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IN THE COURT OF APPEALS OF OHIO  
TENTH APPELLATE DISTRICT

FILED  
COURT OF APPEALS  
FRANKLIN CO. O.H.  
2008 JUN 24 PM 12:27  
CLERK OF COURTS

Azber Azher Ansar, M D ,

Appellant-Appellant,

v

No 08AP-17  
(C P C No 07CVF02-02181)

State Medical Board of Ohio,

(REGULAR CALENDAR)

Appellee-Appellee

JUDGMENT ENTRY

For the reasons stated in the opinion of this court rendered herein on June 24, 2008, the assignments of error are overruled. Therefore, it is the judgment and order of this court that the judgment of the Franklin County Court of Common Pleas is affirmed. Costs are assessed against appellant.

TYACK, BRYANT & FRENCH, JJ

By *Gary Tyack*  
Judge G Gary Tyack

IN THE COURT OF APPEALS OF OHIO  
TENTH APPELLATE DISTRICT

Azber Azher Ansar, M.D.,	:	
Appellant-Appellant,	:	
v.	:	No. 08AP-17
State Medical Board of Ohio,	:	(C.P.C. No. 07CVF02-02181)
Appellee-Appellee.	:	(REGULAR CALENDAR)

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O P I N I O N

Rendered on June 24, 2008

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*Azber Azher Ansar, pro se.*

*Nancy H. Rogers, Attorney General, and Barbara J. Pfeiffer,*  
for appellee.

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APPEAL from the Franklin County Court of Common Pleas.

TYACK, J.

{¶1} Appellant, Azber Azher Ansar, M.D., pled guilty to a misdemeanor charge of filing a false police report. The State Medical Board of Ohio ("Board") suspended his medical license on the grounds that his conviction was a misdemeanor involving moral turpitude as set forth in R.C. 4731.22(B)(13). The primary issue on appeal is whether Dr. Ansar's conviction is a crime involving moral turpitude.

{¶2} The following facts are not in dispute. Dr. Ansar is a staff physician at the Veterans Affairs Medical Center in Minneapolis, Minnesota. Dr. Ansar was licensed to

practice medicine in Ohio in October 2000. He is also licensed to practice medicine in Arizona, Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nevada, New Mexico, North Dakota, Utah, Washington, Wisconsin, and the Commonwealth of the Northern Mariana Islands. Dr. Ansar is board certified in internal medicine.

{¶3} In the summer of 2005, Dr. Ansar was in the midst of a bitter divorce and custody battle. He became upset about a police report that his wife had filed against him. Dr. Ansar admitted to the Board that in an attempt to gain a legal advantage in the divorce, he drove to a store with his child, purchased a knife, and then drove to his parents' home, where he was living at the time. He placed the knife in his pocket, and while he was transferring his four-year-old son into the car seat of his wife's car, appellant cut himself with the knife and tossed the knife into his wife's car. Appellant then called police and made a false report that he had been attacked by his wife. Appellant recanted his statement when he realized the officers were going to handcuff his wife and take her into custody.

{¶4} The Board conducted a hearing in which Dr. Ansar appeared pro se. The hearing examiner found that Dr. Ansar had committed a misdemeanor involving moral turpitude and recommended a one-year suspension of Dr. Ansar's license. Dr. Ansar appeared before the board and addressed them personally. After discussion and deliberation, the board voted to impose a six-month suspension.

{¶5} Dr. Ansar appealed the decision of the Board to the Franklin County Court of Common Pleas. On December 7, 2007, the court of common pleas affirmed the order of the Board, suspending for six months Dr. Ansar's certificate to practice medicine and surgery in Ohio.

