery in the State of Georgia on July 1, 1993. (Respondent's Exhibit 7). Dr. Goswami testified that both the West Virginia Board and the Georgia Board were aware of the South Dakota Board's determination at the time those Boards granted him certificates to practice. (Tr. at 24).
7. On April 12, 1994, the Ohio State University Medical Center notified Dr. Goswami that he had been selected to participate in a one year postgraduate cardiology training program. (Respondent's Exhibit 9). The Ohio State University Medical Center requires that a physician obtain a training certificate before that physician may participate in the program. (Tr. at 31). Accordingly, on August 23, 1994, the Ohio State University submitted to the Board an application for a training certificate on behalf Dr. Goswami. An official from that school [signature illegible] signed the following statement: "I hereby certify that I have checked the credentials of the above applicant . . . and he is of good moral character." (State's Exhibit 5).
8. William S. Chapman, President and CEO of Jackson General Hospital in Ripley, West Virginia, submitted deposition testimony on behalf of Dr. Goswami. (Respondent's Exhibit 10 at 4-5). Mr. Chapman is involved in credentialing

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physicians at the hospital. (Respondent's Exhibit 10 at 5). Mr. Chapman became familiar with Dr. Goswami three years ago when the hospital recruited Dr. Goswami's wife who is an obstetrician/gynecologist. (Respondent's Exhibit 10 at 6). The hospital also extended privileges to Dr. Goswami for about one year. The hospital then installed Dr. Goswami in a private, internal medicine practice in a neighboring town. (Respondent's Exhibit 10 at 6).

Mr. Chapman testified that he knows Dr. Goswami well. He stated that Dr. Goswami is an "excellent practitioner. We got nothing but good reports on him. The medical staff consistently praised his performance. We had no problems at all with Naba. He was excellent." Mr. Chapman also testified that Dr. Goswami has an excellent reputation in the communities in which he has practiced. (Respondent's Exhibit 10 at 7).

Mr. Chapman stated that he also testified on behalf of Dr. Goswami before the West Virginia Board. (Respondent's Exhibit 10 at 7-8). The issue before the West Virginia Board was the South Dakota Board's determination that Dr. Goswami had cheated on this FLEX examination. (Respondent's Exhibit 10 at 9-10). Mr. Chapman testified that he was aware of the South Dakota incident before granting Dr. Goswami privileges, and had "a lot of concern about how it was handled in" South Dakota. (Respondent's Exhibit 10 at 15).

9. Joseph T. Skaggs, M.D., was a member of the West Virginia Board of Medicine at the time that Board received Dr. Goswami's application for licensure. Dr. Skaggs believed that Dr. Goswami received an unrestricted license to practice in that state. (Respondent's Exhibit 13).
10. Dr. Goswami has submitted a Request for Application Form, and plans to submit an application for Ohio licensure. With the Request for Application Form, Dr. Goswami submitted personal and professional references. (Tr. at 29-30). James S. Kessel, M.D., states that Dr. Goswami is of good moral character, and rates his professional qualifications as excellent. (Respondent's Exhibit 11). A.H. Morad, M.D., also states that Dr. Goswami is of good moral character and has medical skills that are excellent or very good. (Respondent's Exhibit 12).
11. When Dr. Goswami accepted the fellowship position at the Ohio State University Medical Center, he expected to participate in the program through June of 1995. Accordingly, the Ohio State University Medical Center submitted an application for a training certificate covering the period from September 1, 1994 through June 30, 1995, on behalf of Dr. Goswami. Dr. Goswami testified, however, that he started the program late due to the death of his mother. Accordingly, he does not expect to complete the program until the end of August, 1995. (State's Exhibit 9, Tr. at 31).

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### FINDINGS OF FACT

1. The Ohio State University Medical Center submitted an application for a training certificate on behalf of Naba Goswami, M.D., on August 23, 1994.
2. On or about September 19, 1984, the South Dakota Board refused to grant Dr. Goswami a license to practice medicine in that state based on their finding that Dr. Goswami had copied the answers of another examinee during a FLEX examination in Sioux Falls, South Dakota, on June 14 and 15, 1983. The South Dakota Board found that such conduct was "unprofessional, immoral, and dishonorable" and further found that Dr. Goswami had failed to give satisfactory proof of good moral character.

