



State Medical Board of Ohio

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September 12, 2001

Marguerite D. Bruce, M.D.
1253 E. 142nd Street
Cleveland, OH 44112-8534

Dear Doctor Bruce:

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 12, 2001, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order.

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

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

THE STATE MEDICAL BOARD OF OHIO

Anand G. Garg, M.D.
Secretary

AGG:jam
Enclosures

CERTIFIED MAIL NO. 7000 0600 0024 5147 2910
RETURN RECEIPT REQUESTED

Cc: 8300 Hough Avenue
Cleveland, OH 44103
CERTIFIED MAIL NO. 7000 0600 0024 5147 2903
RETURN RECEIPT REQUESTED

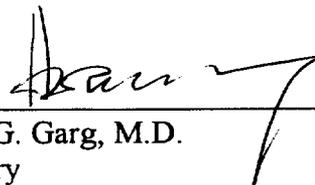
Kevin P. Byers, Esq.
CERTIFIED MAIL NO. 7000 0600 0024 5147 2897
RETURN RECEIPT REQUESTED

Mailed 10.2.01

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 12, 2001, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order; constitute a true and complete copy of the Findings and Order of the State Medical Board in the Matter of Marguerite D. Bruce, 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 12, 2001

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

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MARGUERITE D. BRUCE, M.D.

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ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on September 12, 2001.

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 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:

- A. **REPRIMAND:** Marguerite D. Bruce, M.D., is hereby REPRIMANDED.
- B. **PROBATIONARY CONDITIONS:** Dr. Bruce's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for an indefinite period of time, but not less than three years unless otherwise determined by the Board:
 1. **Obey Laws in Ohio:** Dr. Bruce shall obey all federal, state, and local laws; and all rules governing the practice of medicine in Ohio.
 2. **Quarterly Declarations:** Dr. Bruce shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which this Order becomes effective. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
 3. **Appearances:** Dr. Bruce shall appear in person for quarterly interviews before the Board or its designated representative, or as otherwise directed by

the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

4. **Monitoring Physician**: Within thirty days of the effective date of this Order, Dr. Bruce shall submit the name and curriculum vitae of a monitoring physician for written approval by the Secretary or Supervising Member of the Board and, unless that physician has previously been approved to serve as a monitoring physician, for approval by the Board via an expedited poll vote. In approving an individual to serve in this capacity, the Board will give preference to a physician who practices in the same locale as Dr. Bruce and who is engaged in the same or similar practice specialty.

The monitoring physician shall monitor Dr. Bruce and her medical and surgical practice, and shall review Dr. Bruce's patient charts. The chart review may be done on a random basis, with the frequency and number of charts reviewed to be determined by the Board. Additionally, the monitoring physician shall provide immediate and direct supervision of 30 major obstetric surgical procedures, which shall include c-sections, major gynecological surgery (including laparoscopies), and operative vaginal deliveries.

Further, the monitoring physician shall provide the Board with reports on the monitoring of Dr. Bruce and her medical and surgical practice, and on the review of Dr. Bruce's patient charts. Dr. Bruce shall ensure that the reports are forwarded to the Board on a quarterly basis and are received in the Board's offices no later than the due date for Dr. Bruce's quarterly declaration.

In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Bruce must immediately so notify the Board in writing. In addition, Dr. Bruce shall make arrangements acceptable to the Board for another monitoring physician within sixty days after the previously designated monitoring physician becomes unable or unwilling to serve, unless otherwise determined by the Board. Furthermore, Dr. Bruce shall ensure that the previously designated monitoring physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

5. **Assessment by CPEP; Compliance with Education Plan**: Within thirty days of the effective date of this Order, Dr. Bruce shall contact the Colorado Personalized Education for Physicians [CPEP] for the purposes of an assessment.
 - a. Prior to the CPEP assessment, Dr. Bruce shall furnish CPEP copies of the Board's Order, including the Summary of the Evidence, Findings of Fact, and Conclusions, and any other documentation from the hearing

record that the Board may deem appropriate or helpful to that assessment.

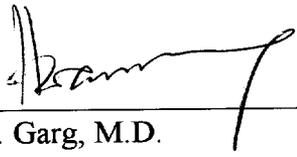
Upon completion of the assessment, Dr. Bruce shall ensure that CPEP issues a written assessment, in which CPEP states whether Dr. Bruce should undergo an education plan. Dr. Bruce shall complete and sign the written assessment within 120 days of the effective date of this Order. Further, Dr. Bruce shall provide this Board with a copy of the signed written assessment within fifteen days of its signing by all necessary parties

- b. In the event that the written assessment indicates that Dr. Bruce should undergo an education plan, Dr. Bruce shall enroll in a CPEP education plan within 180 days of the effective date of this Order. Dr. Bruce shall further ensure that CPEP sends a copy of the education plan to the Board.
 - i. Dr. Bruce shall comply with the education plan. Moreover, CPEP shall provide the Board with reports on Dr. Bruce's compliance with the education plan. Dr. Bruce shall ensure that the reports are forwarded to the Board on a quarterly basis and are received in the Board's offices no later than the due date for Dr. Bruce's quarterly declaration.
 - ii. Dr. Bruce shall successfully complete the education activities set out in the education plan, including any final evaluation, within the time set out by CPEP but, in no event, more than two years from the effective date of this Order.
 - iii. All recommendations made by CPEP shall constitute terms of this Order; Dr. Bruce shall comply with those recommendations within the time periods set forth by CPEP.
 - iv. Upon successful completion of the education plan, including any final assessment recommended by CPEP, Dr. Bruce shall provide the Board with satisfactory documentation from CPEP indicating that Dr. Bruce has successfully completed the education plan.
 - c. Dr. Bruce' participation in the CPEP shall be at her own expense.
6. **Absence from Ohio**: In the event that Dr. Bruce should leave Ohio for three continuous months, or reside or practice outside the State, Dr. Bruce must notify the Board in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of this period under the Order, unless otherwise determined by the Board in instances where the Board can be assured that probationary monitoring is otherwise being performed.

7. **Violation of Probation; Discretionary Sanction Imposed:** If Dr. Bruce violates probation in any respect, the Board, after giving her notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of her certificate.
 8. **Tolling of Probationary Period while Out of Compliance:** In the event Dr. Bruce is found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period.
- E. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Bruce's certificate will be fully restored.
- F. **REQUIRED REPORTING BY LICENSEE TO EMPLOYERS AND HOSPITALS:** Within thirty days of the effective date of this Order, Dr. Bruce shall provide a copy of this Order to all employers or entities with which she is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where she has privileges or appointments. Further, Dr. Bruce shall provide a copy of this Order to all employers or entities with which she contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where she applies for or obtains privileges or appointments.
- G. **REQUIRED REPORTING BY LICENSEE TO OTHER STATE LICENSING AUTHORITIES:** Within thirty days of the effective date of this Order, Dr. Bruce shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which she currently holds any professional license. Dr. Bruce shall also provide a copy of this Order by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which she applies for any professional license or reinstatement or restoration of any professional license. Further, Dr. Bruce shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

EFFECTIVE DATE OF ORDER: This Order shall become effective immediately upon the mailing of notification of approval by the Board.

(SEAL)



Anand G. Garg, M.D.
Secretary

September 12, 2001
Date

STATE MEDICAL BOARD
OF OHIO

2001 AUG 14 P 5 48

**REPORT AND RECOMMENDATION
IN THE MATTER OF MARGUERITE D. BRUCE, M.D.**

The Matter of Marguerite D. Bruce, M.D., was heard by Sharon W. Murphy, Attorney Hearing Examiner for the State Medical Board of Ohio, on July 17, 2001.

INTRODUCTION**I. Basis for Hearing**

- A. By letter dated April 11, 2001, the State Medical Board of Ohio [Board] notified Marguerite D. Bruce, M.D., that it had proposed to take disciplinary action against her certificate to practice medicine and surgery in this state. The Board based its proposed action on an allegation that the Department of the Navy had taken action against Dr. Bruce, and on an allegation that Dr. Bruce had submitted false and/or fraudulent statements to the Board.

