



State Medical Board of Ohio

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

April 14, 2004

Charles Raymond Fitz, M.D.
302 Cola Street
Pittsburgh, PA 15203

Dear Doctor Fitz:

Please find enclosed a certified copy of the Findings, Order and Journal Entry approved and confirmed by the State Medical Board meeting in regular session on April 14, 2004.

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

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

Very truly yours,

Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

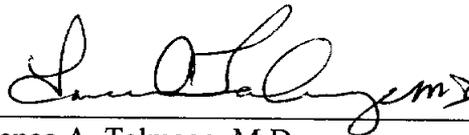
CERTIFIED MAIL RECEIPT NO. 7000 0600 0024 5150 1849
RETURN RECEIPT REQUESTED

Mailed 4-15-04

CERTIFICATION

I hereby certify that the attached copy of the Findings, Order and Journal Entry approved by the State Medical Board, meeting in regular session on April 14, 2004, constitutes a true and complete copy of the Findings, Order and Journal Entry in the Matter of Charles Raymond Fitz, M.D., as it appears in the Journal of the State Medical Board of Ohio.

This Certification is made by the authority of the State Medical Board of Ohio in its behalf.



Lance A. Talmage, M.D.
Secretary

(SEAL)

April 14, 2004
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF :
:
CHARLES RAYMOND FITZ, M.D. :

FINDINGS, ORDER AND JOURNAL ENTRY

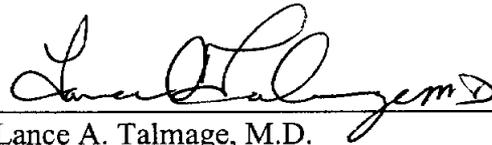
This matter came on for consideration before the State Medical Board of Ohio on April 14, 2004, pursuant to a Notice of Opportunity for Hearing issued to Charles Raymond Fitz, M.D., on October 8, 2003. No request for hearing having been received within the statutorily mandated time period, Chief Hearing Examiner R. Gregory Porter, Esq., on behalf of the Board, reviewed and summarized evidence supporting the Notice, and prepared Proposed Findings and a Proposed Order.

WHEREFORE, having reviewed Mr. Porter's Proposed Findings and Proposed Order, which is attached hereto and incorporated herein, the Board hereby finds that there is reliable, probative and substantial evidence to support the allegations as set forth in the October 8, 2003, Notice of Opportunity for Hearing.

Accordingly, it is hereby ORDERED that:

The certificate of Charles Raymond Fitz, M.D., to practice medicine and surgery in the State of Ohio shall be REVOKED.

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



Lance A. Talmage, M.D.
Secretary

(SEAL)

April 14, 2004
Date

2004 MAR -1 A 9 36

**PROPOSED FINDINGS AND PROPOSED ORDER
IN THE MATTER OF CHARLES RAYMOND FITZ, M.D.**

The Matter of Charles Raymond Fitz, M.D., was reviewed by R. Gregory Porter, Esq., Chief Hearing Examiner for the State Medical Board of Ohio.

INTRODUCTION

I. Basis for the Review

- A. By letter dated October 8, 2003, the State Medical Board of Ohio [Board] notified Charles Raymond Fitz, M.D., that it had proposed to take disciplinary action against his certificate to practice medicine and surgery in Ohio. The Board's proposed action was based on the following allegations:
- Dr. Fitz answered, "Yes," to question number 3 on his 2002 application for renewal of his Ohio certificate. This question asked, "At any time since signing your last application for renewal of your certificate[, h]ave any malpractice awards been paid by you or on your behalf for acts occurring in any state other than Ohio?"
 - On December 6, 2002, the Board sent a letter to Dr. Fitz requesting a brief explanation regarding his affirmative answer to that question. Dr. Fitz failed to respond.
 - On January 13, 2003, the Board sent another letter asking Dr. Fitz for a brief explanation regarding his affirmative answer. Dr. Fitz again failed to respond.
 - On or about September 5, 2003, a subpoena was issued to Dr. Fitz commanding him to appear for a conference at the Board's offices on September 25, 2003. Dr. Fitz failed to appear for the conference or to respond in any way to the subpoena.

The Board alleged that Dr. Fitz's conduct constitutes "[f]ailure to cooperate in an investigation conducted by the board under division (F) of this section, including failure to comply with a subpoena," as those clauses are used in Section 4731.22(B)(35), Ohio Revised Code."