### CONCLUSIONS OF LAW

1. As set forth in Finding of Fact #2, the action taken by the South Dakota Board in October of 1984 constitutes "[t]he limitation, revocation, or suspension by another state of a license or certificate to practice issued by the proper licensing authority of that state, the refusal to license, register, or reinstate an applicant by that authority, or the imposition of probation by that authority, for an action that also would have been a violation of this chapter, except for nonpayment of fees," as that clause is used in Section 4731.22(B)(22), Ohio Revised Code, to wit: 4731.22(A)."
2. Although the decision of the South Dakota Board in 1984 clearly demonstrated that Dr. Goswami failed to give proof of good moral character at that time, the evidence examined in the present matter does not support a conclusion that Dr. Goswami currently fails "to furnish satisfactory proof of good moral character as required by Section 4731.291(B)(1), Ohio Revised Code."

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The Board has an obligation to protect the safety and welfare of the citizens of Ohio, and to preserve the public's trust in the medical profession. The South Dakota Board found that, twelve years ago, Dr. Goswami copied the answers of another examinee on the FLEX examination. This is a serious offense which calls into question the moral character and trustworthiness of the applicant and warrants a thorough investigation.

Upon review of the facts, however, it is significant that many years have passed since the time of the offense. Moreover, Dr. Goswami has presented significant evidence

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which tends to mitigate his offensive conduct. Significantly, the offensive conduct appears to be an isolated event which occurred many years ago. Since that time, Dr. Goswami has received unrestricted licenses in two other states and has practiced medicine without further incident. He has earned the support and respect of his peers. William S. Chapman, President and CEO of Jackson General Hospital in Ripley, West Virginia, testified that Dr. Goswami is an "excellent" physician who has an "excellent" reputation in the communities in which he has practiced. James S. Kessel, M.D., and A.H. Morad, M.D., both attest to Dr. Goswami's good moral character and excellent professional qualifications. Finally, after an investigation into Dr. Goswami's credentials, the Ohio State University Medical Center certified that Dr. Goswami is of good moral character and found him to be a candidate worthy of admission to its cardiology fellowship program. It is also significant that, at this time, Dr. Goswami has already completed a significant portion of that program.

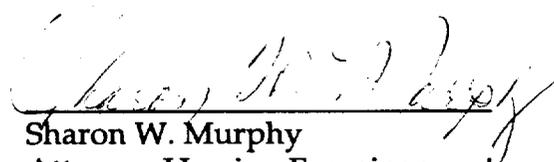
#### PROPOSED ORDER

It is hereby ORDERED that:

The application of Naba Goswami, M.D., for a training certificate to practice medicine and surgery in Ohio is hereby GRANTED, provided that he otherwise meets all statutory and regulatory requirements, with the following limitation.

The training certificate of Dr. Goswami to practice medicine and surgery in the State of Ohio shall be SUSPENDED for a period of sixty (60) days. Such suspension is STAYED, pending Dr. Goswami's compliance with all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.

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

  
Sharon W. Murphy  
Attorney Hearing Examiner



# STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43260 • Tel. 614/464-1111

## EXCERPT FROM THE DRAFT MINUTES OF APRIL 12, 1995

### REPORTS AND RECOMMENDATIONS

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

Dr. Garg 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: Sheila A. Barnes, D.O.; Stanley E. Broadnax, M.D.; Kwok Wei Chan, M.D.; Frank DiBenedetto, D.O.; Naba Goswami, M.D.; Sam Hill, D.O.; Don R. Johnson, M.D.; William Patrick Mooney, D.O.; Harvey M. Rodman, M.D.; Kevin Smith, P.A.; And Steve Shu-Tzu Young, M.D. A roll call was taken:

Dr. Garg 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. Bhati	- aye
	Dr. Stienecker	- aye
	Dr. Gretter	- aye
	Dr. Agresta	- aye
	Dr. Buchan	- aye
	Ms. Noble	- aye
	Mr. Sinnott	- aye
	Dr. Heidt	- aye
	Dr. Steinbergh	- aye
	Dr. Garg	- 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 this matter. Carla S. O'Day, M.D., was the Secretary involved in supervision of the cases under consideration this date.

