State Medical Board of Ohio

77 S. High Street, 17th Floor • Columbus, Ohio 43266-0315 • 614/ 466-3934 • Website: www.state.oh.us/med/

September 9, 1998

Julia K. Saluke, M.D.
202 Foliage Circle, Apt. G
Cary, NC 27511

Dear Doctor Saluke:

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 September 9, 1998, 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 233 840 078
RETURN RECEIPT REQUESTED

cc: Kevin P. Byers, Esq.
CERTIFIED MAIL NO. Z 233 840 079
RETURN RECEIPT REQUESTED

Mailed 9/11/98

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 September 9, 1998, 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 Julia K. Saluke, 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)

September 9, 1998
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF *

*

JULIA K. SALUKE, M.D. *

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on September 9, 1998.

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. Julia K. Saluke, M.D., is REPRIMANDED for her failure to timely submit documentation of compliance with the Continuing Medical Education [CME] requirements for the July 1994-June 1996 CME acquisition period.

2. The certificate of Dr. Saluke to practice medicine and surgery in Ohio shall be subject to mandatory audits of compliance with CME requirements for the 1996-1998 CME acquisition period, and for two CME acquisition periods thereafter. Dr. Saluke shall submit documentation acceptable to the Board of satisfactory completion of the requisite hours of CME. This documentation shall be due in the Board's offices within thirty days of the conclusion of each CME acquisition period.

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

Anand G. Garg, M.D.
Secretary

(SEAL)

September 9, 1998
Date

STATE MEDICAL BOARD
OF OHIO
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REPORT AND RECOMMENDATION
IN THE MATTER OF JULIA K. SALUKE, M.D.

The Matter of Julia K. Saluke, M.D., was heard by Sharon W. Murphy, Attorney Hearing Examiner for the State Medical Board of Ohio, on July 17, 1998.

INTRODUCTION

I. Basis for Hearing

A. By letter dated May 13, 1998, the State Medical Board of Ohio [Board] notified Julia K. Saluke, M.D., that it proposed to take disciplinary action against her certificate to practice medicine and surgery in Ohio. The Board's action was based on the following allegations:

1. In applying for registration of her certificate to practice medicine and surgery for the current registration period, Dr. Saluke certified that she had completed during the last 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 for which Dr. Saluke signed on April 17, 1997, the Board informed Dr. Saluke that she was required to complete a log listing her CME for the 1994-1996 CME acquisition period and to provide documentation that she had completed at least forty (40) hours of Category I CME credits. By certified mail letter for which Dr. Saluke signed on February 21, 1998, the Board again requested that Dr. Saluke submit documentation of her CME credits for the 1994-1996 period. Dr. Saluke did not respond to either of the above notices; moreover, Dr. Saluke did not submit any documentation of CME prior to the issuance of the notice of opportunity for hearing.

3. Dr. Saluke's failure to respond to the audit notices rebuts the presumption under Rule 4731-10-08(A), Ohio Administrative Code, that she completed the requisite hours of CME, and/or demonstrates that she failed to keep records of CME taken.

The Board alleged that Dr. Saluke's certifying to the Board that she had completed the statutorily required CME, when she had not done so, 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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Additionally, the Board alleged that Dr. Saluke's failure to obtain the requisite CME, and/or to submit documentation of same constitutes "'violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board,' as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Section 4731.281, Ohio Revised Code, and Rules 4731-10-03 and 4731-10-08, Ohio Administrative Code."

Accordingly, the Board advised Dr. Saluke of her right to request a hearing in this matter. (State's Exhibit 1)

B. On June 10, 1998, Kevin P. Byers, Esq., submitted a written hearing request on behalf of Dr. Saluke. (State's Exhibit 2)

II. Appearances

A. On behalf of the State of Ohio: Betty D. Montgomery, Attorney General, by Anne B. Strait, Assistant Attorney General.

B. On behalf of the Respondent: Kevin P. Byers, Esq.

EVIDENCE EXAMINED

I. Testimony Heard

Presented by the State

Debra L. Jones
Julia K. Saluke, M.D., as if on cross-examination.

II. Exhibits Examined

A. Presented by the State

1. State's Exhibits 1-9: Procedural exhibits.

2. State's Exhibit 10: Copy of Dr. Saluke's 1996 application for license renewal.

3. State's Exhibit 11: Copy of undated letter from the Board, received by Dr. Saluke on April 17, 1997, regarding CME for 1994-1996. (2 pp.)

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4. State's Exhibit 12: Copy of February 9, 1998, letter to Dr. Saluke from the Board regarding CME for 1994-1996. (2 pp.)

5. State's Exhibit 13: Copy of an Application and Instructions, Biennial License Renewal for the Period October 1, 1996, through September 30, 1998. (2 pp.)

