verified/es

State Medical Board of Ohio

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

April 5, 2000

Chowdhury F. Azam, M.D.
C/O Michael Davis
P.O. Box 8215
Piscataway, NY 08854

Dear Doctor Azam:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Daniel Roberts, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on April 5, 2000, 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 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 281 981 267
RETURN RECEIPT REQUESTED

cc: 27 Tanglewood Court
Monmouth Junction, NJ 08852
CERTIFIED MAIL RECEIPT NO. Z 281 981 279
RETURN RECEIPT REQUESTED

John R. Irwin, M.D., J.D.
CERTIFIED MAIL RECEIPT NO. Z 281 981 268
RETURN RECEIPT REQUESTED

Mailed 4/27/00

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Daniel Roberts, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on April 5, 2000, 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 Chowdhury F. Azam, 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)

April 5, 2000
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF *

*

CHOWDHURY F. AZAM, M.D. *

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on April 5, 2000.

Upon the Report and Recommendation of Daniel Roberts, 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:

The certificate of Chowdhury F. Azam, M.D., to practice medicine and surgery in the State of Ohio shall be SUSPENDED for a period of six months.

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

Anand G. Garg, M.D.
Secretary

(SEAL)

April 5, 2000
Date

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REPORT AND RECOMMENDATION
IN THE MATTER OF CHOWDHURY F. AZAM, M.D.

The Matter of Chowdhury F. Azam, M.D., was heard by Daniel Roberts, Attorney Hearing Examiner for the State Medical Board of Ohio, on January 18, 2000.

INTRODUCTION

I. Basis for Hearing

A. By letter dated July 14, 1999, the State Medical Board of Ohio [Board] notified Chowdhury F. Azam, M.D., that it had proposed to determine whether to take disciplinary action against his certificate to practice medicine and surgery in Ohio. The Board based its proposed action on the following allegations:

1. On or about June 16, 1992, in the Supreme Court of New York in and for Kings County, Dr. Azam plead guilty to and was found guilty of Unauthorized Practice of a Profession (Medicine), an unclassified misdemeanor, in violation of Section 6512(1), New York Education Law [*New York v. Azam*]. Dr. Azam was sentenced to one year of conditional discharge and ordered to pay a $10,000 confession of judgment plus costs.

   The acts underlying Dr. Azam's guilty plea were that he practiced medicine and surgery in Brooklyn, New York, without a certificate from 1986 to 1989.

2. On or about October 16, 1998, the New Jersey Board of Medical Examiners [New Jersey Board] filed a Consent Order suspending Dr. Azam's certificate to practice medicine and surgery for two years, with twenty-one months of the suspension stayed. Dr. Azam's suspension was terminated on March 31, 1999. He was also placed on probation by the New Jersey Board until December 21, 2000. The New Jersey Board ordered Dr. Azam to pay a civil penalty of $5,000, perform 150 hours of community service, successfully complete a designated ethics course, and demonstrate arrangements acceptable to the State of New York to satisfy the financial penalties imposed in *New York v. Azam*.

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The acts underlying the New Jersey Board action were that Dr. Azam had provided false responses on his 1995 application for licensure in New Jersey. Dr. Azam represented in his 1995 application that he had never been charged, indicted or convicted (by guilty plea or otherwise) of the commission of any crime or offense, when in fact he had been convicted in *New York v. Azam*.

3. On or about October 18, 1996, as part of Dr. Azam's application to practice medicine and surgery in Ohio, the Board received the "Additional Information" section of his application. In response to "Additional Information" Question 17., "[h]ave you ever been convicted or found guilty of a violation of federal law, state law, or municipal ordinance other than a minor traffic violation?", Dr. Azam answered "No", when in fact he had been convicted in *New York v. Azam*.

   In the accompanying Affidavit and Release of Applicant notarized October 7, 1996, Dr. Azam certified, under oath, that all the forms furnished with respect to his Ohio application were strictly true in every respect.

   In reliance upon the truth of the statements submitted by Dr. Azam in his application for licensure, the Board granted him a certificate to practice medicine and surgery in Ohio on January 7, 1998.

The Board alleged that the acts, conduct, and/or omissions of Dr. Azam, as described in paragraph 3 above, individually and/or collectively, 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 (as in effect prior to March 9, 1999)."

The Board further alleged that Dr. Azam's acts, conduct, and or omissions as described in paragraphs 2 and 3 above, individually and/or collectively, constitute "'publishing a false, fraudulent, deceptive, or misleading statement,' as that clause is used in Section 4731.22(B)(5), Ohio Revised Code (as in effect prior to March 9, 1999)."

The Board also alleged that Dr. Azam's guilty plea and the judicial finding of guilt as described in paragraph 1 above, individually and/or collectively, constitute "'[a] plea of guilty to, or a judicial finding of guilt of, a misdemeanor committed in the

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course of practice,' as that clause is used in Section 4731.22(B)(11), Ohio Revised Code (as in effect prior to March 9, 1999)."

The Board alleged that the New Jersey Board Consent Order as described in paragraph 2 above, constitutes "'[t]he limitation, revocation, or suspension by another state of a license or certificate to practice issued by the proper licensing authority of that state, the refusal to license, register, or reinstate an applicant by that authority, the imposition of probation by that authority, or the issuance of an order of censure or other reprimand by that authority for any reason, other then the nonpayment of fees,' as that clause is used in Section 4731.22(B)(22), Ohio Revised Code (as in effect prior to March 9, 1999)."

The Board further alleged that Dr. Azam's "acts, conduct, and/or omissions as described in paragraphs 1 and 3 above individually and/or collectively, constitute a failure to furnish satisfactory proof of good moral character as required by Section 4731.08, Ohio Revised Code."

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

B. On August 2, 1999, Dr. Azam submitted a written hearing request. (State's Exhibit 1B)

C. By letter dated November 17, 1999, the Board notified Dr. Azam that it had proposed to determine whether to take disciplinary action against his certificate to practice medicine and surgery in Ohio. The Board based its proposed action on the following allegation:

> On or about August 24, 1999, the Pennsylvania State Board of Medicine [Pennsylvania Board] adopted and approved a Consent Agreement and Order suspending Dr. Azam's license until at least January 1, 2001. The balance of the suspension after three months would be stayed and probation subject to terms and conditions imposed until January 1, 2001. The Pennsylvania Board also ordered Dr. Azam to $500.00 for the costs of the investigation.
>
> In the Pennsylvania Consent Agreement, Dr. Azam admitted that in his Pennsylvania application for licensure, submitted on or about February 10, 1995, he answered "no" to a question asking whether he had been

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convicted of or plead guilty to any felony or misdemeanor, when in fact he had been convicted in *New York v. Azam*.

The Board alleged that the Pennsylvania Board Consent Agreement and Order as described above constitutes "'[a]ny of the following actions taken by the state agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, or the limited branches of medicine in another state, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension, of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;' as that language is used in Section 4731.22(B)(22), Ohio Revised Code."

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

D. On December 8, 1999, John R. Irwin, M.D., Esq., submitted a written hearing request on behalf of Dr. Azam. (State's Exhibit 1R)

E. On December 14, 1999, Counsel for Respondent submitted a Motion to Consolidate the Matters set Forth in Notices of Hearing Dated July 14, 1999, and November 17, 1999. Counsel for the State did not object, and on December 21, 1999, the Attorney Hearing Examiner granted the motion and consolidated the matters for hearing. (State's Exhibits 1T and 1U)

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: John R. Irwin, M.D., Esq

EVIDENCE EXAMINED

I. Testimony Heard

None

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II. Exhibits Examined

A. Presented by the State:

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

2. State's Exhibit 2: Certified copy of June 14, 1999, Certificate of Disposition and related documents pertaining to *The People of the State of New York Against Chowdhury Azam*, Indictment Number 14129-91 [*New York v. Azam*].

3. State's Exhibit 3: Certified copy of October 16, 1996, New Jersey State Board of Medical Examiners Consent *Order In the Matter of Chowdhury M. Faruque Azam, M.D.* [*In re: Azam*]

4. State's Exhibit 4: Certified copy from Board records of a January 9, 1999, letter to the Board from Dr. Azam with attachments. Attached are copies of a May 27, 1998, Certificate of Disposition pertaining to *New York v. Azam* and a copy of a June 19, 1998, letter to the New Jersey Board from Ronald M. Kleinberg, Esq.

5. State's Exhibit 5: Certified copy of Dr. Azam's Application for Certificate-Medicine or Osteopathic Medicine filed with the Board on or about October 18, 1996, and related materials.