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 NABA GOSWAMI, M.D.

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

Dr. Garg advised that a request to address the Board has been timely filed on behalf of Dr. Goswami.

Dr. Garg advised Mr. Maniace that there is not a court reporter present, but instead the Board's minutes serve as the Board's official record of the meeting. Mr. Maniace stated that he did not have any objection to the absence of a court reporter.

Dr. Garg reminded Mr. Maniace that the Board members have read the entire hearing record, including the exhibits and any objections filed. He added that the Board will not retry the case at this time, and that pursuant to Section 4731.23(C), Revised Code, oral arguments made at this time are to address the proposed findings of fact and conclusions of the hearing examiner. Dr. Garg stated that Mr. Maniace would be allotted approximately five minutes for his address.

Mr. Maniace stated that he and Dr. Goswami have reviewed the evidence in this case, and they feel that the Attorney Hearing Examiner did an exceptional job in terms of being balanced and fair in this case. They do, however, object to the proposed sanction. This case involves an offense which may or may not have happened 12 years ago. Dr. Goswami denies that it happened. The punishment is out of proportion, if the Board gives credence to South Dakota's action. After reviewing all of the facts, both West Virginia and Georgia gave Dr. Goswami an unrestricted license.

Mr. Maniace stated that the Ohio Medical Board must make its own independent judgment in this case. Looking at the evidence of what happened since 1985 and 1993, the Board will see that Dr. Goswami has an unblemished and excellent practice record. The administrator at the West Virginia hospital in which Dr. Goswami worked gave Dr. Goswami a glowing recommendation. The hospital set Dr. Goswami up in practice. Dr. Goswami now teaches others. He has not had any malpractice suits filed against him or threatened. The only thing that follows him is the Scarlet Letter of what happened to him in South Dakota.

Mr. Maniace stated that he realizes that the Board has seen doctors who have denied wrongdoing, but independent evidence was presented at hearing to show that Dr. Goswami did not do what was charged in South Dakota. There is a question of the fairness of the South Dakota Board. The evidence was persuasive in West Virginia and Georgia.

Dr. Goswami has been accepted in a cardiology fellowship at Ohio State, but has been unable to work here pending the Board's final decision. He is taking a financial sacrifice. Mr. Maniace stated that Ohio State University checked into Dr. Goswami's character and agreed to hire him. The issue in South Dakota indicates bad character. Ohio State found that he had good character and was worthy of entering the fellowship. Mr. Maniace stated that he believes the evidence shows that Dr. Goswami is an excellent practitioner, who has practiced without problem in West Virginia. He asked how Ohio citizens would be served by the Board's punishing Dr. Goswami by not granting him a training certificate. He asked how many years had to pass before the South Dakota action is no longer regarded.

Mr. Maniace stated that Dr. Goswami would like to address the Board.

Dr. Goswami denied the events that occurred in South Dakota, noting that the charges came into his office four months after he sat for the FLEX in South Dakota.

Dr. Garg stated that the Board is aware of the details of the case and asked whether Dr. Goswami had anything further to add.

Dr. Goswami indicated that he did not.

Mr. Maniace stated that he would only like to reiterate that Dr. Goswami has had no other problems and has been a good practitioner.

Dr. Garg asked Ms. Kaczmarek whether she wished to make a statement.

Ms. Kaczmarek stated that this case involves a training certificate. The Board has read the hearing record. There was substantial justification to bring the charges against Dr. Goswami.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF NABA GOSWAMI, M.D. DR. HEIDT SECONDED THE MOTION.**

Dr. Garg asked whether there were any questions concerning the proposed findings of fact, conclusions and order in the above matter.

**DR. STIENECKER MOVED THAT THE ORDER IN THE MATTER OF NABA GOSWAMI, M.D., BE AMENDED BY SUBSTITUTING THE FOLLOWING:**

The application of Naba Goswami, M.D., for a training certificate to practice medicine and surgery in Ohio is hereby GRANTED, provided that he otherwise meets all statutory and regulatory requirements.