{¶6} On appeal, Dr. Ansar has asserted the following assignments of error:

1. The trial court abused its discretion and erred to appellant's prejudice when it found the order of the State Medical Board of Ohio to be in accordance with law.
2. The order of the State Medical Board of Ohio which was affirmed by the trial court is not supported by "reliable, probative and substantial" evidence.
3. Appellant's misdemeanor conviction did not meet the definition of a "Misdemeanor involving moral turpitude" in accordance with Ohio Revised Code 4731.22(B)(13) and was not supported by case law. The Trial court did not take into consideration all the circumstances revolving around Appellant's misdemeanor conviction and erroneously labeled it a "Misdemeanor involving Moral Turpitude." The concept of a crime of moral turpitude not related to the practice of medicine, is a concept that is not confided exclusively, or even primarily to the professional judgment of the State Medical Board of Ohio.
4. There has been a harmful prejudicial error against Appellant by Appellee. The excerpts from the draft minutes of January 10<sup>th</sup>, 2007 meeting of the State Medical Board of Ohio were intentionally doctored to exclude the fact that a board member was under the impression that Appellant had stabbed his son in front of his mother and this preconceived notion prejudiced the members of the State Medical Board of Ohio against Appellant.
5. The order of the State Medical Board that was affirmed by the trial court was "Arbitrary and Capricious", unlawful, unreasonable and against the manifest weight of the evidence.
6. The conclusions of law are not supported by the findings of fact and the findings of fact are not supported by any evidence wherein reasonable minds could reach the factual finding from the evidence.

{¶7} In his first assignment of error, Dr. Ansar urges this court to conduct an independent review of the reasoning of the Board and the court of common pleas.

{¶8} We reject this request because our standard of review is more limited than that of the common pleas court. This is not to say that we do not review the record. However, our task on appeal is to determine if the common pleas court abused its discretion in finding that the decision of the Board was supported by reliable, probative, and substantial evidence and in accordance with law. *Bivins v. Ohio State Bd. of Emergency Med. Servs.*, 165 Ohio App.3d 390, 2005-Ohio-5999, at ¶7. In *Pons v. Ohio State Med. Bd.* (1993), 66 Ohio St.3d 619, the Supreme Court of Ohio stated:

\* \* \* While it is incumbent on the trial court to examine the evidence, this is not a function of the appellate court. The appellate court is to determine only if the trial court has abused its discretion, i.e., being not merely an error of judgment, but perversity of will, passion, prejudice, partiality, or moral delinquency. Absent an abuse of discretion on the part of the trial court, a court of appeals may not substitute its judgment for those of the medical board or a trial court. \* \* \*

Id. at 621.

{¶9} Our review of whether the Board's order is in accordance with law is plenary. *Staschak v. State Med. Bd. of Ohio*, Franklin App. No. 03AP-799, 2004-Ohio-4650. Applying this standard of review, we turn now to Dr. Ansar's substantive arguments.

{¶10} Dr. Ansar asserts in his brief that the Board and the court of common pleas abused their discretion for the following reasons: (1) relevant factors were not considered; (2) improper factors were given significant weight; (3) the medical board engaged in an arbitrary and unreasonable exercise of power; and (4) the action of the medical board was unreasonable.

{¶11} Dr. Ansar does not direct us to the pages in the record where the alleged error occurred. App.R. 16(A)(7) requires appellant, in his brief, to provide "[a]n argument containing the contentions of the appellant with respect to each assignment of error presented for review and the reasons in support of the contentions, with citations to the authorities, statutes, and *parts of the record upon which appellant relies.*" (Emphasis added.) In addition, App.R. 12(A)(2) allows a reviewing court to "disregard an assignment of error presented for review if the party raising it fails to identify in the record the error on which the assignment of error is based."

{¶12} It is not an appellate court's obligation to search the record for evidence to support an alleged error and, for that reason, the first assignment of error is overruled. Nevertheless, some of the issues raised in the first assignment of error will be addressed in later assignments of error.

{¶13} In his second assignment of error, Dr. Ansar argues that the order of the Board was not supported by reliable, probative, and substantial evidence. Specifically, Dr. Ansar objects to the admission of a police report on the grounds that the report was not certified and constituted hearsay. The hearsay rule is relaxed in administrative hearings. *Hayes v. State Med. Bd. of Ohio* (2000), 138 Ohio App.3d 762, 769. Moreover, even if the evidence should not have been admitted, the asserted error is not prejudicial. The certified copy of his conviction was admitted without objection, and that document was reliable, probative, and substantial evidence that he was convicted of the crime of falsely reporting a crime pursuant to Minn. Stat. 609.505.