6. State's Exhibit 6: Certified copy of August 24, 1999, Pennsylvania State Board of Medicine Consent Agreement and Order pertaining to Dr. Azam, *Commonwealth of Pennsylvania Bureau of Professional and Occupational Affairs v. Chowdhury Azam, M.D.* [*Pennsylvania v. Azam*]

B. Presented by the Respondent:

1. Respondent's Exhibit A: Copy of June 19, 1998, letter to the New Jersey Board from Mr. Kleinberg. [Note: duplicates a portion of State's Exhibit 4]

2. Respondent's Exhibit B: Copy of June 17, 1998, letter to the New Jersey Board from Boris Borodulin, M.D.

3. Respondent's Exhibit C: Copy of December 18, 1998, letter and renewal card to the Pennsylvania Board from Dr. Azam.

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4. Respondent's Exhibit D: Copy of January 29, 1999, Notice and Order to Show Cause in *Pennsylvania v. Azam*. [Note: This exhibit includes copies of Dr. Azam's Pennsylvania application and attachments. It also has portions which duplicate portions of State's Exhibits 2 and 3. [Exhibit sealed to protect confidentiality.]

5. Respondent's Exhibit E: Copy of February 8, 1999, letter to Dr. Azam from Dennis H. Collette, President, Newton Memorial Hospital, Newton, New Jersey, advising him that his privileges there would be reinstated at the end of the New Jersey Board suspension.

6. Respondent's Exhibit F: Copy of May 14, 1999, letter to the New Jersey Board from Joseph C. d'Oronzio, Ph.D., advising the New Jersey Board that Dr. Azam had successfully completed the ProBE program.

7. Respondent's Exhibit G: Copy of August 24, 1999, Pennsylvania State Board of Medicine Consent Agreement and Order in *Pennsylvania v. Azam*. [Note: Duplicates State's Exhibit 6.]

8. Respondent's Exhibit H: Copy of December 23, 1999, statement to the Board by Dr. Azam.

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. Chowdhury F. Azam, M.D., stated that he graduated from the Chittagong Medical College, Chittagong, Bangladesh. He further stated that, after completing internship and residency in Bangladesh, he came to the United States. Dr. Azam also stated that he completed a one year internship and one year of residency in psychiatry at Kings County Hospital, New York, in 1991. He also completed two years of psychiatry residency at the MetroHealth Medical Center-Case Western Reserve University Program before returning to New Jersey in 1994. (State's Exhibits [Sts. Exs.] 4 and 5; Respondent's Exhibit [Res. Ex.] D)

2. On or about June 16, 1992, in the Supreme Court of New York in and for Kings County, Dr. Azam plead guilty to and was found guilty of Unauthorized Practice of a Profession

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(Medicine), an unclassified misdemeanor, in violation of Section 6512(1), New York Education Law [*New York v. Azam*]. Dr. Azam was sentenced to one year of conditional discharge and ordered to pay a $10,000 confession of judgment plus costs. (Sts. Ex. 2)

The indictment to which Dr. Azam plead guilty had alleged that from about October 30, 1986, to about August 1, 1989, he had practiced medicine in New York without being authorized to practice that profession. (Sts. Ex. 2)

3. On or about October 18, 1996, as part of Dr. Azam's application to practice medicine and surgery in Ohio, the Board received the "Additional Information" section of his application. In response to "Additional Information" Question 17., "[h]ave you ever been convicted or found guilty of a violation of federal law, state law, or municipal ordinance other than a minor traffic violation?", Dr. Azam answered "No". (Sts. Ex. 5)

In the accompanying Affidavit and Release of Applicant notarized October 7, 1996, Dr. Azam certified, under oath, that all the forms furnished with respect to his Ohio application were strictly true in every respect. (Sts. Ex. 5)

In reliance upon the truth of the statements submitted by Dr. Azam in his application for licensure, the Board granted him a certificate to practice medicine and surgery in Ohio on January 7, 1998. (Sts. Ex. 5)

4. On or about October 16, 1998, the New Jersey Board of Medical Examiners [New Jersey Board] filed a Consent Order suspending Dr. Azam's certificate to practice medicine and surgery. Dr. Azam's suspension was terminated on March 31, 1999, and he was placed on probation by the New Jersey Board until December 21, 2000. The New Jersey Board ordered Dr. Azam to pay a civil penalty of $5,000, perform 150 hours of community service, successfully complete a designated ethics course, and demonstrate arrangements acceptable to the State of New York that he would satisfy the financial penalties imposed in *New York v. Azam*. (Sts. Ex. 3)

The acts underlying the New Jersey Board action were that Dr. Azam had provided false responses on his 1995 application for licensure in New Jersey. Dr. Azam represented in his 1995 application that he had never been charged, indicted or convicted (by guilty plea or otherwise) of the commission of any crime or offense, when in fact he had been convicted in *New York v. Azam*. (Sts. Ex. 3)

At the New Jersey Hearing, Dr. Azam testified that he had not reported his conviction in *New York v. Azam* because his understanding had been that the charges were conditionally discharged, and that a conditional discharge was not the equivalent of a conviction.

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Dr. Azam conceded that the information he had provided in his New Jersey application in 1995 was in error and mistaken. (Sts. Ex. 3)

By letter dated June 17, 1998, Boris Borodulin, M.D., of Highland Psychiatric Associates, Newton, New Jersey, advised the New Jersey Board that he had known Dr. Azam for two years. Dr. Borodulin opined that Dr. Azam maintained a high standard of ethical and moral values. Dr. Borodulin further opined that Dr. Azam was congenial, competent, very caring towards patients, and an asset to the practice group. (Res. Ex. B)

By letter dated June 19, 1998, Ronald M. Kleinberg, Esq., advised the New Jersey Board that he had represented Dr. Azam in *New York v. Azam*. Mr. Kleinberg stated that Dr. Azam had entered a guilty plea against his advice when offered a sentence of conditional discharge. He further stated that Dr. Azam had been concerned that he could not focus on completing his residency training and at the same time assist with and fund his defense. Mr. Kleinberg opined that the Court's granting of conditional discharge reflected the Court's view that this was a relatively minor offense. Mr. Kleinberg advised the New Jersey Board that conditional discharge is one step above a complete dismissal and that Dr. Azam was "probably left with the mistaken impression that the conditional discharge was not the equivalent of a criminal penalty." (Sts. Ex. 4; Res. Ex. A)

The New Jersey Board found that "by providing false responses on his licensure application, [Dr. Azam] obtained his license through fraud, deception or misrepresentation." (Sts. Ex. 3)

5. On or about December 18, 1998, Dr. Azam submitted an application to the Pennsylvania State Board of Medicine [Pennsylvania Board] to renew his Pennsylvania license. At the same time, he notified the Pennsylvania Board in writing of the New Jersey Board's action and the underlying criminal conviction on which it had been based. (Sts. Ex. 6; Res. Ex. C)

6. By letter dated January 9, 1999, Dr. Azam reported to the Board the New Jersey action. Dr. Azam explained that he had been suspended for three months and placed on probation for twenty-one months by the New Jersey Board for making false statements on his initial licensure application. Dr. Azam further explained that he had believed, at the time he completed the New Jersey application, that his answers were correct. He conceded that he now understands that his answers were incorrect and that he had likely made the same error on his other applications for licensure. (Sts. Ex. 4)

In his January 9, 1999, letter, Dr. Azam explained the underlying criminal conviction in New York as having arisen from his employment by a New York licensed physician as a "medical interviewer." He elaborated that he had worked under the direct supervision of

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this physician and followed his directions. He explained that he had believed he was not doing anything wrong. Dr. Azam stated that when confronted with the criminal charges he was in his second year of residency and had neither the funds nor the time to defend against the charges. As a result, he decided to plead guilty against the advice of his attorney. Dr. Azam further stated that his attorney told him that conditional discharge was the next thing above a dismissal of the charges. Dr. Azam explained that as a result of this advice, he interpreted the conditional discharge as not being the equivalent of a criminal conviction. With his letter, Dr. Azam provided a copy of a Certificate of Disposition containing the same information as the similar document obtained directly by the State from the New York Court and a copy of a June 19, 1998, letter from his New York attorney to the New Jersey Board. (Sts. Ex. 4)

7. On January 28, 1999, the Board of Directors of Newton Memorial Hospital, Newton, New Jersey, restored Dr. Azam's privileges concurrent with the end of his New Jersey suspension. (Res. Ex. E)

8. By letter dated May 14, 1999, Joseph C. d'Oronzio, Ph.D., M.P.H., addressed the New Jersey Board. Dr. d'Oronzio advised the New Jersey Board that he is the Executive Director of The Ethics Group which provides the "ProBE" ethics program that Dr. Azam was required to attend by the New Jersey Board. He opined that Dr. Azam had, during his participation in the ProBE program, demonstrated that he had come to grips with his past dishonesty and emotional minimizing of his prior criminal case. He further opined that Dr. Azam "will never relate in an untruthful way in the context of licensing and has a clear awareness of how this extends to his relationship with patients as well." (Res. Ex. F)