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

**DR. AGRESTA SECONDED THE MOTION.**

Dr. Stienecker stated that he believes the Hearing Examiner's Proposed Order with its limitations was extreme and unnecessary.

Dr. Bhati stated that if you look through the history of this case, the initial charges were 12 years ago when even South Dakota's Chief Proctor denied that cheating took place. Three or four months after the examination a proctor complained that cheating might have happened. If something really happened, the complaint would have been made immediately.

Dr. Gretter stated that in reviewing the information the Board has, the State of South Dakota did say that it felt Dr. Goswami cheated. This happened in 1984, and he doesn't believe that the Board can go back now and find out what happened. The Board could accept the Proposed Order, or it can say, as Dr. Stienecker's amendment suggests, that this happened 12 years ago, and there's been a lot of water over the dam since that time. Whatever happened then has been fixed. Dr. Gretter spoke in support of the amendment.

Dr. Steinbergh agreed with granting the certificate, but suggested that a reprimand be included based on the Findings of Fact.

Ms. Noble stated that, based on the record, this involves a matter of hearsay. With the time that has passed, and Dr. Goswami's 12 year history of practicing good medicine, she sees no reason why the issued should be belabored. She spoke in support of the amendment.

Dr. Garg agreed with Dr. Bhati, adding that the statistics show that there was a 95% probability that Dr. Goswami did not cheat on the examination. He added that the proctor involved changed her testimony.

A vote was taken on Dr. Stienecker's motion to amend:

VOTE:	Mr. Albert	- abstain
	Dr. Bhati	- aye
	Dr. Stienecker	- aye
	Dr. Gretter	- aye
	Dr. Agresta	- aye
	Dr. Buchan	- aye
	Ms. Noble	- aye
	Mr. Sinnott	- aye
	Dr. Heidt	- aye

Dr. Steinbergh - aye

The motion carried.

**DR. STEINBEGH MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF NABA GOSWAMI, M.D. MS. NOBLE SECONDED THE MOTION. A vote was taken:**

VOTE:	Mr. Albert	- abstain
	Dr. Bhati	- aye
	Dr. Stienecker	- aye
	Dr. Gretter	- aye
	Dr. Agresta	- aye
	Dr. Buchan	- aye
	Ms. Noble	- aye
	Mr. Sinnott	- aye
	Dr. Heidt	- aye
	Dr. Steinbergh	- aye

The motion carried.



## STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-2934

December 7, 1994

Naba Goswami, M.D.  
111 Lexington Drive  
St. Clairsville, OH 43950

Dear Doctor Goswami:

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 training certificate to practice medicine and surgery, or to reprimand or place you on probation for one or more of the following reasons:

- (1) On or about August 23, 1994, an application for a training certificate was filed on your behalf with the Board by The Ohio State University Medical Center, Columbus, Ohio, for you to undertake a clinical fellowship in cardiology during the period of September 1, 1994 to June 30, 1995.
- (2) On or about September 19, 1984, the South Dakota State Board of Medical and Osteopathic Examiners refused your application for a South Dakota license to practice medicine concluding that your conduct in copying another examinee's answers during a FLEX examination in Sioux Falls, South Dakota, on June 14 and 15, 1983, was unprofessional, immoral and dishonorable and that you failed to give satisfactory proof of good moral character. A copy of this refusal to license is attached hereto and incorporated herein.

Your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute "(t)he limitation, revocation, or suspension by another state of a license or certificate to practice issued by the proper licensing authority of that state, the refusal to license, register, or reinstate an applicant by that authority, or the imposition of probation by that authority, for an action that also would have been a violation of this chapter, except for nonpayment of fees," as that clause is used in Section 4731.22(B)(22), Ohio Revised Code, to wit: 4731.22(A).

Further, your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute a failure to furnish satisfactory proof of good moral character as required by Section 4731.291 (B)(1), Ohio Revised Code, in order for a training certificate to be issued.

Mailed 12/8/94

December 7, 1994

Goswami, M.D.