The Board alleged that the action taken against Dr. Bruce's privileges by the Department of the Navy constitutes "[t]he revocation, suspension, restriction, reduction, or termination of clinical privileges by the United States department of defense or department of veterans affairs or the termination or suspension of a certificate of registration to prescribe drugs by the drug enforcement administration of the United States department of justice," as that clause is used in Section 4731.22(B)(24), Ohio Revised Code."

The Board further alleged that Dr. Bruce's submission of false and/or fraudulent statements to the Board constitutes "fraud, misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the board," as that clause is used in Section 4731.22(A), Ohio Revised Code [and] "[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code." Accordingly, the Board advised Dr. Bruce of her right to request a hearing in this matter. (State's Exhibit 1A).

- B. On May 11, 2001, Kevin P. Byers, Esq., submitted a written hearing request on behalf of Dr. Bruce. (State's Exhibit 1B).

II. Appearances

- A. On behalf of the State of Ohio: Betty D. Montgomery, Attorney General, by Rebecca J. Albers, Assistant Attorney General.
- B. On behalf of the Respondent: Kevin P. Byers, Esq.

EVIDENCE EXAMINED

I. Testimony Heard

- A. Presented by the State
 - Marguerite D. Bruce, M.D., as if on cross-examination
- B. Presented by the Respondent
 - 1. Amelia Cleveland, M.D.
 - 2. Marguerite D. Bruce, M.D.

II. Exhibits Examined

- A. Presented by the State
 - 1. State's Exhibits 1A-1H₁, 1H₂, and 1I: Procedural exhibits.
 - 2. State's Exhibit 2: Certified copy of Dr. Bruce's 2001 renewal application.
 - 3. State's Exhibits 3-7, 9-11: Copies of documents pertaining to Dr. Bruce maintained by the Department of the Navy. (Note: Exhibits sealed to protect confidentiality of records pursuant to 10 U.S.C. §1102.)
 - 4. State's Exhibit 12: Certified copy of Dr. Bruce's 1998 renewal application.
 - 5. State's Exhibit 13: 10 U.S.C. §1102.
- B. Presented by the Respondent
 - 1. Respondent's Exhibit A: Copy of Dr. Bruce's curriculum vitae.

2. Respondent's Exhibit B: Copy of a June 6, 2001, letter to the Board, c/o Mr. Byers, from John M. Erkins, M.D., Director of the Department of Obstetrics and Gynecology, Huron Hospital, Cleveland, Ohio.
3. Respondent's Exhibit C: Copy of a July 16, 2001, letter to the Board, c/o Mr. Byers, from Gregory S. Thomas, Greater Bethel AME Church, Cleveland, Ohio.
4. Respondent's Exhibit D: Copy of an undated document entitled "Professional History Explanation" signed by Dr. Bruce.
5. Respondent's Exhibits E-H: Copies of documents related to Dr. Bruce's Navy privileges.

Note: With the agreement of the parties, the Attorney Hearing Examiner deleted references to social security numbers in these exhibits.

SUMMARY OF THE EVIDENCE

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

1. Marguerite D. Bruce, M.D., received a medical degree from the Case Western Reserve University School of Medicine in Cleveland, Ohio, in 1991. In 1995, Dr. Bruce completed a residency in Obstetrics and Gynecology at St. Luke's Medical Center in Cleveland. (Hearing Transcript [Tr.] at 16-17; Respondent's Exhibit [Resp. Ex.] A).

Dr. Bruce is currently practicing at the Northeast Ohio Neighborhood Health Services in Cleveland. Dr. Bruce explained that the Northeast Ohio Neighborhood Health Services is "a conglomerate of outpatient facilities. There are five sites within the city [which] provide care from primary care to some specialty care, including OB/GYN, ophthalmology, dermatology and other services. [Northeast Ohio Neighborhood Health Services] is affiliated with certain hospitals as physicians for admitting privileges and surgical privileges." Dr. Bruce testified that she is practicing both obstetrics and gynecology. (Tr. at 41, 82).

Dr. Bruce testified that she is not yet board certified. She stated that she recently completed the written examination for board certification, and expected to have the results during the first week of August 2001. She hoped to complete the oral portion of the examination within the next few years. (Tr. at 81-82).

2. Following her residency program, Dr. Bruce served in the United States Navy for four years. She left the service in August 2000; her rank was Lieutenant Commander. (Tr. at 17; State's Exhibit [St. Ex.] 3).
3. On October 29, 1998, the Commanding Officer of Naval Hospital Charleston in Charleston, South Carolina, issued an "Abeyance of Surgical Privileges not to Include C-Section" pertaining to Dr. Bruce. The document advised that Dr. Bruce's surgical privileges, with the exception of C-section, had been placed in abeyance pending further investigation. The document further advised that the action was based on "allegations of professional impairment." (St. Ex. 10).
4. On November 25, 1998, an Investigational Report was submitted to the Commanding Officer of Naval Hospital Charleston. The Investigational Report noted that all of Dr. Bruce's 154 surgical gynecological cases for the period of August 1995 through November 1998 had been reviewed "to determine if the appropriate and applicable standard of care" had been met.

The review covered inpatient and outpatient cases, and identified eight surgical complications: four cystotomies, one ureter transection, one epigastric artery laceration and transfusion, one uterine perforation, and one emergent transfusion case. Seven of the complications were identified as understandable and predictable. Nevertheless, the report concluded that the emergent transfusion case had involved "marginal/poor surgical judgment with respect to surgical approach and patient selection [Jehovah's Witness & large uterus]." The Investigational Report recommended that Dr. Bruce retain her surgical privileges, but that all of her hysterectomy cases be monitored for a period for six months. (Resp. Ex. G).

Despite the recommendation in the Investigational Report, the partial suspension of Dr. Bruce's surgical privileges remained in effect. (St. Ex. 9).

5. Dr. Bruce testified that the case that had initially caused concern involved a Jehovah's Witness patient. Dr. Bruce stated that the patient had signed a form stating that she would not consent to a blood transfusion. Nevertheless, Dr. Bruce ordered a blood transfusion for that patient (Tr. at 45).

Dr. Bruce testified that she had started the case as a vaginal hysterectomy. Nevertheless, she had been forced to convert to an abdominal approach due to a large amount of blood loss. Moreover, the anesthesia provider reported that the patient's blood pressure had become unstable. Dr. Bruce ordered the blood. Dr. Bruce stated that it was only after the transfusion was complete that one of the nurses reviewed the patient's chart and realized that the patient had signed a document stating that she would not consent to a blood transfusion. When asked if she had "consciously decided to overrule" the patient's wishes, Dr. Bruce testified that "[i]n the midst of the bleeding and all the events that were going on, and I thought my patient was going to die, the order came forth without really remembering the signature." (Tr. at 45, 74-75).

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In the Matter of Marguerite D. Bruce, M.D.

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Dr. Bruce testified that, post-operatively, the patient had been transferred to a community hospital, because Naval Hospital Charleston had not had the facilities to care for her. Dr. Bruce had continued to care for the patient post-operatively. Dr. Bruce stated that she had maintained good rapport with the patient. (Tr. at 75).

Dr. Bruce concluded that she had used poor judgment in the care of that patient. She stated that the patient had requested a vaginal rather than an abdominal approach for her hysterectomy. Dr. Bruce stated that she had acceded to the patient's wishes despite Dr. Bruce's best medical judgment. (Tr. at 77-78).

6. Dr. Bruce stated that the November 25, 1998, Investigational Report had recommended that Dr. Bruce have all hysterectomy cases monitored for a period for six months. Nevertheless, Dr. Bruce was the most senior surgeon at her institution, Naval Hospital Charleston. Therefore, Dr. Bruce was sent to Naval Hospital Camp Pendleton in California for a preceptorship. Dr. Bruce participated in the preceptorship at Naval Hospital Camp Pendleton from January 3 through March 3, 1999. (Tr. at 45-46; Resp. Ex. G).
7. On March 4, 1999, Commander Jack Klausen, Chairman of the Obstetrics and Gynecology Department at Naval Hospital Camp Pendleton, issued a report to the Commanding Officer of Naval Hospital Charleston. The report noted that Dr. Bruce had spent two months at Naval Hospital Camp Pendleton mentored either by Dr. Klausen or by another physician. The report stated:

Dr. Bruce saw a wide variety of gynecological patients in the clinic and her workups, diagnostic reasoning, and plans of treatment were excellent and showed a good command of gynecological knowledge that was current and applied appropriately. * * * As a clinical gynecologist, she is most assuredly acceptable and up to Navy Standards in the cases I reviewed.