In addition, the Board advised Dr. Fitz that he would be entitled to a hearing if such hearing was requested within thirty days of the mailing of the notice of opportunity for hearing. (Exhibit 2)

- B. In accordance with Section 119.07, Ohio Revised Code, the notice of opportunity for hearing [Notice] was sent via certified mail, return receipt requested, to the address of record for Dr. Fitz at 302 Cola Street, Pittsburgh, Pennsylvania 15203. The Notice was mailed on October 9, November 19, and December 18, 2003. Proper service of the Notice was documented following the December 18, 2003, mailing. (Exhibit 1)
- C. More than thirty days have elapsed since the third mailing of the notice of opportunity for hearing and Dr. Fitz has not submitted a hearing request. (Exhibit 1)

EVIDENCE EXAMINED

- 1. Exhibit 1: January 26, 2004, Memorandum from Barbara A. Jacobs, Public Services Administrator, to Gregory Porter, Chief Hearing Officer.
- 2. Exhibit 2: Copy of the notice of opportunity for hearing mailed on October 9, 2003; mailed a second time on November 19, 2003; and mailed a third time on December 18, 2003; with copies of certified mail receipts.
- 3. Exhibit 3: Affidavit of Ms. Jacobs, with the following attachments:
 - a. Exhibit 3A: Copy of Dr. Fitz's November 24, 2002, application for renewal of his Ohio certificate.
 - b. Exhibit 3B: Copy of a December 6, 2002, letter to Dr. Fitz from the Board.
 - c. Exhibit 3C: Copy of a January 13, 2003, letter to Dr. Fitz from the Board, with copies of certified mail receipts.
- 4. Exhibit 4: Affidavit of William J. Schmidt, Assistant Executive Director, with the following attachment:
 - Exhibit 4-1: Copy of a September 5, 2003, Subpoena for Investigative Conference, summoning Dr. Fitz to appear at the Board's offices on September 25, 2003, at 3:45 p.m., with copies of certified mail receipts.

SUMMARY OF THE EVIDENCE

All exhibits, even if not specifically mentioned, were thoroughly reviewed and considered by the Hearing Examiner prior to preparing this Proposed Findings and Proposed Order.

- 1. On November 24, 2002, Charles Raymond Fitz, M.D., signed an application for renewal of his certificate to practice medicine and surgery in Ohio. In that application, Dr. Fitz answered,

“Yes,” to question number 3, which asked, “At any time since signing your last application for renewal of your certificate[, h]ave any malpractice awards been paid by you or on your behalf for acts occurring in any state other than Ohio?” (Exhibits 3 and 3A)

2. On December 6, 2002, Barbara A. Jacobs, Public Services Administrator for the Board, sent a letter to Dr. Fitz concerning his affirmative response to question 3 on his renewal application. Ms. Jacobs requested that Dr. Fitz “forward a brief written explanation of events resulting in the malpractice action or a copy of the report submitted to the National Practitioners Data Bank.” Ms. Jacobs further informed Dr. Fitz that the requested information should be forwarded to the Board within 21 days of receipt of the letter. (Exhibit 3 and 3B)

In a January 24, 2004, Affidavit, Ms. Jacobs stated that Dr. Fitz had not responded to her December 6, 2002, letter. (Exhibit 3)

3. On January 13, 2003, Ms. Jacobs sent a second letter to Dr. Fitz via certified mail, return receipt requested. In this letter, Ms. Jacobs reiterated her request for information from Dr. Fitz, and informed Dr. Fitz that the requested information should be submitted to the Board within fifteen days of receipt of the letter “to avoid any further action being taken by this Board based on [his] failure to respond.” The certified mail receipt for this letter appears to bear the signature of Dr. Fitz, and indicates a delivery date of January 25, 2003. (Exhibit 3C)

In her Affidavit, Ms. Jacobs stated that she had received no response from Dr. Fitz concerning her January 13, 2003, letter. Ms. Jacobs further stated that she had “discussed this matter with the Secretary and Supervising Member of the Board, who directed that Dr. Fitz be subpoenaed for appearance at an office conference to discuss his failure to answer the Board’s inquiries.” (Exhibit 3)

4. In a January 26, 2004, Affidavit, William J. Schmidt, Assistant Executive Director for the Board, stated that his responsibilities include scheduling the Board’s licensees for office conferences at the direction of the Secretary and Supervising Member of the Board. Mr. Schmidt further stated that on July 9, 2003, the Secretary and Supervising Member had directed that Dr. Fitz “be subpoenaed to attend an investigative office conference for his failure to answer Board inquiries into his answers on his [renewal application].” (Exhibit 4)

On September 5, 2003, a Subpoena for Investigative Conference was sent to Dr. Fitz at his address of record via certified mail, return receipt requested. The subpoena commanded him to appear at the offices of the Board on September 25, 2003, at 3:45 p.m. The certified mail receipt for this subpoena appears to bear the signature of Dr. Fitz, and indicates a delivery date of September 13, 2003. (Exhibits 4 and 4-1)

Nevertheless, Mr. Schmidt stated in his Affidavit, “I was in attendance at the scheduled investigative office conference to which Dr. Fitz had been subpoenaed. Dr. Fitz failed to attend and did not advise the Board that he would not be in attendance.” (Exhibit 4)

PROPOSED FINDINGS

1. By letter dated December 6, 2002, [December letter] the Board requested that Charles Raymond Fitz, M.D., forward a brief explanation concerning his affirmative answer to question number 3 on his 2002 application for renewal of his Ohio certificate to practice medicine and surgery. This question asked, "At any time since signing your last application for renewal of your certificate[, h]ave any malpractice awards been paid by you or on your behalf for acts occurring in any state other than Ohio?" The December letter requested that Dr. Fitz briefly describe the events resulting in the malpractice action or, in the alternative, that he provide a copy of the report submitted to the National Practitioners Data Bank. Dr. Fitz failed to respond in any way to the December letter.