Page 2

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.

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Carla S. O'Day, M.D.  
Secretary

cc: The Ohio State University Medical Center  
Office of the Medical Director  
410 W. 10th Avenue  
Columbus, OH 43210

CSO:bjm  
Enclosures

CERTIFIED MAIL #P 348 888 284  
RETURN RECEIPT REQUESTED

THE SOUTH DAKOTA STATE BOARD  
OF  
MEDICAL AND OSTEOPATHIC EXAMINERS

\* \* \* \* \*

IN THE MATTER OF THE LICENSURE  
BY THE SOUTH DAKOTA STATE BOARD  
OF MEDICAL AND OSTEOPATHIC  
EXAMINERS TO NABA GOSWAMI, M.D.

FINDINGS OF FACT and  
CONCLUSIONS OF LAW

\* \* \* \* \*

The above entitled matter coming on for hearing on the 20th day of January, 1984, at 10:00 a.m. at the Howard Johnson Motel in Sioux Falls, South Dakota, with a majority of the members of the Board who are to render the final decision on this matter having heard the case and being present during such hearing, namely:

Russell Harris, M.D., Board President,  
G. Robert Bartron, M.D.  
Paul Aspaas, M.D.  
L. L. Massa, D.O.  
Dennis Johnson, M.D.

Board Members absent at such meeting were:

Thomas Muilenburg

Also present at the meeting were:

Robert D. Johnson, Executive Secretary of the Board,  
John H. Zimmer, of Zimmer, Richter and Duncan,  
of Parker, South Dakota, Attorneys for the Board,  
Naba Goswami, M.D., license applicant,  
Gary H. Levine, representing Dr. Goswami, a licensed  
attorney from the State of Ohio.

The purpose of this hearing was to determine whether Naba Goswami, M.D., should be issued a license from the South Dakota

State Board of Medical and Osteopathic Examiners, based on a June 1983 examination given by the Board or if, in fact, Naba Goswami, M.D., was guilty of immoral, unprofessional and dishonorable conduct by attempting to obtain a license entitling him to practice medicine in the State of South Dakota by the use of any means, devices or deceptions or helps in passing the examination.

The Board heard the sworn testimony of Jan Anderson, Jeri Spars, Susan Best, Gerard F. Dillon and Naba Goswami, M.D. In addition to such persons testimony, the Board received Exhibits "1" through "9". At the written request of Gary H. Levine, attorney for Naba Goswami, M.D., dated the 25th day of January, 1984, the Board deferred making a decision on the matter to permit additional time for Mr. Levine to receive and review various material connected with the June 1983 examination.

The Board further received and admitted into the record copies of the Answer Sheet of Dr. M.C. Shah on Part B of the FLEX examination taken on the 14th day of June, 1983, and received material attached to a Memorandum of Gary H. Levine dated the 23rd day of July, 1984, which were made a part of the record. In addition thereto, the Board received sworn affidavits of Gerard F. Dillon responding to an attachment of the Levine Memorandum made by Baldeo K. Taneja, Ph.D., questioning the validity of computations of Gerard F. Dillon

which were admitted into the record on the 20th day of January, 1984. True copies of such affidavits were duly mailed to Attorney Gary H. Levine on the 30th day of August 1984. On the 4th day of September, 1984, the Board received a Brief of John H. Zimmer on the matter in issue and an affidavit of service showing that such brief was mailed to Gary H. Levine on August 31, 1984. That at a meeting of the Board, with all members being present, additional testimony was introduced of both Baldeo K. Taneja, Ph.D., and Gerard F. Dillon.

Based upon the testimony, exhibits and records of this case, and after careful consideration, and being fully advised in the premises, the Board now makes and orders filed the following:

#### FINDINGS OF FACT

##### I.

The South Dakota State Board of Medical and Osteopathic Examiners is a duly organized and existing State Board of the State of South Dakota existing and operating pursuant to SDCL 36-4 and SDCL 1-26 of the South Dakota Code.

##### II.

That on June 14th, 15th and 16th of 1983, Naba Goswami, M.D., did take an examination given by the South Dakota State Board of Medical and Osteopathic Examiners, which consisted of various parts of a FLEX examination provided by the National Board of Medical Examiners including Parts B, C, D, E and F.