(Resp. Ex. H at 1). The report further noted that Dr. Bruce had performed five inpatient operative cases, and had demonstrated some difficulty with those cases. The report concluded:

Dr. Bruce is not comfortable with her abilities in surgery and for that reason is very tentative in her operative procedures. She makes some mistakes that are probably a reflection of that lack of confidence, i.e. ties only one side of a pedicle on a figure of eight stitch. * * * I believe that Dr. Bruce is a good doctor, but not a great surgical technician and perhaps could benefit from operating with a more experienced and technically accomplished surgeon.

(Resp. Ex. H at 1-2).

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8. Dr. Bruce stated that she had been uncomfortable with the March 4, 1999, report issued by Commander Klausen. Dr. Bruce stated that she had not felt that five surgical cases were sufficient for a thorough evaluation of her clinical skills. Accordingly, Dr. Bruce stated that she had asked for a second preceptorship. (Tr. at 46-47).
9. On March 15, 1999, Dr. Bruce sent a memorandum to the Commanding Officer of Naval Hospital Charleston. In the memorandum, Dr. Bruce requested an additional sixty days evaluation of her surgical skills at a different institution. Dr. Bruce advised as follows:

I am concerned that I did not receive a fair evaluation at Naval Hospital Camp Pendleton. CDR Klausen is a kind individual who never treated me unfairly, but his position intimidated me and created some personal anxiety. * * *

Of my 170 patient encounters, I earned only two major cases and two minor cases of the same variety. The third major case, a vaginal hysterectomy, was given to me by one of the other providers, as I had not found a vaginal hysterectomy during my outpatient encounters. * * *

I believe I may have been able to overcome the intimidation of CDR Klausen's position had I had more cases. But, more importantly, even if I had done well according to his evaluation, three major cases is not enough in my opinion to adequately evaluate anyone. Hopefully, during the continued sixty-day preceptorship, I will be allowed to operate on other physicians' patients in their presence. * * *

(Resp. Ex. E).

10. Dr. Bruce testified that she had remained at Naval Hospital Charleston from March 3 through May 3, 1999. During that time, Dr. Bruce was on the obstetrics call schedule. (Tr. at 48).
11. On May 3, 1999, the Commanding Officer of Naval Hospital Charleston issued a memorandum to the Commanding Officer of Naval Hospital Jacksonville regarding a second preceptorship for Dr. Bruce. The memorandum advised that, in order to provide a sufficient period of observation of her surgical skills, Dr. Bruce should be allowed to operate with a physician who was board certified in obstetrics and gynecology. The memorandum further requested a recommendation within thirty or sixty days pertaining to Dr. Bruce's "ability to competently perform gynecological surgery independently." (St. Ex. 9).
12. Dr. Bruce testified that she had practiced at Naval Hospital Jacksonville from May 3 through July 3, 1999. Dr. Bruce further testified that she had performed twenty-three major cases and six minor cases during her stay in Jacksonville. (Tr. at 49-50).

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- ii. Dr. Bruce had used laparoscopic assisted vaginal hysterectomy [LAVH] when LAVH was not the procedure of choice for that patient;
 - iii. Dr. Bruce had chosen to perform LAVH without appropriate indications for the procedure;
 - iv. Dr. Bruce had chosen to perform LAVH despite the fact that the procedure exposed the patient to an addition risk of significant blood loss;
 - v. Dr. Bruce had not, pre-operatively, formulated a plan of action in the event of life threatening blood loss; and
 - vi. Dr. Bruce had not informed other members of the operating team that the patient did not want blood products and had not consented to their use.
- c. Dr. Bruce had had a high complication rate in her performance of hysterectomies over the eighteen-month period from March 1997 through October 1998.
- d. Dr. Bruce had performed obstetrical care in a substandard manner. This conclusion was based on the following findings:
- i. Dr. Bruce had performed a C-section delivery based on an irregular maternal heart rate initially detected by pulse oximetry. Subsequent assessment had failed to reveal an irregular heart rhythm. The memorandum noted that C-section is not indicated for maternal premature ventricular contractions in the absence of clinical evidence of cardiovascular compromise.
 - ii. Dr. Bruce had attempted a mid-pelvic operative vaginal delivery based on her interpretation of non-reassuring fetal heart rate monitoring. She had not attempted any intrauterine resuscitative measures other than supplemental maternal oxygen. Moreover, Dr. Bruce had not notified any anesthesia provider of her intent to perform an operative vaginal delivery, and performed an emergent C-section using local anesthesia without maternal or fetal indications.
 - iii. Dr. Bruce had attempted a mid-pelvic operative vaginal delivery based on indications of maternal exhaustion. The memorandum noted that maternal exhaustion is not an indication for mid-pelvic operative vaginal delivery and that mid-pelvic operative vaginal delivery is generally associated with increased neonatal and maternal morbidity. In this case, the baby had had Apgar scores of 2/3/5, indicative of significant neonatal depression.

The Peer Review Panel recommended that Dr. Bruce's privileges be reduced. Moreover, the Peer Review Panel recommended that the reduction in privileges "encompass all obstetrical and gynecological surgical core privileges and the management of labor and delivery." (St. Ex. 4).

16. On August 2, 1999, Dr. Bruce responded to the allegations of the Peer Review Panel in a memorandum to the Commanding Officer of Naval Hospital Charleston. In the memorandum, Dr. Bruce commented as follows regarding the findings made by the Peer Review Panel:
 - a. Regarding the finding that she had not, pre-operatively, formulated a plan of action in the event of life threatening blood loss, Dr. Bruce advised that she had formulated a plan that included the use of intravenous fluids and volume expanders. Dr. Bruce noted that the case had been unusual, and more extensive planning would have been appropriate. She further noted that she had erred in succumbing to the patient's wishes as to choice of surgical procedure.
 - b. Regarding the finding that Dr. Bruce had had a high complication rate in her performance of hysterectomies over the eighteen-month period from March 1997 through October 1998, Dr. Bruce stated that that period had been unusual in that she had a cluster of bad cases over a six month period.
 - c. Regarding the findings that Dr. Bruce had performed a C-section delivery based on an irregular maternal heart rate initially detected by pulse oximetry, that subsequent assessment had failed to reveal an irregular heart rhythm, and that C-section is not indicated for maternal premature ventricular contractions in the absence of clinical evidence of cardiovascular compromise, Dr. Bruce stated that she had believed that labor would have been "unsafe" for that patient. Dr. Bruce stated that the appropriate instrumentation had not been in place at the time of her concerns. Dr. Bruce further stated that the patient had been suffering preeclampsia, which had distinguished the patient's delivery from a normal delivery. Moreover, Dr. Bruce stated that she had discussed the options with the patient and the patient's husband, and that the mother and baby had done well.
 - d. Regarding the findings that Dr. Bruce had attempted a mid-pelvic operative vaginal delivery based on her interpretation of non-reassuring fetal heart rate monitoring, that Dr. Bruce had not attempted any intrauterine resuscitative measures other than supplemental maternal oxygen, and that Dr. Bruce had not notified any anesthesia provider of her intent to perform an operative vaginal delivery, and had performed an emergent C-section using local anesthesia without maternal or fetal indication, Dr. Bruce stated that there had been fetal indication for performing a mid-pelvic operative vaginal delivery. Dr. Bruce stated that she had heard changes in the fetal heart tones; however, the nurse had not been present and no tracing had been made.

She further stated that anesthesia had not been available. Dr. Bruce stated that she had had concerns for the baby, which had been confirmed by the low Apgar scores. Finally, Dr. Bruce stated that the baby had been resuscitated within five minutes.