{¶14} Dr. Ansar argues that he should have been apprised of his Miranda rights prior to his recanting of his false statement. This argument is without merit as Dr. Ansar

waived this argument when he pled guilty to the charge. He never raised the issue at the hearing and, therefore, has waived this issue on appeal.

{¶15} Dr. Ansar also argues that it was prejudicial error for the hearing examiner to refuse to admit letters from medical boards in various states who had taken no action against Dr. Ansar as a result of the same incident for which Ohio sought to suspend his license. The letters were not admitted because they were not relevant to the Ohio proceeding, but Dr. Ansar was permitted to testify about the actions other states took.

{¶16} For all of these reasons, the second assignment of error is overruled.

{¶17} In his third assignment of error, Dr. Ansar contends that the crime for which he was convicted was not a misdemeanor involving moral turpitude as that term is used in R.C. 4731.22(B)(13).

{¶18} R.C. 4731.22(B)(13) gives the Board the authority to discipline a physician for, among other things, "[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude."

{¶19} Dr. Ansar was convicted in Minnesota of violating Minn. Stat. 609.505, which provides, in pertinent part:

Whoever informs a law enforcement officer that a crime has been committed or otherwise provides information to an on-duty peace officer, knowing that the person is a peace officer, regarding the conduct of others, knowing that it is false and intending that the officer shall act in reliance upon it, is guilty of a misdemeanor. \* \* \*

{¶20} The equivalent Ohio statute would be R.C. 2921.13(A)(2) and (3), the misdemeanor offense of falsification. That statute provides, in pertinent part:

No person shall knowingly make a false statement \* \* \* when any of the following applies:

\* \* \*

(2) The statement is made with purpose to incriminate another.

(3) The statement is made with purpose to mislead a public official in performing the public official's function.

\* \* \*

(F)(1) Whoever violates division (A)(1), (2), (3), \* \* \* of this section is guilty of falsification, a misdemeanor of the first degree.

{¶21} In a case involving the Board, this court has defined "moral turpitude" as follows:

Acts of moral turpitude, although not subject to exact definition, are characterized by "baseness, vileness, or the depravity in private and social duties which man owes to his fellow man, or to society in general \* \* \*." This court has before found that moral turpitude is generally defined as an "[a]ct or behavior that gravely violates moral sentiment or accepted moral standards of [the] community and is a morally culpable quality held to be present in some criminal offenses as distinguished from others."

*Rossiter v. Ohio State Medical Bd.*, Franklin App. No. 01AP-1252, 2002-Ohio-2017 (internal quotes and ellipses omitted). ("*Rossiter I.*")

{¶22} A review of cases involving moral turpitude indicates that, while Dr. Ansar's conviction is not among the most serious misdemeanors involving moral turpitude, it falls within the range of such cases.

{¶23} In *Jaros v. The Ohio State Bd. of Emergency Med. Servs.*, Lucas App. No. L-01-1422, 2002-Ohio-2363, an emergency medical technician pleaded guilty to a third

degree misdemeanor of sexual imposition stemming from improper touching of his girlfriend's 17-year-old sister. The court held that it was undisputed that the appellant's crime was one involving moral turpitude.

{¶24} *Staschak*, supra, was a licensing case in which the board found the physician lacked good moral character, and found that his testimony lacked credibility in connection with him giving Schedule V drug samples to his wife, and submitting fraudulent documents to the medical board. The Board permanently denied his application to practice medicine in Ohio. This court affirmed, quoting Black's Law Dictionary definition of "good moral character," as a pattern of behavior conforming to a profession's ethical standards and showing an absence of moral turpitude, moral turpitude being conduct that is contrary to justice, honesty, or morality.

{¶25} In *Holycross v. State Bd. of Emergency Med. Serv.*, 163 Ohio App.3d 213, 2005-Ohio-4598, the appellant became enamored of his co-worker's 15-year-old daughter. He entered the house and hugged and kissed her on the cheek after his co-worker had told him to end all contact with his daughter. He also attempted to email her after he had been told to cease contact. The Board revoked the emergency medical technician's license after he pleaded guilty to telephone harassment, R.C. 2917.21(A)(1), a first degree misdemeanor, attempted telecommunications harassment, R.C. 2923.02, a second degree misdemeanor, and criminal trespass, R.C. 2911.21(A)(4), a fourth degree misdemeanor. The Second District Court of Appeals held that these crimes did not constitute crimes of moral turpitude, stating "[w]e are not prepared to hold that persisting in giving one's attention to a 15-year-old girl, in the face of her father's express, and

strongly voiced, disapproval is base, vile, or depraved, wrong though it may be." *Holycross*, at ¶74.