### III.

That subsequent to the taking of such examination, the Board received information which raised questions concerning whether Naba Goswami, M.D., used means, devices, deceptions or helps to pass such examination and was guilty of immoral, dishonorable and unprofessional conduct during his taking of such examination on June 14, 15 and 16, 1983.

### IV.

That a hearing was duly held on the above entitled matter, after notice duly given as shown by the records in this case, and testimony, Exhibits and various documents have been entered into the record on this matter.

### V.

That, during the taking of the tests on June 14 and 15, 1983, the said Naba Goswami did, in fact, use means, devices and helps by coping answers to test questions from the test answer sheets of another examinee, namely, Dr. M.C. Shah, on Parts B through F.

### VI.

That the conduct of Naba Goswami, M.D., set forth in Paragraph V. above was immoral, dishonorable and unprofessional and grades obtained on Parts B through F of such test are invalid because they were obtained through the use of means, deceptions and helps.

Based on such Findings of Fact, the South Dakota State Board of Medical and Osteopathic Examiners herein makes the following:

#### CONCLUSIONS OF LAW

##### I.

That the South Dakota State Board of Medical and Osteopathic Examiners has jurisdiction and power to refuse the application of Naba Goswami, M.D., for a South Dakota license to practice medicine under the provisions of SDCL 36-4-28.

##### II.

That the conduct of Naba Goswami, M.D. set forth in the Findings of Fact was unprofessional, immoral and dishonorable as such terms are set forth in SDCL 36-4-28 and 36-4-30.

##### III.

That all grades obtained by Naba Goswami, M.D., on Parts B through F of the written examination taken on June 14 and 15, 1983, are null and void.

##### IV.

That Naba Goswami, M.D., has failed to give satisfactory proof of good moral character as provided by SDCL 36-4-11.

Let a Decision be entered and issued accordingly.

Dated this 19<sup>th</sup> day of September, 1984.

SOUTH DAKOTA STATE BOARD OF MEDICAL  
AND OSTEOPATHIC EXAMINERS

BY *Russell H. Hines, M.D.*

*Paul K. Casper, M.D.*

*D. L. Johnson, M.D.*

*J. R. Pantan, M.D.*

*[Signature]*

Member of the Board Thomas Muilenburg abstained from voting because he was not present at the hearing on January 20, 1984.

THE SOUTH DAKOTA STATE BOARD  
OF  
MEDICAL AND OSTEOPATHIC EXAMINERS

\* \* \* \* \*

IN THE MATTER OF THE LICENSURE  
BY THE SOUTH DAKOTA STATE BOARD  
OF MEDICAL AND OSTEOPATHIC  
EXAMINERS TO NABA GOSWAMI, M.D.

DECISION

\* \* \* \* \*

The above entitled matter having come before the South Dakota State Board of Medical and Osteopathic Examiners and such Board having considered evidence in the form of sworn testimony, exhibits and other written submissions relating to whether or not Naba Goswami, M.D., was guilty of immoral, unprofessional and dishonorable conduct by attempting to obtain a license entitling him to practice medicine in the State of South Dakota by the use of any means, devices, deceptions or helps in passing an examination of the Board taken on June 14th, 15th and 16th, 1983, and

The Board having considered all of the evidence in the record and having made and entered "Findings of Fact and Conclusions of Law" for the reasons stated therein,

It is ORDERED that the application of Naba Goswami, M.D., for a license to practice medicine in the State of South Dakota is refused, and

It is further ORDERED that all grades obtained by Naba Goswami, M.D., on Part B through F of the written examination

taken by him on June 14th and 15th, 1983, are cancelled and declared null and void.

Dated this 19<sup>th</sup> day of September, 1984.

SOUTH DAKOTA STATE BOARD OF MEDICAL  
AND OSTEOPATHIC EXAMINERS

BY *Paul H. Harris, MD*

*Paul K. Arpason, MD*

*D. L. Johnson, MD*

*DR. Burtrick, MD*

*D. Johnson*

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