- e. Regarding the finding that Dr. Bruce had attempted a mid-pelvic operative vaginal delivery based on indications of maternal exhaustion, Dr. Bruce stated that she had not performed the delivery based on indications of maternal exhaustion. Dr. Bruce stated that:

The initial investigator copied [my] description of "t1 to t2 station." I often times describe the fetal head in that way to let myself know how much molding and/or caput exist. The biparietal diameter is at t1 but the head extends to t2 station and later to t3 with pushing. The presenting part was at t2 station upon initial attempts of an operative delivery, i.e., not in the range of mid pelvic delivery. My thought processes and behavior during this case were not well documented. There were no applications of traction with the forceps. The vacuum was used appropriately. There was a shoulder dystocia, which may account for some of the fetal depression; however, it is difficult to explain the infant's course. During the delivery, there were no fetal tracing abnormalities.

Dr. Bruce concluded with a response to the Peer Review Panel's recommendation that she be prohibited from performing obstetrical and gynecological surgeries and from managing labor and deliveries. Dr. Bruce stated that the recommendation was "extreme in nature" and would "crucify" her. Dr. Bruce requested that her privileges be restored. (St. Ex. 11).

17. On August 9, 1999, the Commanding Officer of Naval Hospital Charleston issued the "Privileging Authority's Final Decision" [Final Decision], which provided, in part, as follows:

The primary issue is clinical judgment and its independent exercise under situations of clinical duress. I concur with the findings of the panel. The recommendations of the panel were commensurate with the nature of the allegations and preponderance of the evidence. Therefore, consistent with patient safety, the furtherance of quality health care, and the overall integrity of Navy medicine, I am continuing your staff appointment with a reduction in privileges encompassing all obstetrical and gynecological surgical core and supplemental privileges and the management of labor and delivery.

(St. Ex. 5).

18. Dr. Bruce testified that her last day of active service in the Navy was August 31, 1999. Her privileges had not been restored at the time of her departure from active duty. (Tr. at 54, 87-88).

19. On February 9, 2001, Dr. Bruce signed and submitted to the Board an application for renewal of her Ohio certificate to practice medicine and surgery. By signing the application, Dr. Bruce certified, under penalty of loss of her right to practice in the State of Ohio, that the information provided on the application for renewal was true and correct in every respect. Nevertheless, Dr. Bruce responded "No" to the question:

At any time since signing your last application for renewal * * * [h]ave you had any clinical privileges or other similar institutional authority suspended, restricted or revoked for reasons other than failure to maintain records on a timely basis or to attend staff meetings?

(St. Ex. 2) (Emphasis deleted).

Dr. Bruce had signed her last application for renewal on August 18, 1998. (St. Ex. 12). Nevertheless, in her 2001 application for renewal, Dr. Bruce failed to advise the Board of the August 9, 1999, Final Decision that she be prohibited from performing obstetrical and gynecological surgeries and from managing labor and deliveries. (St. Ex. 2).

Dr. Bruce testified that, on February 9, 2001, when she signed the application for renewal of her certificate, she had not been aware of the date she had signed her previous renewal application. She stated that her perception had been that the events which resulted in the reduction of her privileges by the Navy had taken place over a long period of time, and that she had already reported them to the Board. Dr. Bruce acknowledged, however, that she did not review her previous application to confirm that the events had been reported. Dr. Bruce admitted that failure to do so had been "sloppy" and "not good practice." (Tr. at 25-27, 54-56).

20. Dr. Bruce presented at hearing an undated document entitled "Professional History Explanation." The document reviews the events that led to the reduction of Dr. Bruce's Navy privileges. In addition, the document advises, "The information regarding the reduction of my privileges was reported to the National Practitioner Data Bank. It stated there was concern regarding my judgment and skills, thereby prompting them to reduce my privileges." Finally, the document contains Dr. Bruce's signature. (Resp. Ex. D).

Dr. Bruce testified that she had included a copy of the document with each application for hospital privileges she has submitted since leaving the Navy. Dr. Bruce stated that she had applied for privileges at Mount Sinai Medical Center, Akron City Hospital, Akron General Hospital, Euclid Hospital, Huron Hospital, Hillcrest Hospital, Marymount Hospital, and several hospitals in Cleveland. (Tr. at 56-57).

Dr. Bruce testified that a number of hospitals have taken actions against or denied her privileges based on the information she provided. She stated that Euclid Hospital had

advised her that they would require her to complete a preceptorship prior to granting her full privileges. Dr. Bruce testified that, based on the hospital's decision, she had requested to be allowed to withdraw her application, and that the hospital allowed her to withdraw it. (Tr. at 57-58).

Dr. Bruce testified that she currently holds temporary/provisional privileges at Huron Hospital. John M. Erkins, M.D., Director of the Obstetrics and Gynecology at Huron Hospital, serves as a preceptor and reviews one hundred percent of Dr. Bruce's surgical cases. Dr. Bruce further testified that Dr. Erkins "scrubbed in" with Dr. Bruce for the "first few cases" she performed at Huron Hospital. Currently, Dr. Bruce presents every case to Dr. Erkins and Dr. Erkins completes an evaluation of Dr. Bruce's performance. (Tr. at 58-60, 68-69).

Dr. Bruce testified that she also has an office-based practice with Northeast Ohio Neighborhood Health Services that is not monitored. (Tr. at 69-70). In addition, Dr. Bruce "moonlights" as a house officer at Huron Hospital and at Hillcrest Hospital. Dr. Bruce stated that she works twelve-hour shifts and serves as the emergency contact person in the hospital. (Tr. at 67-68, 73).

21. Amelia Cleveland, M.D., testified at hearing on behalf of Dr. Bruce. Dr. Cleveland testified that she had attended one year of medical school at the Case Western Reserve University in Cleveland; she completed her medical education at the University of Cincinnati in Cincinnati, Ohio. Dr. Cleveland then completed a residency in Obstetrics and Gynecology at the University of Michigan in 1994. Thereafter, Dr. Cleveland served in the Cleveland Neighborhood Health Services until 1996. Since that time, she has been practicing Obstetrics and Gynecology at the Cleveland Clinic Foundation. Dr. Cleveland is board certified in Obstetrics and Gynecology. (Tr. at 31-32).

Dr. Cleveland testified that she first met Dr. Bruce in 1986 when they were both first year medical students at the Case Western Reserve University. She stated that she and Dr. Bruce have remained friends since that time. (Tr. at 33-34).

Dr. Cleveland testified that Dr. Bruce's character is "above reproach." (Tr. at 34).

Dr. Cleveland further testified that she has shared patients with Dr. Bruce due to the locations in which both physicians practice. Dr. Cleveland stated that the patients, in general, have been very pleased with the care they received from Dr. Bruce. Moreover, Dr. Cleveland stated that she has reviewed Dr. Bruce's documentation in those cases, and found that Dr. Bruce's documentation and plans of care have been good. Moreover, Dr. Cleveland testified that her review of Dr. Bruce's records has "shown evidence of committed and dedicated attention." Dr. Cleveland acknowledged, however, that she has not observed Dr. Bruce's surgical skills. (Tr. at 37-39).

22. John M. Erkins, M.D., Director of the Obstetrics and Gynecology at Huron Hospital, wrote to the Board, in care of Mr. Byers, on June 6, 2001. Dr. Erkins testified that he had worked with Dr. Bruce at Huron Hospital and at Mount Sinai Medical Center. (Resp. Ex. B).

Dr. Erkins advised that, upon returning from military duty, Dr. Bruce had joined the staff at Mount Sinai Medical Center. In applying for privileges at that institution, Dr. Bruce advised that information regarding the reduction in her military privileges could be found in the National Practitioners Data Bank. Nevertheless, when Dr. Erkins checked the data bank, he found that the information had not yet been reported. Therefore, Dr. Erkins stated that, in light of Dr. Bruce's forthrightness in applying for hospital privileges, he found it very difficult to believe that she had intended to be deceitful in her application for renewal of her licensure in Ohio. (Resp. Ex. B).