B. Presented by the Respondent

1. Respondent's Exhibit A: Copy of Dr. Saluke's curriculum vitae. (2 pp.)

2. Respondent's Exhibit B: A listing of CME earned by Dr. Saluke between October 1995 and June 1996.

3. Respondent's Exhibit C: Copy of Certificate of Attendance for Dr. Saluke from the Wyoming Academy of Family Physicians.

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.

1. Julia K. Saluke, M.D., testified that she had graduated from the Wright State University Medical School in Dayton, Ohio, in 1992. In 1995, Dr. Saluke completed a family practice residency at East Carolina University in Greenville, North Carolina. Since the fall of 1995, Dr. Saluke has been working at Goshen Medical Center in a rural area of North Carolina. She stated that her practice consists, primarily, of geriatric and indigent patients. Dr. Saluke further testified that, after practicing for a few years, she hopes to relocate her practice to a rural area in Ohio. (Transcript [Tr.] at 17-19).

2. Debra L. Jones, Chief of Continuing Medical Education, Records, and Renewal, for the Board, testified at hearing on behalf of the State. Ms. Jones advised that she is responsible for the renewal of all physicians' licenses, as well as the continuing medical education [CME] credit hours. (Tr. at 10).

   Ms. Jones testified that Julia K. Saluke, M.D., submitted a license renewal application in 1996. Upon submitting her renewal application, Dr. Saluke certified that she had completed the requisite hours of CME during the July 1, 1994-June 30, 1996, period of CME acquisition. (Tr. at 10; State's Exhibit [St. Ex.] 10). Ms. Jones explained that Dr. Saluke had been licensed in Ohio on October 12, 1995, in the middle of a CME acquisition period. Accordingly, Dr. Saluke was required to complete only 25 hours of CME by the end of the

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1994-1996 CME acquisition period. Of those 25 hours, 10 were required to be Category I. (Tr. at 13-14; St. Ex. 13).

Ms. Jones further testified that Dr. Saluke had been randomly selected for a CME audit following the 1994-1996 CME acquisition period. Accordingly, the Board notified Dr. Saluke by certified mail, delivered April 17, 1997, that she was required to complete a log listing her CME for the 1994-1996 period. The letter further advised Dr. Saluke that she must provide documentation demonstrating that she had completed at least forty hours of Category I CME credits. Dr. Saluke did not respond to the audit notice. [Note: Ms. Jones testified that, when preparing the audit notice, the Board had miscalculated the hours Dr. Saluke had been required to attain during the 1994-1996 period.] (Tr. at 6, 11-12, 16; St. Ex. 11).

Thereafter, by certified mail letter which Dr. Saluke received on February 21, 1998, the Board again requested that Dr. Saluke submit documentation of her CME credits for the 1994-1996 period. Again, Dr. Saluke did not respond to the audit notice. (Tr. at 12-13, 16; St. Ex. 12).

3. Ms. Jones testified that, on the day of hearing, Dr. Saluke presented documentation which revealed that Dr. Saluke had completed the requisite CME during the 1994-1996 CME acquisition period. (Tr. at 16; Resp. Exs. B and C).

4. Dr. Saluke testified that she had been wrong in not responding to the Board's audit notices. Dr. Saluke explained that she had not responded to the first audit notice because she had been advised during her residency that if she kept her CME current, she did not have to do anything further. At that time, Dr. Saluke had believed that since she had completed the necessary CME, she did not need to respond to the audit notice. Moreover, Dr. Saluke testified that she was confused regarding the number of hours and the period in which they were to be attained. Dr. Saluke testified that the Academy of Family Practice requires its members to acquire 150 hours in a three year period, and that the three year period starts at the conclusion of the member's residency program. Nevertheless, Dr. Saluke further testified that when she received the second notice in February 1988, she realized her mistake and started to organize her CME to send to the Board. However, before she responded, the Board issued the notice of opportunity for hearing. (Tr. at 19-23).

   Dr. Saluke further stated that she now realizes the importance of responding to the Board, and fully accepts responsibility for her negligence in this matter. She stated that she has experienced guilt and humiliation, especially since she had been raised in a family of physicians and should know better. (Tr. at 23-24).

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FINDINGS OF FACT

1. In applying for registration of her certificate to practice medicine and surgery for the current registration period, Julia K. Saluke, M.D., certified that she had completed during the July 1, 1994-June 30, 1996, period of CME acquisition the requisite hours of CME as required by Section 4731.281, Ohio Revised Code.