By letter dated January 13, 2003, [January letter], sent by certified mail, return receipt requested, the Board reiterated the subject of the December letter and also advised Dr. Fitz that failure to respond could result in formal disciplinary action against his license. The certified mail receipt for this letter appears to bear the signature of Dr. Fitz, and indicates a delivery date of January 25, 2003. Dr. Fitz failed to respond in any way to the January letter.

On September 5, 2003, Dr. Fitz was subpoenaed [September subpoena] by the Board to appear for an office conference at the Board's offices on September 25, 2003. The certified mail receipt for this subpoena appears to bear the signature of Dr. Fitz, and indicates a delivery date of September 13, 2003. Dr. Fitz failed to appear for his office conference and further failed to respond in any way to the September subpoena.

2. The conduct of Dr. Fitz as set forth in Proposed Findings 1 constitutes "[f]ailure to cooperate in an investigation conducted by the board under division (F) of this section, including failure to comply with a subpoena," as those clauses are used in Section 4731.22(B)(35), Ohio Revised Code.

* * * * *

Dr. Fitz failed to respond to two requests from the Board for information concerning his affirmative response to a question on his renewal application. Moreover, Dr. Fitz failed to respond to a Board subpoena for an investigative conference. Such conduct toward the Board by one of its licensees is baffling. One can only conclude that the Board cannot have any meaningful regulatory relationship with this individual.

PROPOSED ORDER

It is hereby ORDERED that:

The certificate of Charles Raymond Fitz, M.D., to practice medicine and surgery in the State of Ohio shall be REVOKED.

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

A handwritten signature in black ink, appearing to read 'R. Gregory Porter', written over a horizontal line.

R. Gregory Porter, Esq.
Chief Hearing Examiner



State Medical Board of Ohio

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

October 8, 2003

OHIO STATE MEDICAL BOARD

DEC 12 2003

Charles Raymond Fitz, M.D.
302 Cola Street
Pittsburgh, PA 15203

Dear Doctor Fitz:

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

- (1) By letter dated December 6, 2002, [December letter] the Board requested that you forward a brief explanation concerning your affirmative answer to question number 3 on your 2002 application for renewal of your Ohio certificate to practice medicine and surgery which asks, "At any time since signing your last application for renewal of your certificate, have any malpractice awards been paid by you or on your behalf for acts occurring in any state other than Ohio?" The December letter requested that you briefly describe the events resulting in the malpractice action or, in the alternative, provide a copy of the report submitted to the National Practitioners Data Bank. You failed to respond in any way to the December letter.

By letter dated January 13, 2003, [January letter] and sent by certified mail, return receipt requested, the Board reiterated the subject of the December letter and also advised you that failure to respond could result in formal disciplinary action against your license. You failed to respond in any way to the January letter.

On or about September 5, 2003, you were subpoenaed [September subpoena] by the Board to appear at an office conference at the Board on September 25, 2003. You failed to appear for your office conference and further failed to respond in any way to the September subpoena.

Your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute a "[f]ailure to cooperate in an investigation conducted by the board under division (F) of this section, including failure to comply with a subpoena," as those clauses are used in Section 4731.22(B)(35), Ohio Revised Code.

Third mailing 12-18-03

*Mailed 10-9-03
Second mailing 11-19-03*

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 days of the time of mailing of this notice.

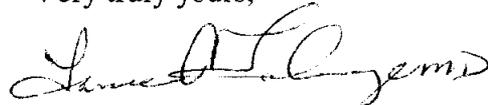
You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at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

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

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, 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,



Lance A. Talmage, M.D.
Secretary

LAT/blt
Enclosures

CERTIFIED MAIL # 7000 0600 0024 5146 1778
RETURN RECEIPT REQUESTED

Charles Raymond Fitz, M.D.
Page 3

Second mailing: 302 Cola Street
Pittsburgh, PA 15203
CERTIFIED MAIL NO. 7000 0600 0024 5150 0248
RETURN RECEIPT REQUESTED

Third mailing: 302 Cola Street
Pittsburgh, PA 15203
CERTIFIED MAIL NO. 7000 0600 0024 5150 1009
RETURN RECEIPT REQUESTED