Dr. Erkins further stated that he had worked with Dr. Bruce in the Department of Obstetrics and Gynecology at Mount Sinai Medical Center, and that he continues to work with her at Huron Hospital. Dr. Erkins reported that:

[Dr. Bruce] continues to demonstrate good moral character. Dr. Bruce respects herself and others. She is responsible, trustworthy and demonstrates an excellent work ethic. Her integrity is beyond reproach for she is fair and honest in all her transactions. Her enthusiasm and compassion make it a pleasure to work with her.

I believe Dr. Bruce is a positive influence in the medical community and would like very much for her to continue her efforts to support our team.

(Resp. Ex. B).

23. Reverend Gregory S. Thomas, Esq., Greater Bethel AME Church of Cleveland, wrote to the Board, in care of Mr. Byers, on June 16, 2001. Rev. Thomas stated that he has known Dr. Bruce since Dr. Bruce was a high school student. He stated that Dr. Bruce has "impeccable integrity" and has "proven herself as a person with sound judgment, realistic approach, superb articulation, and high-energy work ethic." (Resp. Ex. C).

FINDINGS OF FACT

1. On August 9, 1999, the Commanding Officer of Naval Hospital Charleston issued a Privileging Authority's Final Decision [Final Decision] pertaining to Marguerite D. Bruce, M.D. The Final Decision reduced Dr. Bruce's core and supplemental privileges, thereby prohibiting Dr. Bruce from performing obstetrical and gynecological surgeries and from managing labor and delivery. The Final Decision was based upon findings of a peer review panel that Dr. Bruce had breached the standards of care and exercised

questionable clinical judgment in her practice of obstetrics and gynecology at Naval Hospital Charleston.

2. On February 9, 2001, Dr. Bruce signed and submitted an application for renewal of her Ohio certificate to practice medicine and surgery to the Board. Dr. Bruce certified, under penalty of loss of her right to practice in the State of Ohio, that the information provided on this application for renewal was true and correct in every respect. Nevertheless, Dr. Bruce responded "No" to the question "At any time since signing Dr. Bruce's last application for renewal * * * [h]ave you had any clinical privileges or other similar institutional authority suspended, restricted or revoked for reasons other than failure to maintain records on a timely basis or to attend staff meetings?" [Emphasis deleted]

In fact, Dr. Bruce failed to advise the Board that, on August 9, 1999, her privileges at Naval Hospital Charleston had been reduced.

CONCLUSIONS OF LAW

1. The Final Decision pertaining to Marguerite D. Bruce, M.D., issued by Naval Hospital Charleston, as described in Findings of Fact 1, constitutes "[t]he revocation, suspension, restriction, reduction, or termination of clinical privileges by the United States department of defense or department of veterans affairs or the termination or suspension of a certificate of registration to prescribe drugs by the drug enforcement administration of the United States department of justice," as that clause is used in Section 4731.22(B)(24), Ohio Revised Code.
2. Dr. Bruce's conduct, as described in Findings of Fact 2, constitutes "fraud, misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the board," as that clause is used in Section 4731.22(A), Ohio Revised Code.
3. Dr. Bruce's conduct, as described in Findings of Fact 2, constitutes "[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

* * * * *

The Peer Review Panel at Naval Hospital Charleston found that Dr. Bruce had breached the standard of care, exercised questionable surgical judgment, performed obstetrical care in a substandard manner, and had a high complication rate in her performance of hysterectomies over

an eighteen-month period. The findings of the Peer Review Panel led to the issuance of the Privileging Authority's Final Decision, which reduced Dr. Bruce's obstetrical and gynecological surgical privileges, including the management of labor and delivery. These facts establish a clear violation of Ohio law and warrant intervention by the Board.

Nevertheless, there is also evidence in the record which indicates that Dr. Bruce's skills were satisfactory in most cases. The Head of the OB/GYN Department at Naval Hospital Jacksonville reported that Dr. Bruce had "demonstrated good surgical skills compatible with a well trained OB/GYN specialist." In addition, the Chairman of the Obstetrics and Gynecology Department at Naval Hospital Camp Pendleton reported that, despite Dr. Bruce's discomfort with surgical cases, her gynecological "workups, diagnostic reasoning, and plans of treatment were excellent and showed a good command of gynecological knowledge." Therefore, the record contains conflicting reports regarding the quality of Dr. Bruce's medical and surgical skills, and is not one of a clearly deficient physician.

The record is further complicated by the fact that Dr. Bruce submitted a renewal application to the Board in which she wrongfully denied having had any clinical privileges suspended, restricted, or revoked. At hearing, Dr. Bruce admitted that she had failed to pay close attention to the questions asked in the renewal application, and that her failure to do so had been "sloppy" and "not good practice." In addition to the fact that Dr. Bruce's conduct led to her submission of false and misleading information to the Board, these admissions raise the question of whether the sloppiness and inattention to detail demonstrated in Dr. Bruce's failure to properly complete the renewal application represent characteristics which contributed to practice deficiencies.

In mitigation, however, Dr. Bruce was more than forthright in discussing the allegations raised by the Navy during the course of the Navy's actions against her privileges. Furthermore, Dr. Bruce expressed a willingness to comply with anything the Board might require to assure that she is capable of practicing medicine and surgery in a safe and effective manner. In fact, in post-hearing discussions among counsel for the parties and the attorney hearing examiner, Dr. Bruce agreed to submit to an assessment of her medical and surgical skills and to comply with a plan of education should one be appropriate. Accordingly, the following proposed order was drafted to address the problems that contributed to the Navy's actions against Dr. Bruce's privileges. Moreover, the proposed order is designed to allow Dr. Bruce to address any practice deficiencies, while protecting the public from harm.

PROPOSED ORDER

It is hereby ORDERED that:

- A. **REPRIMAND:** Marguerite D. Bruce, M.D., is hereby REPRIMANDED.

B. **PROBATIONARY CONDITIONS:** Dr. Bruce's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for an indefinite period of time, but not less than three years unless otherwise determined by the Board:

1. **Obey Laws in Ohio:** Dr. Bruce shall obey all federal, state, and local laws; and all rules governing the practice of medicine in Ohio.
2. **Quarterly Declarations:** Dr. Bruce shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which this Order becomes effective. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
3. **Appearances:** Dr. Bruce shall appear in person for quarterly interviews before the Board or its designated representative, or as otherwise directed by the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
4. **Monitoring Physician:** Within thirty days of the effective date of this Order, Dr. Bruce shall submit the name and curriculum vitae of a monitoring physician for written approval by the Secretary or Supervising Member of the Board and, unless that physician has previously been approved to serve as a monitoring physician, for approval by the Board via an expedited poll vote. In approving an individual to serve in this capacity, the Board will give preference to a physician who practices in the same locale as Dr. Bruce and who is engaged in the same or similar practice specialty.

The monitoring physician shall monitor Dr. Bruce and her medical and surgical practice, and shall review Dr. Bruce's patient charts. The chart review may be done on a random basis, with the frequency and number of charts reviewed to be determined by the Board.

Further, the monitoring physician shall provide the Board with reports on the monitoring of Dr. Bruce and her medical and surgical practice, and on the review of Dr. Bruce's patient charts. Dr. Bruce shall ensure that the reports are forwarded to the Board on a quarterly basis and are received in the Board's offices no later than the due date for Dr. Bruce's quarterly declaration.

In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Bruce must immediately so notify the Board in writing. In

addition, Dr. Bruce shall make arrangements acceptable to the Board for another monitoring physician within sixty days after the previously designated monitoring physician becomes unable or unwilling to serve, unless otherwise determined by the Board. Furthermore, Dr. Bruce shall ensure that the previously designated monitoring physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

5. **Assessment by CPEP; Compliance with Education Plan:** Within thirty days of the effective date of this Order, Dr. Bruce shall contact the Colorado Personalized Education for Physicians [CPEP] for the purposes of an assessment.

- a. Prior to the CPEP assessment, Dr. Bruce shall furnish CPEP copies of the Board's Order, including the Summary of the Evidence, Findings of Fact, and Conclusions, and any other documentation from the hearing record that the Board may deem appropriate or helpful to that assessment.