{¶26} In contrast, this court upheld revocation of a physician's license to practice medicine when he pleaded guilty and was convicted of four counts of contributing to unruliness or delinquency of a child, misdemeanors of the first degree. *In re Heath* (1992), 80 Ohio App.3d 605. The underlying factual basis for the charges involved furnishing alcohol to minors and engaging in sexual activity with minor boys. The Board found that, under these circumstances, the charges constituted a misdemeanor involving moral turpitude.

{¶27} More relevant to the current case is *Davidson v. State Medical Bd. of Ohio* (May 7, 1998), Franklin App. No. 97APE08-1036, in which a podiatrist pleaded no contest to a second degree misdemeanor count of obstructing official business in violation of R.C. 2921.31, stemming from his removal of patient billing sheets from patient medical records in a Medicaid insurance fraud investigation. This court found no abuse of discretion in finding that this misdemeanor involved moral turpitude. In particular, the court focused on the fraudulent nature of the act.

{¶28} In *Hayes*, a podiatrist's license was revoked because of lies and omissions in his bar application proceedings. The Board found his conduct amounted to falsification in violation of R.C. 2921.13, a misdemeanor involving moral turpitude. As noted above, R.C. 2921.13 is the Ohio equivalent of the misdemeanor appellant was convicted of in Minnesota. Factually, the cases are distinguishable because, in the *Hayes* case, the podiatrist repeatedly lied under oath, lied to each group reviewing him, lied in depositions, purposely omitted information in his bar application regarding his past conduct,

properties, debts, employees, and podiatry practice. The appellant told the Board of Commissioner's hearing panel that he felt that he had no obligation to answer truthfully.

{¶29} *Rossiter I* involved a physician who was convicted, among other things, of a misdemeanor count of failing to file one quarterly tax withholding form. This court reversed the Board's decision that this misdemeanor involved moral turpitude. The case was remanded for reconsideration of the penalty. On remand, *Rossiter v. State Medical Bd. of Ohio*, 155 Ohio App.3d 689 (*Rossiter II*), the Board imposed the same penalty due to other convictions related to tax matters and this court affirmed.

{¶30} In *Rossiter I*, this court noted that "[p]roof of a criminal conviction is generally not conclusive of the issue of moral turpitude, which requires consideration of all the circumstances surrounding the illegal conduct." Rather, where moral turpitude is disputed, an independent review of the circumstances underlying criminal convictions is necessary to determine if they manifest the requisite lack of social conscience and depravity beyond any established criminal intent." *Id.* See, also, *Disciplinary Counsel v. Hunter*, 106 Ohio St.3d 418, 2005-Ohio-5411, at ¶24.

{¶31} Therefore, it was incumbent upon the Board to look beyond the elements of the crime of false reporting, and to examine the circumstances surrounding the incident. It is the function of the Board, not the court of appeals, to conduct such a review.

{¶32} Attorney discipline cases are also instructive on the issue of falsification involving moral turpitude. Former DR I-102(A)(3) provides in pertinent part that "[a] lawyer shall not: engage in illegal conduct involving moral turpitude."<sup>1</sup>

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<sup>1</sup> The Ohio Code of Professional Responsibility was superseded effective February 1, 2007 by the Ohio Rules of Professional Conduct.

{¶33} For example, in *Columbus Bar Assn. v. Stubs*, 109 Ohio St.3d 446, 2006-Ohio-2818, an attorney falsified a document purporting to show that she had been properly insured at the time of a minor traffic accident. She pled guilty to a charge of falsification, and the Supreme Court of Ohio found that her illegal conduct involved moral turpitude.

{¶34} In *Columbus Bar Assn. v. Neal*, 113 Ohio St.3d 461, 2007-Ohio-2341, an attorney staged a series of burglaries at his residence and submitted false insurance claims. He was charged with, among other things, two counts of falsification. The Supreme Court of Ohio found that he had engaged in illegal conduct involving moral turpitude.