2. By certified letter which Dr. Saluke received on April 17, 1997, the Board informed Dr. Saluke that she was required to complete a log listing her CME for the 1994-1996 period of CME acquisition and to provide documentation that she had completed at least forty hours of Category I CME credits. On or about February 21, 1998, the Board again notified Dr. Saluke that she must submit documentation of her CME credits for the 1994-1996 CME acquisition period.

3. Dr. Saluke did not respond to either of the Board's audit notices.

4. In sending the audit notices to Dr. Saluke, the Board had miscalculated the number of CME hours that she had been required to completed during the 1994-1996 period. Because Dr. Saluke had not been licensed to practice in Ohio until October 1995, Dr. Saluke had been required to complete only 25 hours of CME, of which 10 hours were required to be Category I CME.

5. At hearing, Dr. Saluke submitted documentation which demonstrates that she had completed the required CME during the 1994-1996 CME acquisition period.

CONCLUSIONS OF LAW

1. The evidence does not support a conclusion that Julia K. Saluke, M.D., committed "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.

2. The evidence does not support a conclusion that Dr. Saluke committed "publishing a false, fraudulent, deceptive, or misleading statement," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

3. The conduct of Dr. Saluke, as set forth in Findings of Fact 2 and 3, constitutes "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board," as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Section 4731.281, Ohio Revised Code, and Rules 4731-10-03 and 4731-10-08, Ohio Administrative Code.

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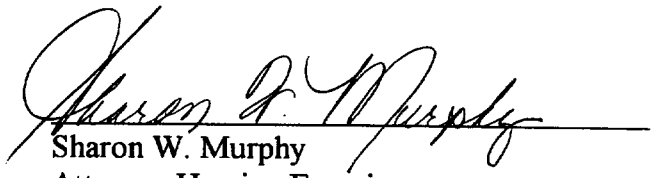
PROPOSED ORDER

It is hereby ORDERED that:

1. Julia K. Saluke, M.D., is REPRIMANDED for her failure to timely submit documentation of compliance with the Continuing Medical Education [CME] requirements for the July 1994-June 1996 CME acquisition period.

2. The certificate of Dr. Saluke to practice medicine and surgery in Ohio shall be subject to mandatory audits of compliance with CME requirements for the 1996-1998 CME acquisition period, and for two CME acquisition periods thereafter. Dr. Saluke shall submit documentation acceptable to the Board of satisfactory completion of the requisite hours of CME. This documentation shall be due in the Board's offices within thirty days of the conclusion of each CME acquisition period.

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



Sharon W. Murphy
Attorney Hearing Examiner

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EXCERPT FROM THE DRAFT MINUTES OF SEPTEMBER 9, 1998

REPORTS AND RECOMMENDATIONS

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

Dr. Buchan 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: Advanced Heart & Lung Surgeons, Inc.; William J. Booth, P.A.; Ira N. Chaiffetz, M.D.; Fernando G. Chaves, M.D.; Richard M. Donnini, D.O.; Altaf Hussain, M.D.; Jeffrey C. Lapeyrolerie, M.D.; Anthony D. Martin, M.D.; Hil Rizvi, M.D.; and Julia K. Saluke, M.D. A roll call was taken:

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

Dr. Buchan 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. Heidt	- aye
	Dr. Somani	- aye
	Dr. Egner	- aye
	Mr. Sinnott	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

Dr. Buchan - 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.

Dr. Buchan 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.

.....

JULIA K. SALUKE, M.D.

.....

DR. BHATI MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF JULIA K. SALUKE, M.D. DR. HEIDT SECONDED THE MOTION.

.....

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

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

The motion carried.

State Medical Board of Ohio

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May 13, 1998

Julia K. Saluke, M.D.
202 Foilage Circle, Apt. G
Cary, NC 27511

Dear Doctor Saluke:

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 and 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 for which you signed on April 17, 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 certified mail letter dated February 10, 1998, for which you signed on February 21, 1998, the State Medical Board again requested that you submit documentation of your CME credits for the July 1, 1994 to June 30, 1996, period. You have not responded to either of the above notices. You have failed to submit any documentation of CME completed for the above period.

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

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

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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 failure to obtain the requisite CME, and/or to submit documentation of same, as alleged in the above paragraphs (2) and (3), constitutes "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board," as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Section 4731.281, Ohio Revised Code, and Rules 4731-10-03 and 4731-10-08, Ohio Administrative Code.

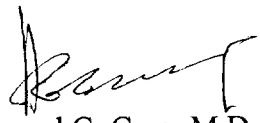
Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty (30) days of the time of mailing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

You are further advised that 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 and rules are enclosed for your information.

Very truly yours,



Anand G. Garg, M.D.
Secretary

AGG/jag
Enclosures

CERTIFIED MAIL # Z 233 895 115
RETURN RECEIPT REQUESTED