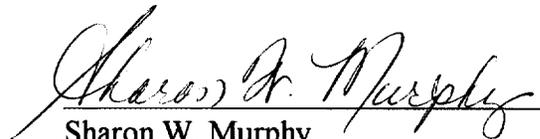
Upon completion of the assessment, Dr. Bruce shall ensure that CPEP issues a written assessment, in which CPEP states whether Dr. Bruce should undergo an education plan. Dr. Bruce shall complete and sign the written assessment within 120 days of the effective date of this Order. Further, Dr. Bruce shall provide this Board with a copy of the signed written assessment within fifteen days of its signing by all necessary parties

- b. In the event that the written assessment indicates that Dr. Bruce should undergo an education plan, Dr. Bruce shall enroll in a CPEP education plan within 180 days of the effective date of this Order. Dr. Bruce shall further ensure that CPEP sends a copy of the education plan to the Board.
 - i. Dr. Bruce shall comply with the education plan. Moreover, CPEP shall provide the Board with reports on Dr. Bruce's compliance with the education plan. Dr. Bruce shall ensure that the reports are forwarded to the Board on a quarterly basis and are received in the Board's offices no later than the due date for Dr. Bruce's quarterly declaration.
 - ii. Dr. Bruce shall successfully complete the education activities set out in the education plan, including any final evaluation, within the time set out by CPEP but, in no event, more than two years from the effective date of this Order.
 - iii. All recommendations made by CPEP shall constitute terms of this Order; Dr. Bruce shall comply with those recommendations within the time periods set forth by CPEP.

- iv. Upon successful completion of the education plan, including any final assessment recommended by CPEP, Dr. Bruce shall provide the Board with satisfactory documentation from CPEP indicating that Dr. Bruce has successfully completed the education plan.
 - c. Dr. Bruce' participation in the CPEP shall be at her own expense.
 6. **Absence from Ohio**: In the event that Dr. Bruce should leave Ohio for three continuous months, or reside or practice outside the State, Dr. Bruce must notify the Board in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of this period under the Order, unless otherwise determined by the Board in instances where the Board can be assured that probationary monitoring is otherwise being performed.
 7. **Violation of Probation; Discretionary Sanction Imposed**: If Dr. Bruce violates probation in any respect, the Board, after giving her notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of her certificate.
 8. **Tolling of Probationary Period while Out of Compliance**: In the event Dr. Bruce is found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period.
- E. **TERMINATION OF PROBATION**: Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Bruce's certificate will be fully restored.
- F. **REQUIRED REPORTING BY LICENSEE TO EMPLOYERS AND HOSPITALS**: Within thirty days of the effective date of this Order, Dr. Bruce shall provide a copy of this Order to all employers or entities with which she is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where she has privileges or appointments. Further, Dr. Bruce shall provide a copy of this Order to all employers or entities with which she contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where she applies for or obtains privileges or appointments.
- G. **REQUIRED REPORTING BY LICENSEE TO OTHER STATE LICENSING AUTHORITIES**: Within thirty days of the effective date of this Order, Dr. Bruce shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which she currently holds any professional license. Dr. Bruce shall also provide a copy of this Order by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which she applies for any professional license or reinstatement or restoration of any professional

license. Further, Dr. Bruce shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

EFFECTIVE DATE OF ORDER: This Order shall become effective immediately upon the mailing of notification of approval by the Board.



Sharon W. Murphy
Attorney Hearing Examiner



State Medical Board of Ohio

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EXCERPT FROM THE DRAFT MINUTES OF SEPTEMBER 12, 2001

REPORTS AND RECOMMENDATIONS

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

Dr. Bhati 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 matter of Marguerite D. Bruce, M.D.; Jon A. Molisky, D.O.; Regine Neptune, D.O.; William A. Romer, M.D.; and Michael Alan Twaddle, M.D. A roll call was taken:

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

Mr. Dilling advised that, due to restrictions on air travel, Dr. Israelstam was unable to travel from Wisconsin for this meeting. The Report and Recommendation in his matter will be considered by the Board in October.

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

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Somani	- aye
	Dr. Buchan	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye

Dr. Steinbergh - aye
Dr. Bhati - aye

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

Dr. Bhati 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.

MARGUERITE D. BRUCE, M.D.

Dr. Bhati directed the Board's attention to the matter of Marguerite D. Bruce, M.D. He advised that no objections were filed to Hearing Examiner Murphy's Report and Recommendation.

Dr. Bhati continued that a request to address the Board has been timely filed on behalf of Dr. Bruce. Five minutes would be allowed for that address.

Dr. Bruce was accompanied by her attorney, Kevin P. Byers. Mr. Byers stated that it has truly been a privilege to represent Dr. Bruce in these proceedings. As noted, there were no objections filed. Mr. Byers stated that he would turn the rest of his time over to Dr. Bruce.

Dr. Bruce thanked the Board for convening this meeting in spite of the wounded numbness of the country. She appreciates it.

Dr. Bruce apologized to the Board for reading a prepared statement. She stated that this matter is of such great significance to her that she wants to use the time efficiently revealing her heart's desires and concerns.

Dr. Bruce stated that she would like to address the simpler and more straightforward item: the issue of fraud and deception. She in no way whatsoever meant to deceive, misrepresent or be untruthful at any time in the reapplication renewal process. She is guilty of not confirming that the events of the Navy had been reported. She simply checked the boxes and paid the fee. Dr. Bruce stated that she is heartily sorry for and not proud of this sloppy practice. It is this inexcusable behavior that has resulted in these proceedings.

Dr. Bruce stated that these proceedings feel like double jeopardy. She often asks, "when do I stop paying for past mistakes? Is there an end in sight?" She really hopes so. Her civilian practice following the Navy practice has been without adverse actions, judgments or outcomes. There has been a total of 18 months' practice since the events in question, without any problems. Ironically enough, these practices were in six-

month clusters at Mt. Sinai, Euclid Meridia and now Huron Hospitals. She did not choose to practice in clusters, actions were out of her control. Mt. Sinai Hospital closed. Euclid Meridia elected after six months and a background of no adverse actions or outcomes not to grant her full active privileges because of the Navy incidents. She is grateful that her practice at Northeast Ohio Neighborhood Services was moving to Huron. She has been at Huron since April 2001 without any incidents. Of note, her outpatient activities, labor and delivery activities, GYN non-surgical admissions have not been questioned since the Navy experience. Currently, Dr. John Erkins, a board-certified obstetrician/gynecologist licensed here in the State of Ohio reviews 100% of her OB/GYN surgical cases, per request of Huron Hospital because of the concerns regarding the Navy reports. No deficiency or concern has been identified in skill or judgment, and the cases are not always easy or without difficulty. Dr. Bruce stated that some people describe their practice as some of the "sickest people in the city."

Dr. Bruce stated that she understands the Board's responsibility to protect the public from harm. Her job is just as important. She is required to do no harm. That requirement goes beyond her commitment to the medical community and its governing bodies. It extends into her own spiritual commitment to God and what He has called her to do. Therefore, she does not object to undergoing any objective assessment of her skills and knowledge and following through with the recommendations of such a party. If that recommendation is proctoring, she is willing. She'd rather do CPEP only, with a decision coming from there to decide whether or not her practice should be monitored. Dr. Erkins is the only person in the Cleveland area able and willing to monitor her to some extent. It is very burdensome on his practice, but he remains dedicated and committed to the task because he believes in her. Perhaps a peer review committee, a risk management committee already in place at the hospital could perform chart reviews on a regular basis as determined by the Board. In addition, she will certainly report to the Board in person on a quarterly basis to assure her compliance to all rules and regulations and standards of care.

Dr. Bruce stated that she wants to continue to practice medicine and surgery in the State of Ohio. Ohio is her home, medicine is her joy. Dr. Bruce thanked the Board for the opportunity to address it, and encouraged Board members to ask whatever questions they deem necessary.

Dr. Bhati asked whether the Assistant Attorney General wished to respond.

Ms. Albers stated that she believes the hearing examiner in this case did an excellent job of setting forth what Dr. Bruce's problems were in her practice in the Navy and the issues in this case. She strongly supports the Report and Recommendation as written because the Order requiring an assessment by the Colorado Personalized Education for Physicians (CPEP) gives Dr. Bruce 30 days to contact CPEP for the assessment. She believes that Dr. Bruce should be monitored during the time it takes to get accepted for the CPEP assessment. Ms. Albers urged the Board to adopt the report and Recommendation, as written.