{¶35} In *Disciplinary Counsel v. McDowell*, 71 Ohio St.3d 22, 1994-Ohio-232, an attorney knowingly misrepresented his client's actual residence in another county. He pled guilty to falsification, and the Supreme Court of Ohio found that his misconduct involved moral turpitude.

{¶36} These cases illustrate the principle that a misdemeanor conviction for falsification can be considered illegal conduct involving moral turpitude.

{¶37} Here, the Board examined and discussed the particular circumstances of this case. Specifically, the act took place in front of Dr. Ansar's four-year-old son, and there was evidence of premeditation because Dr. Ansar purchased the knife the day of the incident and put it in his pocket while he awaited his wife's arrival. The incident was staged and involved dishonesty, and the intent was to set his wife up to gain an edge in

the divorce proceedings. This constitutes reliable, substantial, and probative evidence that Dr. Ansar's misdemeanor conviction involved moral turpitude.

{¶38} Dr. Ansar points to the fact that he recanted almost immediately and that he complied with all terms of his probation. However, these mitigating factors weigh more heavily toward the severity of the sanction rather than proof of moral turpitude.

{¶39} In his brief, Dr. Ansar quotes portions of the hearing before the Board that he alleges are prejudicial or display a lack of understanding about the circumstances surrounding his case. While Dr. Ansar disagrees with the Board's conclusion, the extensive quotes cited only reinforce the notion that the Board took the issue seriously and engaged in a reasoned discussion before voting on a sanction.

{¶40} Dr. Ansar further argues that his due process rights were violated because the hearing officer was not a neutral and impartial decision maker. As discussed above, appellant was not prejudiced by not having letters from other jurisdictions admitted. Appellant also seeks to challenge his own exhibit that the hearing examiner used in his report and recommendation. Finally, appellant alleges the hearing examiner was biased because he is an employee of the Board.

{¶41} The latter argument was not raised before the court of common pleas, and therefore cannot be raised for the first time in this appeal. Appellant's other arguments do not and cannot alter his own admission that he pled guilty to and was found guilty of the misdemeanor of filing a false police report in Minnesota. Appellant admitted to the Board that he purchased and concealed a knife, he stabbed or cut himself in the presence of his young child, tossed the knife into his wife's car, and then called police and falsely reported that he had been stabbed by his wife. Based on our review of the record and case law

concerning misdemeanors involving moral turpitude, we see no abuse of discretion in the common pleas court's conclusion that Dr. Ansar's conduct violated moral sentiment and the accepted moral standards of the community, thereby potentially eroding the public's esteem for him. The third assignment of error is overruled.

{¶42} In his fourth assignment of error, Dr. Ansar contends that the draft minutes of the Board's meeting were intentionally doctored. Dr. Ansar believes that a Board member was under the impression that Dr. Ansar had stabbed his *son* in the presence of his mother, and not that Dr. Ansar had stabbed *himself* in the presence of his son and wife.

{¶43} A review of the transcript demonstrates that a Board member made an unintentional slip of the tongue and then immediately corrected himself. There is absolutely no evidence that the record was intentionally altered. The fourth assignment of error is overruled.

{¶44} In his fifth assignment of error, Dr. Ansar claims the Board was not able to comprehend the distinction between a misdemeanor and a misdemeanor involving moral turpitude. As discussed in connection with the third assignment of error, although Dr. Ansar may disagree with the conclusions of the Board, its decision was not arbitrary, capricious, unlawful, or unreasonable. Nor was it against the manifest weight of the evidence. The fifth assignment of error is overruled.

{¶45} In his sixth assignment of error, Dr. Ansar summarizes and repeats arguments previously made and dealt with. The sixth assignment of error is overruled.

{¶46} Based on the foregoing, appellant's six assignments of error are overruled, and the decision and entry of the Franklin County Court of Common Pleas affirming the order of the State Medical Board of Ohio is affirmed.

*Judgment affirmed.*

BRYANT and FRENCH, JJ., concur.