9. On or about August 24, 1999, the Pennsylvania Board adopted and approved a Consent Agreement and Order suspending Dr. Azam's license until at least January 1, 2001. The Pennsylvania Board ordered that the balance of the suspension after three months would be stayed and probation subject to terms and conditions imposed until January 1, 2001. The Pennsylvania Board also ordered Dr. Azam to pay $500.00 for the costs of the investigation. (Sts. Ex. 6; Res. Ex. G)

   In the Pennsylvania Consent Agreement, Dr. Azam admitted that, in his Pennsylvania application for licensure, submitted on or about February 10, 1995, he had answered "no" to a question asking whether he had been convicted of or plead guilty to any felony or misdemeanor, when in fact he had plead guilty to and was found guilty in *New York v. Azam*. (Sts. Ex. 6; Res. Exs. D and G)

10. By letter dated December 23, 1999, Dr. Azam again addressed the Board. Dr. Azam apologized to the Board for not being able to appear at hearing in person. He again

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recounted the events which led up to his being convicted in New York and being disciplined in New Jersey and Pennsylvania. (Res. Ex. H)

Dr. Azam emphasized that he had made an error in judgment and interpretation when he answered "no" to questions on the New Jersey, Pennsylvania, and Ohio applications that should have been answered "yes" because of his New York conviction. He stressed that this error was the result of poor judgment and a failure to understand the law or obtain legal counsel on the questions. He further stressed that, while he had not intended to be deceptive, he was the one fully responsible for the errors. (Res. Ex. H)

Dr. Azam asked that the Board impose discipline that was concurrent with that imposed by the New Jersey Board. (Res. Ex. H)

FINDINGS OF FACT

1. On or about June 16, 1992, in the Supreme Court of New York in and for Kings County, Chowdhury F. Azam, M.D., plead guilty to and was found guilty of Unauthorized Practice of a Profession (Medicine), an unclassified misdemeanor, in violation of Section 6512(1), New York Education Law [*New York v. Azam*]. Dr. Azam was sentenced to one year of conditional discharge and ordered to pay a $10,000 confession of judgment plus costs.

   The indictment to which Dr. Azam plead guilty had alleged that, from about October 30, 1986, to about August 1, 1989, he had practiced medicine in New York without being authorized to practice that profession.

2. On or about October 16, 1998, the New Jersey Board of Medical Examiners [New Jersey Board] filed a Consent Order suspending Dr. Azam's certificate to practice medicine and surgery. Dr. Azam's suspension was terminated on March 31, 1999, and he was placed on probation by the New Jersey Board until December 21, 2000. The New Jersey Board ordered Dr. Azam to pay a civil penalty of $5,000, perform 150 hours of community service, successfully complete a designated ethics course, and demonstrate arrangements acceptable to the State of New York to satisfy the financial penalties imposed in *New York v. Azam*.

   The acts underlying the New Jersey Board action were that Dr. Azam had provided false responses on his 1995 application for licensure in New Jersey. Dr. Azam represented in his 1995 application that he had never been charged, indicted or convicted (by guilty plea or otherwise) of the commission of any crime or offense, when in fact he had been convicted in *New York v. Azam*.

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3. On or about October 18, 1996, as part of Dr. Azam's application to practice medicine and surgery in Ohio, the Board received the "Additional Information" section of his application. In response to "Additional Information" Question 17., "[h]ave you ever been convicted or found guilty of a violation of federal law, state law, or municipal ordinance other than a minor traffic violation?", Dr. Azam answered "No", when in fact he had been convicted in *New York v. Azam*.

   In the accompanying Affidavit and Release of Applicant notarized October 7, 1996, Dr. Azam certified, under oath, that all the forms furnished with respect to his Ohio application were strictly true in every respect.

   In reliance upon the truth of the statements submitted by Dr. Azam in his application for licensure, the Board granted him a certificate to practice medicine and surgery in Ohio on January 7, 1998.

4. On or about August 24, 1999, the Pennsylvania State Board of Medicine [Pennsylvania Board] adopted and approved a Consent Agreement and Order suspending Dr. Azam's license until at least January 1, 2001. The Pennsylvania Board ordered that the balance of the suspension after three months would be stayed and probation subject to terms and conditions imposed until January 1, 2001. The Pennsylvania Board also ordered Dr. Azam to pay $500.00 for the costs of the investigation.

   In the Pennsylvania Consent Agreement, Dr. Azam admitted that, in his Pennsylvania application for licensure, submitted on or about February 10, 1995, he had answered "no" to a question asking whether he had been convicted of or plead guilty to any felony or misdemeanor, when in fact he had been convicted in *New York v. Azam*.

CONCLUSIONS OF LAW

1. The acts, conduct, and/or omissions of Chowdhury F. Azam, M.D., as described in Findings of Fact 3, individually and/or collectively, 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 (as in effect prior to March 9, 1999).

2. The acts, conduct, and or omissions of Dr. Azam, as described in Findings of Fact 2 and 3, individually and/or collectively, constitute "publishing a false, fraudulent, deceptive, or misleading statement," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code (as in effect prior to March 9, 1999).

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3. Dr. Azam's guilty plea and the judicial finding of guilt, as described in Findings of Fact 1, individually and/or collectively, constitute "[a] plea of guilty to, or a judicial finding of guilt of, a misdemeanor committed in the course of practice," as that clause is used in Section 4731.22(B)(11), Ohio Revised Code (as in effect prior to March 9, 1999).

4. The New Jersey Board Consent Order, as described in Findings of Fact 2, constitutes "[t]he limitation, revocation, or suspension by another state of a license or certificate to practice issued by the proper licensing authority of that state, the refusal to license, register, or reinstate an applicant by that authority, the imposition of probation by that authority, or the issuance of an order of censure or other reprimand by that authority for any reason, other than the nonpayment of fees," as that clause is used in Section 4731.22(B)(22), Ohio Revised Code (as in effect prior to March 9, 1999).

5. There is insufficient evidence to support the Board's allegation that the acts, conduct, and/or omissions of Dr. Azam, constitute "a failure to furnish satisfactory proof of good moral character," as required by Section 4731.08, Ohio Revised Code.

6. The Pennsylvania Board Consent Agreement and Order, as described in Findings of Fact 4 constitutes "[a]ny of the following actions taken by the state agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, or the limited branches of medicine in another state, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension, of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;" as that language is used in Section 4731.22(B)(22), Ohio Revised Code.

* * * * *

The conduct of Chowdhury F. Azam, M.D., in providing false information to the New Jersey, Pennsylvania and Ohio Boards can not be excused. However, his conduct in addressing the issues since 1998 provides significant mitigation. Particularly, Dr. Azam's self-reporting to both the Pennsylvania and Ohio Boards and his willingness to cooperate in correcting his past errors suggest that he is an appropriate candidate for supervision and eventual full restoration of his certificate to practice medicine and surgery in the State of Ohio.

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PROPOSED ORDER

It is hereby ORDERED that:

1. The certificate of Chowdhury F. Azam, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED. Such revocation is STAYED, and Dr. Azam's certificate is SUSPENDED for an indefinite period of time, but not less than six months.

2. The Board shall not consider reinstatement of Dr. Azam's certificate to practice unless all of the following minimum requirements have been met:

   a. Dr. Azam shall submit an application for reinstatement, accompanied by appropriate fees, if any.

   b. Dr. Azam shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in the state in which he is practicing.

   c. Dr. Azam shall submit documentation acceptable to the Board that he has made arrangements satisfactory to the State of New York to satisfy the financial penalties imposed on him by the State of New York as a result of his conviction in 1992 for unauthorized practice of medicine.

   d. Dr. Azam shall submit documentation from the New Jersey State Board of Medical Examiners [New Jersey Board], dated no earlier than sixty days prior to his application for reinstatement, indicating that he has maintained full compliance with the New Jersey Consent Order.

   e. Dr. Azam shall submit documentation from the Pennsylvania State Board of Medicine [Pennsylvania Board], dated no earlier than sixty days prior to his application for reinstatement, indicating that he has maintained full compliance with the Pennsylvania Consent Agreement and Order.

   f. In the event that Dr. Azam has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to application for reinstatement, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of his fitness to resume practice.