DR. SOMANI MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF MARGUERITE D. BRUCE, M.D. DR. AGRESTA SECONDED THE MOTION.

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

Dr. Egner asked Dr. Bruce whether she is board eligible.

Dr. Bruce responded that she hasn't passed the written exam, but is eligible to take it. She's finished her residency in OB/GYN, making her eligible.

Dr. Bhati commented that he believes there is a time limit involved.

Dr. Bruce stated that she took the written test and didn't pass it. She still has time.

Dr. Egner stated that it is her understanding that Dr. Erkins will be doing more of a paper work review than in-person supervising in the operating room or in the labor and delivery rooms. She believes that Dr. Bruce needs that more direct, in-person supervision. The problems with the cases in the Navy were real problems. She's not sure that Dr. Bruce's practice standards are up to par, and she would feel better if the Report and Recommendation required Dr. Erkins' presence in the room.

Dr. Egner added that CPEP does not evaluate surgical skills. It evaluates the knowledge base, and somewhat evaluates judgment. She doesn't think that it will suffice as a full evaluation, even if things go well with CPEP.

Dr. Egner stated that she also disagrees with the proposed reprimand, considering that the renewal was not filled out correctly. It's easy for an applicant to say that it was sloppily done, but it is impossible for her to believe that Dr. Bruce could go through what she did and then answer those questions incorrectly. That should have come to Dr. Bruce's mind and she should have known to say "yes." Dr. Egner stated that she believes a suspension is in order in this case due to the fraud in the application. She also believes that there should be direct supervision of some of the surgical procedures.

DR. EGNER MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF MARGUERITE D. BRUCE, M.D., TO INCLUDE A 90-DAY SUSPENSION, AND IMMEDIATE AND DIRECT SUPERVISION OF SURGICAL PROCEDURES. DR. AGRESTA SECONDED THE MOTION.

Dr. Buchan stated that he appreciates Dr. Egner's comments. Overall, he was in agreement with the Hearing Examiner's recommendation. The only other concern he had was that, in the event that CPEP did not make an educational plan, the Board was left without any active supervision. Dr. Egner's proposal addresses that supervision issue. Dr. Buchan stated that he is waiting to see what CPEP has to say with regard to the education plan. He believes that is the missing link in the Report and Recommendation and will shed some light on where this case needs to go.

Dr. Talmage stated that he doesn't see the logic in Dr. Egner's proposed amendment. He doesn't know what purpose a suspension would serve. The reprimand puts Dr. Bruce into probationary conditions, which is really what the meat of this is all about. That is to determine whether she can successfully practice OB/GYN. By suspending her, you take her out of practice where she would not be performing, would not

be evaluated. He's not sure that serves a real purpose. Having someone in the operating room with Dr. Bruce during the entire case is, in most communities, a virtual impossibility. Concerning chart review, Dr. Talmage stated that he believes that one can determine, particularly in reviewing both inpatient and outpatient follow-up, whether there is a complication, whether there has been an untoward outcome and whether the proper procedure was proposed and done in the first place.

Dr. Somani stated that when he reviewed this case, he found that there were clearly two issues. Dr. Bruce didn't report the Navy action on her application. That's a concern. She should have reported that. As Dr. Egner pointed out, this is not an incident that one would forget. Dr. Somani stated that he feels reprimand would be the appropriate sanction for that.

Dr. Somani stated that the second issue involves quality of care. The Board has seen from the Navy that there were problems, there may be ongoing problems, but she has been operating in the Cleveland area for the last year and a half. Apparently, she is being monitored very closely by a board-certified professional in her field. Dr. Somani stated that the Board's concern is whether there has been enough improvement in her training and experience to reach the point where the Board can feel comfortable to allow her to practice alone, and continuing that would be useful rather than taking her out for three months. Dr. Somani spoke against the amendment.

Dr. Egner stated that she would not require another surgeon to be present for the entire time of the probation. To have a set number of procedures observed would be appropriate. She suggested that supervision for 30 major procedures and 30 minor procedures would be appropriate. That is a sufficient number to allow the supervisor to see what is going on in the O.R. suite. Dr. Egner stated that she knows that the Board doesn't require board certification, but she does think that it sheds some light on a practitioner. Dr. Bruce has been out of her residency for six years. Today it is very unusual that an OB/GYN has not become board certified in a six-year period of time. This does not lead her to be more lenient, but leads her to be more cautious.

Dr. Agresta stated that he seconded the amendment for discussion purposes. He's not in favor of a three-month suspension at this time because he's not sure that it will accomplish anything. It is interesting that Dr. Egner brings out the point about observing Dr. Bruce's surgical skills. Considering where Dr. Bruce got into problems, it might be very helpful for the person monitoring her charts to see what her surgical skills are like. If the chart review shows that her charts are all right, it would probably be a good idea for the monitoring physician to see exactly how she performs in the O.R., because that's where she got into problems in the Navy. It may turn out that she's just fine.

Dr. Agresta added that the CPEP requirement is very important. He believes there needs to be some modification to the supervision portion of the Order. He doesn't believe a three-month suspension will make a difference.

Dr. Steinbergh stated that when she first read the Report and Recommendation, she somewhat supported it. She wanted to wait until the Board heard from the OB/GYN Board members because she felt their perspective would be extremely important. She does support the reprimand versus the three months out,

only because at this particular stage she doesn't think a suspension would be of any benefit. She does think that the message needs to be clear that the Board does not accept this type of excuse for not correctly filling out an application. It is fraudulent. Dr. Bruce should have known better. It makes one believe that someone is hiding something, and she clearly believes that people who are hiding something answer that way.

Dr. Steinbergh stated that she supports Dr. Egner's concerns about Dr. Bruce's surgical ability, and would agree to a surgical monitor. Dr. Steinbergh added that she thinks board certification is critical in certain areas. It is the only way to know what practitioners in certain specialties are able to do.

Dr. Bhati stated that Dr. Bruce ran into problems with vaginal surgery. Having taught vaginal surgery for 30 years, he can say that it is very difficult to judge things postoperatively. You can judge somewhat through the charts, but the skill itself cannot be judged afterwards. He would differ from Dr. Talmage's statements in that respect. He asked that Dr. Egner consider revising her amendment.

Dr. Egner stated that she would consider a revision. She still believes that Dr. Bruce's application was fraudulent and that physicians should have some impetus not to be fraudulent with their renewal. She stated that she will drop the suspension portion of her amendment.

Dr. Bhati stated that Dr. Bruce never had a problem with minor cases, and he doesn't feel that supervision of 30 minor cases is necessary. She only had a problem with major cases.

Dr. Egner asked what a laparoscopy would be considered.

Dr. Bhati stated that he would consider a laparoscopy a major case. Any time you enter the peritoneal cavity, it's a major case. If the Board requires supervision of 30 major cases, which include C-Sections, major gynecological surgery, and operative vaginal deliveries, that should be pretty good.

Dr. Stienecker took issue with one point, and that involves the board certification process. He would not like to see this Board go on record as saying that board certification is a requirement for competence. This Board judges competence. Board certification is judgment of demonstrated excellence, not of competence.

Dr. Stienecker continued that he thinks the reprimand is sufficient. The main problem was Dr. Bruce's inexcusable sloppiness. For that, a reprimand is appropriate.

Dr. Stienecker advised that he was in favor of passing the Report and Recommendation, as written, but he will leave it to the OB/GYNs on the Board to determine what it takes to be surgically competent.

Mr. Dilling asked the Board to clarify the motion on the table.

Dr. Bhati stated that the amendment motion is to amend paragraph B.4 of the Proposed Order to include direct supervision of 30 major surgical obstetrics/gynecological cases with reports to the Board.

Mr. Byers asked whether it would be appropriate at this time for Dr. Bruce to explain the monitoring she's been through. He believes there is some confusion about what that actually entails.

Dr. Bhati ruled against allowing Dr. Bruce to further address the Board.