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**COURT OF COMMON PLEAS  
FRANKLIN COUNTY, OHIO  
CIVIL DIVISION**

FILED  
COMMON PLEAS COURT  
FRANKLIN CO. OHIO  
08 JAN - 8 PM 54  
CLERK OF COURTS

**CASE TITLE**

**Case Number: 07 CV 002181**

**In re the Matter of :**

**HONORABLE JUDGE JOHN F BENDER**

**Azber Azher Ansar, MD**

**Appellant-Appellant,**

**Vs.**

**NOTICE OF APPEAL**

**State Medical Board of Ohio,**

**Appellee-Appellee**

Notice is hereby given that Appellant, **Azber Azher Ansar, MD**, hereby  
appeals to the *Court of Appeals of Ohio, Tenth Appellate District For*  
*Franklin County*, from the judgement entry and decision filed in this action  
by the Franklin County Court of Common Pleas on **December 07, 2007**.

The order was rendered on December 09, 2007

FILED  
COURT OF APPEALS  
FRANKLIN CO. OHIO  
2008 JAN - 8 PM 3:02  
CLERK OF COURTS

HEALTH & HUMAN

JAN 11 2008

SERVICES SECTION

**08APE01**

**0017**

Notice of Appeal  
Page 2

The Order of the Franklin County Court of Common Pleas is internally inconsistent, rests on unsupported inferences, inconsistent with the evidence, not supported with "Reliable, Probative and Substantial" Evidence, "Arbitrary and Capricious" and not in accordance with law.

Respectfully submitted,



Azber Azher Ansar, MD Pro Se Appellant  
2274 Clark Street  
Eagan, Minesota 55122-1915  
Phone (312)-560-8799  
Fax (702)-920-8976  
Pager (612)-660-7168

JANUARY 05, 2008  
Dated

**COURT OF COMMON PLEAS  
FRANKLIN COUNTY, OHIO**

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CASE TITLE

CASE NUMBER : 07CV2181

In re the Matter of:

Azber Azher Ansar, MD, *Pro Se*,

Appellant,

**CERTIFICATE OF SERVICE**

vs

The State Medical Board of Ohio,

Appellee.

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I, AZBER AZHER ANSAR, MD state that I sent the following documents  
to the Franklin County Clerk of Courts of the Franklin County Court of  
Common Pleas ,Civil Division :

1. Notice of Appeal to the Court of Appeals Tenth Appellate District.
2. Money Order for \$75.

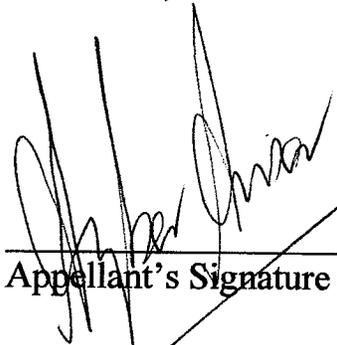
Certificate of Service

In the matter of Azber Azher Ansar, MD vs The State Medical Board of Ohio

Page 2

I, served the above documents by United States Postal Service (USPS)  
Express mail, enclosed in an envelope, postage prepaid, and by depositing  
the envelope at the United States Post Office located at Twin Cities AMC-A,  
St Paul, MN 55111, on January 05, 2008 directed to the last known  
address of the Franklin County Clerk of Courts as follows:

Franklin County Clerk of Courts  
Franklin County Court of Common Pleas  
Civil Division  
373 South High Street, 23<sup>rd</sup> Floor  
Columbus, Ohio 43215



Appellant's Signature

JANUARY 05, 2008

Date

Azber Azher Ansar, MD  
2274 Clark Street  
Eagan, MN 55122  
Phone : (312)-560-8799  
Fax : (702)-920-8976

IN THE COURT OF COMMON PLEAS OF FRANKLIN COUNTY, OHIO  
GENERAL DIVISION

**FINAL APPEALABLE ORDER**

Azber Azher Ansar, M.D.,	]	Case No. 07CVF02-02181
Appellant,	]	Judge Bender
vs.	]	
State Medical Board of Ohio,	]	
Appellee.	]	