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3. Upon reinstatement, Dr. Azam's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:

   a. Dr. Azam shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in the state in which he is practicing.

   b. In the event that Dr. Azam should leave Ohio for three consecutive months, or reside or practice outside the State, Dr. Azam 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 probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that the purposes of the probationary monitoring are being fulfilled.

   c. Dr. Azam shall appear in person for interviews before the full Board or its designated representative within three months of the date in which probation becomes effective and upon his request for termination of the probationary period, or as otherwise requested by the Board.

   d. Dr. Azam shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of probation. 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 probation becomes effective, provided that if the effective date is on or after the 16th day of the month, the first quarterly declaration must be received in the Board's offices on the first day of the fourth month following. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

   e. At the time he submits his quarterly declarations, Dr. Azam shall also submit declarations under penalty of Board disciplinary action or criminal prosecution stating whether he has complied with all the terms, conditions, and limitations imposed by the New Jersey and Pennsylvania Boards. Moreover, Dr. Azam shall cause to be submitted to the Board copies of any reports that he submits to the New Jersey or Pennsylvania Board whenever the New Jersey or Pennsylvania Board requires such submission.

   f. Dr. Azam shall immediately notify the Board in writing of any modification or change to any term, condition, or limitation imposed by the New Jersey or Pennsylvania Boards.

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OF OHIO

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g Dr. Azam shall provide a copy of this Order by certified mail, return receipt requested, at the time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement of any professional license. Further, Dr. Azam shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

h. Dr. Azam shall refrain from commencing practice in Ohio without prior written Board approval. Moreover, should Dr. Azam commence practice in Ohio, the Board may place his certificate under additional probationary terms, conditions, or limitations, including the following:

i. Dr. Azam shall submit for the Board's prior approval the name of a monitoring physician. Dr. Azam shall submit to the Board and receive its approval for a plan of practice in Ohio. The practice plan, unless otherwise determined by the Board, shall be limited to a supervised Dr. Azam's activities will be directly supervised and overseen by the monitoring physician approved by the Board. The monitoring physician shall monitor Dr. Azam and provide the Board with reports on Dr. Azam's progress and status on a quarterly basis. All monitoring physician reports required under this paragraph must be received in the Board's offices no later than the due date for Dr. Azam's quarterly declaration. It is Dr. Azam's responsibility to ensure that the reports are timely submitted.

Dr. Azam shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

In the event that the approved monitoring physician becomes unable or unwilling to serve, Dr. Azam shall immediately notify the Board in writing and shall make arrangements for another monitoring physician as soon as practicable. Dr. Azam shall refrain from practicing until such supervision is in place, unless otherwise determined by the Board. Dr. Azam 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 therefor.

ii. Dr. Azam shall appear in person for interviews before the full Board or its designated representative within three months of the commencement of practice in Ohio, at three month intervals thereafter, and upon his request

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for termination of the probationary period, 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. Although the Board will normally give him written notification of scheduled appearances, it is Dr. Azam's responsibility to know when personal appearances will occur. If he does not receive written notification from the Board by the end of the month in which the appearance should have occurred, Dr. Azam shall immediately submit to the Board a written request to be notified of his next scheduled appearance.

iii. Dr. Azam shall provide a copy of this Order by certified mail to all employers or entities with which he is under contract to provide health care services or is receiving training, and the Chief of Staff at each hospital where Dr. Azam has privileges or appointments. Further, Dr. Azam shall provide a copy of this Order by certified mail to all employers or entities with which he applies or contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where Dr. Azam applies for or obtains privileges or appointments. Further, Dr. Azam shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

iv. If any declaration or report required by this Order is not received in the Board's offices on or before its due date, Dr. Azam shall cease practicing medicine beginning the day following Dr. Azam's receiving notice from the Board of non-receipt, either by writing, telephone, or by personal contact, until the declaration or report is received in the Board offices. Any practice during this time period shall be considered unlicensed practice of medicine in violation of Section 4731.41, 4731, Ohio Revised Code.

i. If Dr. Azam violates probation in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.

j. If Dr. Azam violates probation in any respect, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period.

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k. Periods of time during which Dr. Azam's certificate to practice medicine and surgery is inactive due to nonpayment of renewal fees will not apply to the reduction of the probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that the purposes of the probationary monitoring are being fulfilled.

4. Dr. Azam 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 he currently holds any professional license. Dr. Azam shall also provide a copy of this Order by certified mail, return receipt requested, at the time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement of any professional license. Further, Dr. Azam shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

5. Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Azam's certificate will be fully restored.

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

Daniel Roberts
Attorney Hearing Examiner

State Medical Board of Ohio

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

EXCERPT FROM THE DRAFT MINUTES OF APRIL 5, 2000

REPORTS AND RECOMMENDATIONS

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

Dr. Egner 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 Steven P. Andrei, L.M.T.; Chowdhury F. Azam, M.D.; John C. Stare, P.A.; and Deleno H. Webb, III, M.D. A roll call was taken:

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

Dr. Egner 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. Talmage	- aye
	Dr. Somani	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Egner	- aye

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. Egner 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.

.....

CHOWDHURY F. AZAM, M.D.

Dr. Egner directed the Board's attention to the matter of Chowdhury F. Azam, M.D. She advised that objections were filed to Hearing Examiner Roberts' Report and Recommendation and were previously distributed to Board members.

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

Dr. Azam thanked the Board for giving him an opportunity to make an oral presentation. Dr. Azam stated that he understands that the Board members have already read the hearing record and the objections filed on his behalf by his attorney. Dr. Azam asked that the Board reconsider the Hearing Examiner's Proposed Order.

Dr. Azam stated that he has said all along that he is deeply regretful of his foolish error of judgment, but he must reiterate that he never intended to deceive or defraud anyone. He understands that the problem of the investigation started when he applied for his New York license. If he had the intention of deceiving or getting away from the problem, he probably wouldn't have applied in New York. It was with the belief that his record was clean. He applied for a New York state license and New York informed the New Jersey Board. The record clearly reflects his moral conduct.

Dr. Azam stated that he now realizes that 18 years ago he should have never worked under the supervision of a New York state licensed physician without a medical assistant license. He knew that he was not committing a heinous crime, and he doesn't know if the Board has any idea about what foreign medical graduates go through prior to getting their residency training position. They're very vulnerable to any kind of suggestion and opportunity so that they can get into the residency program, as it is a very important phase of their career.

Dr. Azam stated that he now realizes that he made a mistake. He shouldn't have been there at all. If he could turn time back, he would do it differently. Subsequently, he pled guilty to an unclassified misdemeanor because of financial and time constraints. He was in a residency program at the time and he feared that he would not be able to finish his residency program. He was given a conditional discharge for one year, which was to expire in 1993. It was his naiveté that he assumed that the charges were expunged after a year. It was a first-time offense. At the time of filling out his application, he minimized the issue. He was in denial. Perhaps it was wishful thinking that the record was expunged. That is his layman's interpretation of law. Obviously, this was a grievous mistake and he's paying for it. When the New Jersey Board suspended his license for this reason, from January to March, 1999, although he had a valid license to practice in Ohio and Pennsylvania, he did not practice in those states. He is complying with all of the conditions set forth by the New Jersey Board, and he has also made payment arrangements in New York through his New York attorney.

Dr. Azam continued that the impact of the New Jersey action on his career has been seriously damaging. After the suspension, no one wanted to hire him. His old employer hired him back with a 40% cut in salary, but with the same work he was doing prior to the suspension. Managed care would not enroll him in the network, and the Psychiatry Board disqualified him from sitting for the Board examination because he is on probation. If the Ohio Board revokes his license or puts him on five years' probation, his career is doomed. He won't be allowed to take the Board examination, and most jobs now require board certification. He cannot practice independently because, without board certification, or at least board eligibility, managed care affiliation is not possible.

Dr. Azam stated that he has traveled from New Jersey for this five-minute presentation for the Board's consideration and mercy. On reviewing Ohio's disciplinary guidelines, he felt that he has the following mitigating factors: 1. Absence of any prior disciplinary record from any Board; 2. Absence of a dishonest or selfish motive. This was an isolated incident unlikely to recur. He disclosed the New Jersey action to the State Board of Ohio.. He's complying with all of the conditions set forth by the New Jersey Board. He has performed community service and is paying back New York State. He is deeply remorseful of his actions, which did not have any adverse impact on anyone. It was not related to any professional misconduct, patient care, clinical issues, or any malpractice action. The New Jersey Board has termed this as "other reason not classified." There is absence of willful or reckless misconduct.

Dr. Azam asked that the Board consider that he is the only earning member of the family. He has a wife and three children. He believes it would be a miscarriage of justice if, for this single isolated incident, his career is compromised and his livelihood is jeopardized. All of his years of hard work, honest living, education and training should not be outweighed by a single error of judgment. He did not live the life of a criminal, but rather pursued his education and training in some of the best institutions to enhance his professional proficiency. He believes he can contribute to society and asks that the Board reconsider the Hearing Examiner's Proposed Order and make a decision consistent with the New Jersey and Pennsylvania Boards.

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

Ms. Albers stated that she supports the Findings and Conclusions in the Hearing Examiner's Report and Recommendation, as well as the Proposed Order.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. ROBERTS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF CHOWDHURY F. AZAM, M.D. DR. BHATI SECONDED THE MOTION.

Dr. Egner stated that she would now entertain discussion in the above matter.