Dr. Steinbergh stated that the monitoring that's currently being done is for credentialing purposes at the hospital. When the Board sets an Order, it must set certain requirements and the monitoring physician can then report. It's not as if she has to do anything in duplication.

Dr. Egner stated that the monitoring will continue even beyond the 30 cases, because of the continued chart review. She's just making the monitoring a little bit more specific in that there will be direct supervision for those 30 cases.

Dr. Buchan stated that the Board needs clarification on the monitoring, specifically, the percentage of charts to be reviewed. Paragraph B.4 of the Order requires that. He asked Dr. Egner whether she wants to include that now.

Dr. Egner stated that she believes the Board should await the results of CPEP to make that determination.

Dr. Bhati stated that currently 100% of Dr. Bruce's cases are being reviewed. The Board can't ask for more.

Dr. Talmage stated that, for the average gynecology practice today, it's unfortunate that two majors a month is probably a fairly heavy practice, particularly for someone newly in practice.

Dr. Bhati stated that that's why he included laparoscopies. She should be done with those within a year's time.

Dr. Talmage stated that if Dr. Bruce has already had in-room, direct monitoring of her cases, those could be submitted as part of the 30.

As revised through discussion, Dr. Egner's motion was presented as follows:

DR. EGNER MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF MARGUERITE D. BRUCE, M.D., TO INCLUDE THE IMMEDIATE AND DIRECT SUPERVISION OF 30 MAJOR OBSTETRIC SURGICAL PROCEDURES, WHICH SHALL INCLUDE C-SECTIONS, MAJOR GYNECOLOGICAL SURGERY (INCLUDING LAPAROSCOPIES), AND OPERATIVE VAGINAL DELIVERIES. DR. AGRESTA SECONDED THE MOTION. A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- aye

Dr. Somani	- aye
Dr. Buchan	- aye
Dr. Stienecker	- aye
Dr. Agresta	- aye
Dr. Garg	- abstain
Dr. Steinbergh	- aye
Dr. Bhati	- aye

The motion carried.

DR. SOMANI MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF MARGUERITE D. BRUCE, M.D. DR. EGNER SECONDED THE MOTION. A vote was taken:

ROLL CALL:

Mr. Albert	- abstain
Dr. Egner	- aye
Dr. Talmage	- aye
Dr. Somani	- aye
Dr. Buchan	- aye
Dr. Stienecker	- aye
Dr. Agresta	- aye
Dr. Garg	- abstain
Dr. Steinbergh	- aye
Dr. Bhati	- aye

The motion carried.



State Medical Board of Ohio

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

April 11, 2001

Marguerite D. Bruce, M.D.
1253 East 142nd Street
Cleveland, Ohio 44112-8534

Dear Doctor Bruce:

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, permanently 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) On or about August 9, 1999, the Commanding Officer, Naval Hospital, Charleston, South Carolina (hereinafter the "Privileging Authority"), issued a Privileging Authority's Final Decision (hereinafter the "Final Decision") which reduced your core and supplemental privileges to exclude obstetrical and gynecological surgical privileges, as well as the management of labor and delivery. The Final Decision was based upon findings of a peer review panel that you had breached the standards of care and exercised questionable clinical judgment in your practice of obstetrics and gynecology at the Naval Hospital, Charleston.

Copies of the Privileging Authority's Final Decision and Case transmittal to the Chief, Bureau of Medicine and Surgery, Department of the Navy, Washington, D.C., are attached hereto and incorporated herein.

- (2) On or about February 9, 2001, you signed and submitted your application for renewal of your Ohio certificate to practice medicine and surgery to the State Medical Board of Ohio. You certified, under penalty of loss of your right to practice in the State of Ohio, that the information provided on this application for renewal was true and correct in every aspect.

You responded "No" to the question "At any time since signing your last application for renewal [August 18, 1998]:

- 6.) [h]ave you had any clinical privileges or other similar institutional authority suspended, restricted or revoked for reasons other than failure to maintain records on a timely basis or to attend staff meetings? [Emphasis in the original.]

Mailed 4.12.01

In fact, on or about August 9, 1999, the Naval Hospital, Charleston, Final Decision reduced your core and supplemental privileges to exclude obstetrical and gynecological surgical privileges, as well as the management of labor and delivery, as provided in paragraph one (1) above.

The Naval Hospital, Charleston, Final Decision, as alleged in paragraph one (1) above, constitutes "[t]he revocation, suspension, restriction, reduction, or termination of clinical privileges by the United States department of defense or department of veterans affairs or the termination or suspension of a certificate of registration to prescribe drugs by the drug enforcement administration of the United States department of justice," as that clause is used in Section 4731.22(B)(24), Ohio Revised Code.

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

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

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

You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

In the event that there is no request for such hearing received within thirty (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, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand or place you on probation.

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, effective March 9, 1999, provides that "[w]hen the board refuses to grant a certificate to an applicant, revokes an individual's certificate to practice, refuses to register an applicant, or refuses to reinstate an individual's certificate to practice, the board may

Marguerite D. Bruce, M.D.

Page 3

specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.”

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Anand G. Garg, M.D.
Secretary

AGG/jag
Enclosures

CERTIFIED MAIL # 7000 0600 0024 5140 0685
RETURN RECEIPT REQUESTED

8300 Hough Avenue
Cleveland, Ohio 44103

CERTIFIED MAIL #7000 0600 0024 5140 0586
RETURN RECEIPT REQUESTED



DEPARTMENT OF THE NAVY

NAVAL HOSPITAL
3600 RIVERS AVENUE
NORTH CHARLESTON, SC 29405-7769

ST
NOV 13 2000

IN REPLY REFER TO:

6320
Ser 09MS.2/1360
20 Sep 99

From: Commanding Officer, Naval Hospital, Charleston
To: Chief, Bureau of Medicine and Surgery (MED-03L)

Subj: REVIEW OF PRIVILEGING AUTHORITY'S FINAL DECISION ICO
LCDR MARGUERITE D. BRUCE, MC, USNR

Ref: (a) Privileging Authority's Final Decision dtd 09 Aug 99

1. At LCDR Bruce's request, as she was on terminal leave, reference (a) was sent by certified mail to LCDR Bruce's home of record, in care of her mother, on 9 August 1999.
2. In a follow-up telephone call on 31 August 1999, LCDR Bruce confirmed that she had received the letter.
3. As of this date, LCDR Bruce has not submitted an appeal to Chief, Bureau of Medicine and Surgery via the Privileging Authority.
4. The case is forwarded for review and appropriate action.





DEPARTMENT OF THE NAVY
NAVAL HOSPITAL
3600 RIVERS AVENUE
NORTH CHARLESTON, SC 29405-7769

STATE

NOV 13 2000

IN REPLY REFER TO:

6320
Ser 09MS.2/1096
09 Aug 99

From: Commanding Officer
To: LCDR Marguerite D. Bruce, MC, USNR

Subj: PRIVILEGING AUTHORITY'S FINAL DECISION

Ref: (a) Report of Peer Review Panel Hearing dtd 21 Jul 99
(b) Response to Peer Review Panel Report by LCDR Bruce dtd 02 Aug 99

1. A peer review panel was convened in your case and met 19-21 July, 1999. The findings and recommendations of the panel, reference (a), and a transcript of record were provided to you and to myself on 26 July, 1999. You provided comments on the peer review panel in a letter to me, reference (b), dated 02 August, 1999.
2. I have reviewed the findings and recommendations of the panel and your written response. The primary issue is clinical judgment and its independent exercise under situations of clinical duress. I concur with the findings of the panel. The recommendations of the panel were commensurate with the nature of the allegations and preponderance of the evidence. Therefore, consistent with patient safety, the furtherance of quality health care and the overall integrity of Navy medicine, I am continuing your staff appointment with a reduction in privileges encompassing all obstetrical and gynecological surgical core and supplemental privileges and the management of labor and delivery.
3. You may appeal this final decision. The appeal must be submitted to the Chief, Bureau of Medicine and Surgery (MED-03L) in writing, via the Commanding Officer, Naval Hospital, Charleston, SC, within 14 days of your receipt of this final decision. The grounds for appeal must be stated. This decision remains in effect during the appeal.



Copy to:
Chief, BUMED