Dr. Somani stated that he has looked through this case carefully to find out exactly what transpired. He was somewhat ambivalent about the case, as well as the recommendation. It looks as though there were two major problems: The first problem was that, before getting into a residency program, Dr. Azam was working in a physician's office, which he should not have done, and which he agrees he should not have done. The second problem was that he didn't report that to Ohio when he made application. Both New Jersey and Pennsylvania have taken action.

Dr. Somani stated that he believes Ohio can achieve an appropriate result by indefinitely suspending Dr. Azam's license for a minimum period of six months and dropping the proposed stayed permanent revocation.

DR. SOMANI MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF CHOWDHURY F. AZAM, M.D., TO REMOVE THE LANGUAGE CONCERNING PERMANENT REVOCATION AND TO INDEFINITELY SUSPEND DR. AZAM'S LICENSE FOR A PERIOD NOT LESS THAN SIX MONTHS. DR. AGRESTA SECONDED THE MOTION.

Dr. Steinbergh asked Dr. Somani whether he means to maintain the same probationary terms as contained in the Proposed Order.

Dr. Somani stated that he felt that the probationary terms, since he's practicing in New Jersey and Pennsylvania and has licenses there, the probationary terms should probably be the same.

Dr. Steinbergh asked Dr. Azam when he will have completed his probation.

Dr. Azam stated that his probation will terminate December 31, 2000.

Dr. Steinbergh asked whether Dr. Somani's proposal is to suspend for six months and place him on probation until the end of this year.

Dr. Somani stated that that is correct.

Dr. Egner stated that that would mean he would be on probation for two months here.

Dr. Steinbergh stated that there would be no sense to that. The Board could, however, simply suspend the license for six months and then be done with it. That would give Dr. Azam a period of time out for his behavior and it doesn't push his probation beyond the New Jersey and Pennsylvania actions.

DR. SOMANI AMENDED HIS MOTION TO AMEND TO MAKE THE SUSPENSION A DEFINITE SUSPENSION OF SIX MONTHS AND TO REMOVE THE PROBATIONARY TERMS FROM THE PROPOSED ORDER. DR. AGRESTA, AS SECOND, AGREED TO THE AMENDED MOTION.

Dr. Bhati stated that he agrees with the amendment. This involved a single incident that occurred a long time ago. Dr. Azam has paid dearly in New York and New Jersey. No patient was harmed, and there was no financial gain for Dr. Azam.

Dr. Steinbergh stated that it will be important that Dr. Azam never comes before the Board again.

Dr. Azam stated that he understands.

Dr. Steinbergh stated that he wouldn't get this kind of reception a second time.

Dr. Somani suggested that Dr. Azam consult an attorney about such things in the future.

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

VOTE:	Mr. Albert	- abstain
	Dr. Bhati	- aye
	Dr. Talmage	- aye
	Dr. Somani	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.

DR. BHATI MOVED TO APPROVE AND CONFIRM MR. ROBERTS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF

CHOWDHURY F. AZAM, M.D. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

VOTE:	Mr. Albert	- abstain
	Dr. Bhati	- aye
	Dr. Talmage	- aye
	Dr. Somani	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.

State Medical Board of Ohio

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November 17, 1999

Chowdhury F. Azam, M.D.
c/o Michael Davis
P.O. Box 8215
Piscataway, New York 08854

Dear Doctor Azam:

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) On or about August 24, 1999, the Pennsylvania State Board of Medicine (hereinafter the "Pennsylvania Board") adopted and approved a Consent Agreement and Order suspending your license until at least January 1, 2001. Following a period of three (3) months, the remaining period of the suspension will be stayed in favor of probation, subject to terms and conditions including the imposition of a $500.00 cost of investigation.

In the Pennsylvania Consent Agreement, you admitted that you made an untrue representation in obtaining your Pennsylvania license. Specifically, you admitted that in your Pennsylvania application for licensure, submitted on or about February 10, 1995, you answered "no" to a question asking whether you had ever been convicted of or pleaded guilty to any felony or misdemeanor, when in fact you had pleaded guilty to one (1) unclassified misdemeanor count of Unauthorized Practice of a Profession (Medicine) in the Supreme Court of Kings County, New York, on April 14, 1992. A copy of the Pennsylvania Board Consent Agreement and Order is attached hereto and fully incorporated herein.

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

Mailed 11-18-99

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.

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 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 # Z 233 896 477
RETURN RECEIPT REQUESTED

cc: John R. Irwin, Esq.
John R. Irwin, M.D., Co. L.P.A.
1620 Midland Building
101 Prospect Avenue, NW
Cleveland, Ohio 44115-1027
CERTIFIED MAIL # Z 233 896 478
RETURN RECEIPT REQUESTED

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF MEDICINE

STATE MEDICAL BOARD
OF OHIO

1999 NOV -8 A 11: 59

COMMONWEALTH OF PENNSYLVANIA BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS	:	DOCKET NO. 0070-49-99
v.	:	FILE NO. 98-49-04727
CHOWDHURY AZAM, M.D.,	:	
Respondent	:	

CONSENT AGREEMENT AND ORDER

The Commonwealth and Respondent stipulate as follows in settlement of the above-captioned case.

1. This matter is before the State Board of Medicine pursuant to the Medical Practice Act, Act of December 20, 1985, P.L. 457, No. 112, as amended ("Act"), 63 P.S. §422.1 et seq.

2. At all relevant and material times, Chowdhury Azam, M.D. ("Respondent") held a license to practice medicine in the Commonwealth of Pennsylvania, License No. MD-055658-L.

3. The Respondent admits that the following facts are true:

a. Respondent's license is current through December 21, 2000 and may be renewed thereafter upon the filing of the appropriate documentation and payment of the necessary fees.

b. Respondent's last known address on file with the Board is Tanglewood Court, Monmouth Junction, NJ 08852.

c. On or about November 12, 1991, an Indictment was filed in the Supreme Court of the State of New York, County of Kings, in the matter of The People of the State of New York v. Chowdhury Azam, Indictment Number 14129-91, charging the Respondent with one (1) count of Unauthorized

Practice of a Profession, (Medicine), an unclassified misdemeanor. A true and correct copy of the Indictment is attached as **Exhibit 1**.

d. On or about April 14, 1992, Respondent pled guilty to one count Indictment referenced above. A true and correct copy of the Arraignment/Guilty Plea is attached as **Exhibit 2**.

e. On or about June 16, 1992, in the above-referenced criminal proceedings Respondent was sentenced to a one year period of Conditional Discharge to expire on June 16, 1993, ordered to pay a $10,000.00 Confession of Judgment and costs of $102.00. True and correct copies of the Sentence, Conditions of Conditional Discharge and Certificate of Disposition are collectively attached as **Exhibit 3**.

f. On or about February 10, 1995, Respondent submitted an application to obtain a medical license in Pennsylvania.

g. Respondent answered "no" in response to the question, "Have you ever been convicted, found guilty, or pleaded guilty or nolo contendere, or received probation without verdict as to any felony or misdemeanor, including any drug violation, in any state or federal court?" A true and correct copy of the application is attached as **Exhibit 4**.

h. On or about October 14, 1998, the New Jersey State Board of Medical Examiners suspended the Respondent's license to practice medicine for a period of two (2) years, based on the Respondent having provided false information concerning his prior conviction on his application for licensure in the State of New Jersey. The suspension commenced on January 1, 1999. The first three (3) months of said suspension were served as a period of active suspension, during which time Respondent refrained from engaging in any medical practice in New Jersey, Pennsylvania or elsewhere. The remaining twenty-one (21) months of the suspension were

stayed, and served as a period of probation. A true and correct copy of the Consent Agreement is attached **Exhibit 5**.

STATE MEDICAL BOARD OF OHIO

4. On December 18, 1998, by letter Respondent notified the Commonwealth that the New Jersey Medical Board had suspended his license and informed the Board of the action taken against him in New York. Also on that date, Respondent submitted an application for renewal of his license to the Commonwealth. On that application, Respondent indicated that he had been disciplined by another state.

5. The activities of Respondent, described above, violated the Act at 63 P.S. §422.41(2) in that Respondent made an untrue representation in obtaining a license; and 63 P.S. §422.41(4) in that Respondent had a license to practice medicine suspended by a proper licensing authority of another state.

6. On January 29, 1999, the Commonwealth issued an Order to Show Cause, docketed at no. 0070-49-99, initiating this matter.

7. The parties consent to the issuance of the following Order in settlement of this matter:

a. Respondent violated the Act at 63 P.S. §422.41(2) in that Respondent made an untrue representation in obtaining a license; and 63 P.S. §422.41(4) in that Respondent had a license to practice medicine suspended by a proper licensing authority of another state.

b. Respondent's license, No. MD-055658-L, is **SUSPENDED** for a period until at least January 1, 2001.

c. Respondent shall immediately, upon adoption of this Consent Agreement and Order, cease and desist from the practice of the profession in Pennsylvania, and shall not represent him/herself as a board licensee in Pennsylvania in any matter during the active period of suspension.

d. Respondent shall, within 10 days of adoption of this Consent Agreement and Order, surrender Respondent's Pennsylvania's wall certificate,

Pennsylvania's registration certificate and Pennsylvania's wall card by mailing them or delivering them in person to:

STATE MEDICAL BOARD OF OHIO
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Andrew B. Kramer
Prosecuting Attorney
116 Pine Street
P.O. Box 2649
Harrisburg, PA 17105-2649

e. Following a period of 3 months, the remaining period, of such Suspension is to be immediately **STAYED** in favor of **PROBATION** subject to the following terms and conditions:

f. That Respondent agrees to the imposition of a $500.00 cost of investigation to be assessed against his license to practice medicine in this Commonwealth, said costs is to be paid by Cashier's Check, Certified Check, U.S. Postal Money Order or Attorney's Check, made payable to the "Commonwealth of Pennsylvania."

g. On or after January 1, 2001, Respondent may petition the Board in writing to have his license reinstated to unrestricted status provided that Respondent provides a certified copy of a New Jersey Board Order reinstating his New Jersey license to unrestricted status or indicating that Respondent has satisfied all conditions for reinstatement to unrestricted status in New Jersey.

h. If, at the time of Respondent's reinstatement by the Board, Respondent's New Jersey license is subject to any terms, conditions or restrictions, or probation, Respondent's probation shall continue until such time as Respondent submits a certified copy of a New Jersey Board Order reinstating Respondent's license to unrestricted status. During the term of probation, Respondent shall be subject to at least the same terms, conditions or restrictions imposed by the New Jersey Board, any

additional terms, conditions or restrictions imposed by the Pennsylvania Board, and the following terms and conditions:

STATE MEDICAL BOARD
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GENERAL

(1) Respondent shall abide by and obey all laws of the United States, the Commonwealth of Pennsylvania and its political subdivisions and all rules and regulations and laws pertaining to the practice of the profession in this Commonwealth or any other state or jurisdiction in which Respondent holds a license to practice. Provided, however, summary traffic violations shall not constitute a violation of this Order;

(2) Respondent shall at all times cooperate with the Commonwealth's Bureau of Professional and Occupational Affairs ("Bureau"), any of its agents or employees and the Commonwealth's Bureau of Enforcement and Investigation ("BEI") and its agents and employees, in the monitoring, supervision and investigation of Respondent's compliance with the terms and conditions of this Order, including Respondent causing to be submitted at his own expense written reports, records and verifications of actions that may be required by the Bureau, BEI or any of its agents or employees;

(3) Respondent's failure to fully cooperate with and successfully comply with the terms and conditions of this probation shall be deemed a violation of this Consent Agreement and order;
The Commonwealth and Respondent stipulate as follows in settlement of the above-captioned case.

(4) Respondent shall not falsify, misrepresent or make material omission of any information submitted pursuant to this Order;

(5) Respondent shall notify BEI, in writing, within twenty (20) days of the filing of any criminal charges, the initiation of any other legal action pertaining to the practice of Respondent's profession, the initiation, action, restriction or limitation relating to Respondent by the professional licensing authority of any state or jurisdiction, or the Drug Enforcement Agency of the U.S. Department of Justice, or any investigation, action, restriction or limitation relating to Respondent's privileges to practice a health care profession at any health care facility unrelated to the factual basis of this Consent Agreement;

(6) Respondent shall notify BEI by telephone within 72 hours and in writing within ten (10) days of the change of his home address, phone number, place(s) of employment and/or practice;

REPORTING/RELEASES

(7) Respondent, his providers, monitor(s)/supervisor(s), employers or other persons shall cause any reports, data or other information required to be filed with BEI under this Order, unless otherwise directed, to be filed with:

Probation Compliance Officer
Bureau of Enforcement and Investigation
Box 2649
Harrisburg, PA 17105-2649

COSTS

(8) Respondent shall bear the responsibility of all costs incurred by Respondent in complying with the terms of this Order, including production of records;

VIOLATION OF THIS ORDER

STATE MEDICAL BOARD

i. Notification of a violation of the terms or conditions of this Consent Agreement and Order shall result in the **IMMEDIATE VACATING** of the stay order, **TERMINATION** of the period of probation, and **ACTIVATION** of the entire period of suspension of Respondent's license to practice medicine in the Commonwealth of Pennsylvania as follows:

(1) The prosecuting attorney for the Commonwealth shall file with the Board a Petition which indicates that Respondent has violated any terms or conditions of this Consent Agreement and Order;

(2) Upon a probable cause determination that Respondent has violated any of the terms or conditions of this Consent Agreement and Order, the Board shall, without holding a formal hearing, issue a preliminary order vacating the stay of the suspension in this matter, terminating the period of probation and activating the entire period of suspension of Respondent's license;

(3) Respondent shall be notified of the Board's Preliminary Order within three (3) days of its issuance by certified mail and first class mail postage prepaid, sent to the last registered address on file with the Board;

(4) Within twenty (20) days of mailing of the notification of the Board's action, Respondent may answer the Commonwealth's Petition and request that a formal hearing be convened concerning Respondent's violation of probation, in which Respondent may seek relief from the Preliminary Order activating the suspension. Respondent shall serve the prosecuting attorney for the Commonwealth with a copy of the answer and all subsequent filings in this matter;

(5) If a request for a formal hearing is received from Respondent, the Board shall convene a formal hearing within forty-five (45) days from the date of the Board's receipt of Respondent's request for a formal hearing;

(6) If Respondent files an answer and request for a hearing within the twenty (20) day period, the Preliminary Order activating the suspension shall remain in effect unless and until the Board issues a determination favorable to Respondent after holding the formal hearing;

(7) The facts and averments in this Consent Agreement and Order shall be deemed admitted and uncontested at this hearing;

(8) If the Board after such hearing makes a determination adverse to Respondent, the Board will issue a Final Order activating the suspension of Respondent's license and imposing any additional disciplinary measures it deems appropriate;

(9) If a request for a formal hearing is not received from Respondent within the prescribed twenty (20) day period, the Board's preliminary order shall become a Final Order twenty (20) days after the date of its mailing;

j. If the stay is terminated, pursuant to the provisions in the "Violation of Order" portion of the Consent Agreement, Respondent shall still comply with all terms and conditions of probation during the active suspension, other than those terms and conditions pertaining to practicing the profession. Continued failure by Respondent to comply with the unaffected terms and conditions of probation shall result in further disciplinary action against Respondent;

k. Respondent's failure to fully comply with any terms of this Order may also constitute grounds for additional disciplinary action;

STATE MEDICAL BOARD

l. Nothing in this Order shall preclude the Prosecuting Attorney for the Commonwealth from filing charges or the Board from imposing disciplinary or corrective measures for violations or facts not contained in this Consent Agreement;

m. This case shall be deemed settled and discontinued upon Board adoption of the Consent Agreement;

n. This Order shall take effect immediately upon Board adoption of the Consent Agreement.

8. Respondent acknowledges receipt of an Order to Show Cause in this matter. Respondent knowingly and voluntarily waives the right to an administrative hearing in this matter, and to the following rights related to that hearing: to be represented by counsel at the hearing; the right to present witnesses and testimony in defense or in mitigation of any sanction that may be imposed for a violation; to cross-examine witnesses and to challenge evidence presented by the Commonwealth; to present legal arguments by means of a brief; and to take an appeal from any final adverse decision.

9. Respondent agrees, as a condition of entering into this Consent Agreement, not to seek modification at a later date of the Stipulated Order adopting and implementing this Consent Agreement without first obtaining the express written concurrence of the Prosecution Division.

10. This Consent Agreement is between the Commonwealth and Respondent only. Except as otherwise noted, this Agreement is to have no legal effect unless and until the Office of General Counsel approves the contents as to form and legality and the Board issues the stipulated Order.

11. Should the Board not approve this Consent Agreement, presentation to and consideration of this Consent Agreement and other documents and matters by the Board shall not prejudice the Board or any of its members from further participation in the adjudication of this

matter. The participants waive any objection to a Board member's consideration of this Agreement in the event that the member participated in a prior decision to prosecute this matter. This paragraph is binding on the participants even if the Board does not approve this Consent Agreement. This provision shall not apply to the hearing examiners, only to the members of the Board.

STATE MEDICAL BOARD
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12. This agreement contains the whole agreement between the participants. There are no other terms, obligations, covenants, representations, statements or conditions, or otherwise, of any kind whatsoever concerning this agreement.

13. Respondent verifies that the facts and statements set forth in this Agreement are true and correct to the best of Respondent's knowledge, information and belief. Respondent understands that statements in this Agreement are made subject to the criminal penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

Andrew B. Kramer
Prosecuting Attorney
Bureau of Professional and
Occupational Affairs

DATED: 7/26/99

Chowdhury Azam, M.D.
Respondent

DATED: 7/24/99

Jacqueline Jackson-DeGarcia
Respondent's Attorney

DATED: 7/26/99

STATE MEDICAL BOARD OF OHIO

1999 NOV -8 AM 9:59

ORDER

AND NOW, this 24th day of August, 1999, the State Board of Medicine adopts and approves the foregoing Consent Agreement and incorporates the terms of paragraph 5, which shall constitute the Board's Order and is now issued in resolution of this matter.

This Order shall take effect immediately.

BY ORDER:

BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

Dorothy Childress
Commissioner
Date of Mailing:

STATE BOARD OF MEDICINE

Daniel B. Kimball, Jr., M.D.
Chairman

For the Commonwealth:

Andrew B. Kramer
P. O. Box 2649
Harrisburg, PA 17105-2649

For Respondent

Jacqueline Jackson-DeGarcia,
240 North Third Street
Harrisburg, PA 17101

tmr

GENPROB.MED 1298

State Medical Board of Ohio
77 S. High Street, 17th Floor • Columbus, Ohio 43266-0315 • 614/466-3934 • Website

July 14, 1999

Chowdhury F. Azam, M.D.
c/o Michael Davis
P.O. Box 8215
Piscataway, New York 08854

Dear Doctor Azam:

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) On or about June 16, 1992, in the Supreme Court of the State of New York, Kings County, Brooklyn, New York, you pleaded guilty and were found guilty of one (1) unclassified misdemeanor count of Unauthorized Practice of a Profession (Medicine), in violation of Section 6512(1) New York Education Law. You were sentenced to a one (1) year period of conditional discharge and ordered to pay a $10,000 confession of judgment plus costs of $102.

The acts underlying your guilty plea were that you practiced medicine and surgery in Brooklyn, New York without a certificate from 1986 to 1989.

(2) On or about October 16, 1998, the New Jersey State Board of Medical Examiners (hereinafter "the New Jersey Board") filed a Consent Order suspending your certificate to practice medicine and surgery for a period of two (2) years, with twenty-one (21) months of the suspension stayed. Your active suspension of three (3) months was terminated on March 31, 1999, and your probation is to continue until December 31, 2000. In addition, you were ordered to pay a civil penalty in the amount of $5,000, perform 150 hours of community service, successfully complete a designated ethics course and to demonstrate arrangements acceptable to the State of New York that you will satisfy the financial penalties imposed by the State of New York following your above referenced guilty plea.

The acts underlying the New Jersey Board sanction were that you provided false responses on your application for licensure in New Jersey in 1995. You represented to the New Jersey Board that you had never been charged, indicted or convicted (by guilty plea or otherwise) of the commission of any crime or offense, when in fact, on or about June 16, 1992, in the Supreme Court of the State of New York, Kings County, Brooklyn, New York, you pleaded guilty and were found guilty of one (1) unclassified misdemeanor count of Unauthorized Practice of a Profession

Mailed 7/15/99

(Medicine), in violation of Section 6512(1) New York Education Law. A copy of the New Jersey Board Consent Order is attached hereto and fully incorporated herein.

(3) As part of your application to practice medicine and surgery in Ohio, the State Medical Board of Ohio (hereinafter "the Ohio Board"), on or about October 18, 1996, received the "Additional Information" section of your application. In response to "Additional Information" Question 17., "[h]ave you ever been convicted or found guilty of a violation of federal law, state law, or municipal ordinance other than a minor traffic violation?" you answered "No."

In the accompanying Affidavit and Release of Applicant notarized October 7, 1996, you certified, under oath, that all the forms furnished with respect to your Ohio application were strictly true in every respect.

In fact, on or about June 16, 1992, in the Supreme Court of the State of New York, Kings County, Brooklyn, New York, you pleaded guilty and were found guilty of one (1) unclassified misdemeanor count of Unauthorized Practice of a Profession (Medicine), a violation of Section 6512(1) New York Education Law.

In reliance upon the truth of the statements submitted by you in your application for licensure, the Ohio Board granted you a certificate to practice medicine and surgery on January 1, 1998.

Your acts, conduct, and/or omissions as alleged in paragraph (3) above, individually and/or collectively, 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 (as in effect prior to March 9, 1999).

Further, your acts, conduct, and/or omissions as alleged in paragraph (2) and (3) above, individually and/or collectively, constitute "publishing a false, fraudulent, deceptive, or misleading statement," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code (as in effect prior to March 9, 1999).

Further, your guilty plea to and the judicial finding of guilt as alleged in paragraph (1) above, individually and/or collectively, constitute "[a] plea of guilty to, or a judicial finding of guilt of, a misdemeanor committed in the course of practice," as that clause is used in Section 4731.22(B)(11), Ohio Revised Code (as in effect prior to March 9, 1999).

Further, the New Jersey Board Consent Order as alleged in paragraph (2) above, individually and/or collectively, constitutes "[t]he limitation, revocation, or suspension by another state of a license or certificate to practice issued by the proper licensing authority of that state, the refusal to license, register, or reinstate an applicant by that authority, the imposition of probation by that authority, or the issuance of an order of censure or other reprimand by that authority for any reason, other than nonpayment of fees," as that clause is used in Section 4731.22(B)(22), Ohio Revised Code (as in effect prior to March 9, 1999).

Further, your acts, conduct, and/or omissions as alleged in paragraphs (1) and (3) above, individually and/or collectively, constitute a failure to furnish satisfactory proof of good moral character as required by Section 4731.08, Ohio Revised Code (as in effect prior to March 9, 1999).

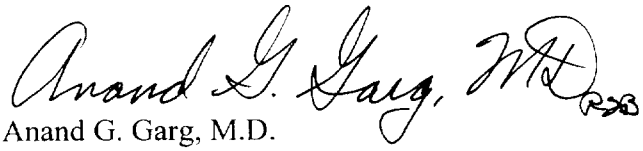
Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty (30) days of the time of mailing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

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

In the event that there is no request for such hearing received within thirty (30) days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand or place you on probation.

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Anand G. Garg, M.D.
Secretary

AGG/jag
Enclosures

CERTIFIED MAIL # Z 233 896 419
RETURN RECEIPT REQUESTED

FILED

October 16, 1998
NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS

In the Matter of: CHOWDHURY M. FARUQUE AZAM, M.D.	CONSENT ORDER

This matter was opened before the New Jersey State Board of Medical Examiners (the "Board") upon the Board's receipt of information revealing that respondent Chowdhury M. Faruque Azam, M.D., had misrepresented information to the Board when making application for licensure as a physician in the State of New Jersey in 1995. Specifically, it appears that respondent was convicted, on or about June 16, 1992, upon entering a plea of guilty, in the State of New York, of engaging in the unauthorized practice of medicine, an unclassified misdemeanor. Respondent was then sentenced to pay a $10,000 confession of judgment and a surcharge of $102.00. Notwithstanding the above, respondent represented to the Board on his licensure application that he had never been charged, indicted or convicted (by guilty plea or otherwise) of the commission of any crime or offense.

Respondent appeared before a Preliminary Evaluation Committee of the Board on June 24, 1998, represented by Michael Davis, Esq., and then testified concerning the criminal action taken in New York and his "mindset" when completing the licensure application in New Jersey. Respondent claimed that he did not report the conviction because his understanding was that the charges had been conditionally discharged, and that a conditional discharge was not the equivalent of a conviction. Respondent testified that, in addition to the conviction in 1992 for the

CERTIFIED TRUE COPY

unauthorized practice of medicine, he had been jailed in the State of New York for 21 days, in or about 1988, on civil contempt charges.

Respondent presently concedes that the information he provided on his application for medical licensure (concerning his conviction in the State of New York) in the State of New Jersey was in error and mistaken. The Board finds that, by providing false responses on his licensure application, respondent obtained his license through fraud, deception or misrepresentation, and that grounds for disciplinary sanction, to include the suspension or revocation of respondent's license, exist pursuant to N.J.S.A. 45:1-21 (a).

It presently appearing that the parties desire to resolve this matter without the need for formal disciplinary proceedings, and it further appearing that respondent acknowledges the aforesaid and that respondent agrees to the imposition of the disciplinary sanctions imposed herein, and the Board finding that this Order adequately protects the public health, safety and welfare, and that good cause exists for the entry of this Order,

IT IS on this 14 day of Oct, 1998

ORDERED AND AGREED:

1. The license of respondent Chowdhury M. Faruque Azam to practice medicine and surgery in the State of New Jersey is hereby suspended for a period of two years, based upon respondent's having provided false information concerning his prior conviction on his application for licensure in the State of New Jersey. The suspension shall commence on January 1, 1999. The first three months of said suspension (from January 1, 1999 through March 31, 1999) are to be served as a period of active suspension, during which time respondent shall refrain from engaging in any medical practice, in New Jersey or elsewhere. The remaining twenty-one months of the suspension (from April

1, 1999 through December 31, 2000) shall be stayed, and served as a period of probation, provided that respondent complies with all terms of this Order.

2. Respondent is hereby assessed a civil penalty in the amount of $5,000, which penalty shall be payable either in full upon signing of this Order, or in twenty-four equal monthly installments of $220.48 (to include interest assessed at a rate of 5.5%), to be paid commencing January 1, 1999 and monthly thereafter on the first of each month (with the final payment being made on December 1, 2000).

3. Respondent is hereby ordered to perform 150 hours of community service, in a manner acceptable to the Board, to be completed within two years of the date of entry of this Order. Respondent shall, prior to commencing said community service, submit a written plan to the Board detailing the manner in which he proposes to satisfy the community service obligations imposed within this paragraph, and shall secure written approval from the Board for any proposed plan.

4. Respondent is hereby ordered to successfully complete, at his own expense, the "PROBE" course in ethics, within one year of the date of signing of this Order.

5. Respondent shall be required, prior to resuming any active practice of medicine in the State of New Jersey, to demonstrate to the satisfaction of the Board that he has made arrangements acceptable to the State of New York to satisfy the financial penalties imposed upon him by the State of New York (specifically, to pay a $10,000 confession of judgment and a surcharge of $102) following his conviction in 1992 of the unauthorized practice of medicine.

6. In the event that respondent satisfies all conditions herein, to include refraining from any medical practice in any jurisdiction for a period of three months, and is then allowed to resume

probationary practice of medicine in the State of New Jersey, he shall continue to comply with all other conditions of this Order. In the event that respondent fails, during the period of probation, to comply with any terms of this Order, the entire twenty-one months of the suspension which is being stayed herein shall be activated. In such event, respondent will then be required to serve twenty-one additional months of active licensure suspension, and will further be required to demonstrate, as a precondition for licensure restoration, that he has then satisfied all terms and conditions of the within Order.

NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS

By: _____
Bernard Robins, M.D.
Board President

I acknowledge that I have read the within consent order, and agree to be bound by its terms. I hereby consent to entry of the within Order by the Board.

_____
Chowdhury M. Faruque Azam, M.D.

Dated: 9.28.98

Consent given to the form of this Order.

_____
Michael Davis, Esq.

Dated: 9-29-98

DIRECTIVES APPLICABLE TO ANY MEDICAL BOARD LICENSEE WHO IS SUSPENDED, REVOKED OR WHOSE SURRENDER OF LICENSURE HAS BEEN ACCEPTED

APPROVED BY THE BOARD ON OCTOBER 11, 1995

The following directives shall apply when a license is suspended or revoked or permanently surrendered with or without prejudice.

1. Document Return and Agency Notification

The licensee shall promptly deliver to the Board office at 140 East Front Street, 2nd floor, Trenton, New Jersey 08608, the original license, current biennial registration and, if applicable, the original CDS registration. In addition, if the licensee holds a Drug Enforcement Agency (DEA) registration, he or she shall promptly advise the DEA of the licensure action. (With respect to suspensions of a finite term, at the conclusion of the term, the licensee may contact the Board office for the return of the documents previously surrendered to the Board. In addition, at the conclusion of the term, the licensee should contact the DEA to advise of the resumption of practice and to ascertain the impact of that change upon his/her DEA registration.)

2. Practice Cessation

The licensee shall cease and desist from engaging in the practice of medicine in this State. This prohibition not only bars a licensee from rendering professional services, but also from providing an opinion as to professional practice or its application, or representing him/herself as being eligible to practice. (Although the licensee need not affirmatively advise patients or others of the revocation, suspension or surrender, the licensee must truthfully disclose his/her licensure status in response to inquiry.) The disciplined licensee is also prohibited from occupying, sharing or using office space in which another licensee provides health care services. The disciplined licensee may contract for, accept payment from another licensee for or rent at fair market value office premises and/or equipment. In no case may the disciplined licensee authorize, allow or condone the use of his/her provider number by the practice or any other licensee or health care provider. (In situations where the licensee has been suspended for less than one year, the licensee may accept payment from another professional who is using his/her office during the period that the licensee is suspended, for the payment of salaries for office staff employed at the time of the Board action.)

A licensee whose license has been revoked, suspended for one (1) year or more or permanently surrendered must remove signs and take affirmative action to stop advertisements by which his eligibility to practice is represented. The licensee must also take steps to remove his/her name from professional listings, telephone directories, professional stationery, or billings. If the licensee's name is utilized in a group practice

title, it shall be deleted. Prescription pads bearing the licensee's name shall be destroyed. If no other licensee is providing services at the location, all medications must be removed and returned to the manufacturer, if possible, destroyed or safeguarded. (In situations where a license has been suspended for less than one year, prescription pads and medications need not be destroyed but must be secured in a locked place for safekeeping.

3. Practice Income Prohibitions/Divestiture of Equity Interest in Professional Service Corporations

A licensee shall not charge, receive or share in any fee for professional services rendered by him/herself or others while barred from engaging in the professional practice. The licensee may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of the Board action.

A licensee who is a shareholder in a professional service corporation organized to engage in the professional practice, whose license is revoked, surrendered or suspended for a term of one (1) year or more shall be deemed to be disqualified from the practice within the meaning of the Professional Service Corporation Act. (N.J.S.A. 14A:17-11). A disqualified licensee shall divest him/herself of all financial interest in the professional service corporation pursuant to N.J.S.A. 14A:17-13(c). Such divestiture shall occur within 90 days following the disqualification to own shares in the corporation. Upon divestiture, a licensee shall forward to the Board a copy of documentation forwarded to the Secretary of State, Commercial Reporting Division, demonstrating that the interest has been terminated. If the licensee is the sole shareholder in a professional service corporation, the corporation must be dissolved within 90 days of the licensee's disqualification.

4. Medical Records

If, as a result of the Board's action, a practice is closed or transferred to another location, the licensee shall ensure that during the three (3) month period following the effective date of the disciplinary order, a message will be delivered to patients calling the former office premises, advising where records may be obtained. The message should inform patients of the names and telephone numbers of the licensee (or his/her attorney) assuming custody of the records. The same information shall also be disseminated by means of a notice to be published at lease once per month for three (3) months in a newspaper of general circulation in the geographic vicinity in which the practice was conducted. At the end of the three month period, the licensee shall file with the Board the name and telephone number of the contact person who will have access to medical records of former patients. Any change in that individual or his/her telephone number shall be promptly reported to the Board. When a patient or his/her representative requests a copy of his/her medical record or asks that that record be forwarded to another health care provider, the licensee shall promptly provide the record without charge to the patient.

NOTICE OF REPORTING PRACTICES OF BOARD REGARDING DISCIPLINARY ACTIONS

Pursuant to N.J.S.A. 52:14B-3(3), all orders of the New Jersey State Board of Medical Examiners are available for public inspection. Should any inquiry be made concerning the status of a licensee, the inquirer will be informed of the existence of the order and a copy will be provided if requested. All evidentiary hearings, proceedings on motions or other applications are conducted as public hearings and the record, including the transcript and documents marked in evidence, are available for public inspection, upon request.

Pursuant to 45 CFR Subtitle A 60.8, the Board is obligated to report to the National Practitioners Data Bank any action relating to a physician which is based on reasons relating to professional competence or professional conduct:

(1) Which revoked or suspends (or otherwise restricts) a license,

(2) Which censures, reprimands or places on probation,

(3) Under which a license is surrendered.

Pursuant to N.J.S.A.45:9-19.13, if the Board refuses to issue, suspends, revokes or otherwise places conditions on a license or permit, it is obligated to notify each licensed health care facility and health maintenance organization with which a licensee is affiliated and every other board licensee in this state with whom he or she is directly associated in private medical practice.

In accordance with an agreement with the Federation of State Medical Boards of the United States, a list of all disciplinary orders are provided to that organization on a monthly basis.

Within the month following entry of an order, a summary of the order will appear on the public agenda for the next monthly Board meeting and is forwarded to those members of the public requesting a copy. In addition, the same summary will appear in the minutes of that Board meeting, which are also made available to those requesting a copy.

Within the month following entry of an order, a summary of the order will appear in a Monthly Disciplinary Action Listing which is made available to those members of the public requesting a copy.

On a periodic basis the Board disseminates to its licensees a newsletter which includes a brief description of all of the orders entered by the Board.

From time to time, the Press Office of the Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing herein is intended in any way to limit the Board, the Division or the Attorney General from disclosing any public document.