FILED  
 COMMON PLEAS COURT  
 FRANKLIN CO., OHIO  
 2007 DEC -7 PM 2:48  
 CLERK OF COURTS

Decision and Entry Denying Appellant's "Motion for Admitting Newly Discovered Evidence," filed March 23, 2007

Decision and Entry Granting, in Part, "Motion of Appellee to Strike Appellant's Brief," filed April 27, 2007

Decision and Entry Denying Appellant's "Motion to Delete Records Containing Confidential Information," filed May 1, 2007

Decision and Entry Denying "Motion of Appellant to Strike the Report and Recommendation of the Hearing Examiner of the State Medical Board of Ohio," filed May 17, 2007

Decision and Entry on Merits of Revised Code 119.12 Administrative Appeal, Affirming Order Issued by State Medical Board of Ohio on February 6, 2007, Suspending Appellant's Certificate to Practice Medicine and Surgery in Ohio for Six Months

Rendered this 9th day of December 2007.

BENDER, J.

This case is a Revised Code 119.12 administrative appeal, by Azber Azher Ansar, M.D. (Appellant), from an Order that the State Medical Board of Ohio issued on February 6, 2007, suspending Appellant's certificate to practice medicine and surgery in

HEALTH & HUMAN  
 DEC 13 2007  
 SERVICES SECTION

Ohio for six months. The record that the Board has certified to the Court reflects the following undisputed facts.

In October 2000, the State Medical Board of Ohio issued a certificate to Appellant to practice medicine and surgery in Ohio. He is also licensed to practice medicine in Arizona, Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nevada, New Mexico, North Dakota, Utah, Washington, Wisconsin, and the Commonwealth of the Northern Mariana Islands. Appellant is board-certified in internal medicine.

Appellant is employed as a Staff Physician at the Veterans Affairs Medical Center in Minneapolis, Minnesota. He holds a faculty position at the University of Minnesota Medical School, as an instructor in the Department of Medicine, where he is involved in the training of medical students and resident physicians.

In the summer of 2005, Appellant was involved in an ongoing dispute with his estranged wife (now his former wife) over the custody of their then four-year-old son. On June 30, 2005, Appellant obtained a police report that his wife had filed against him, concerning an incident on December 14, 2004.

When Appellant obtained the police report on June 30, 2005, he became upset at its contents. He drove to a store, with his child, purchased a knife, and then drove to his parents' home, where he was living at the time. Appellant then placed the knife in his pocket.

About twenty minutes later, Appellant's wife arrived at the home of Appellant's parents to pick up the child. Appellant placed the child in his wife's car and then pulled the knife out of his pocket. In the presence of his child, Appellant stabbed himself in the arm and tossed the knife into his wife's car. Appellant then called 911 and reported to

the police that his wife had stabbed him. The police reported to the scene and prepared to place Appellant's wife under arrest. When Appellant realized that the police intended to arrest his wife, he recanted his false statement.

On December 12, 2005, in the First Judicial District Court of Dakota County, Minnesota, Appellant pled guilty to a misdemeanor charge of filing a false police report, a violation of Minn. Stat. 609.505, which provides:

Whoever informs a law enforcement officer that a crime has been committed or otherwise provides information to an on-duty peace officer, knowing that the person is a peace officer, regarding the conduct of others, knowing that it is false and intending that the officer shall act in reliance upon it, is guilty of a misdemeanor. \*\*\*

The Minnesota court sentenced Appellant to serve one year of probation, pay a fine, and attend a four-month domestic abuse program.

On August 9, 2006, the State Medical Board of Ohio mailed a notice-of-opportunity letter to Appellant, advising him that the Board proposed to take disciplinary action against his certificate to practice medicine and surgery in Ohio, for the following reasons:

On or about December 12, 2005, in the First Judicial District Court, Dakota County, Minnesota, you entered a plea of guilty to and were convicted of Falsely Reporting a Crime, in violation of Minnesota Statute Section 609.505. The offense of Falsely Reporting a Crime stemmed from a June 30, 2005 incident during which you stabbed yourself, placed the knife in your wife's car and reported to police that your wife had stabbed you. As part of your plea agreement, a second complaint of Falsely Reporting a Crime, in violation of Minnesota Statute Section 609.505, was dismissed. The second complaint of Falsely Reporting a Crime stemmed from a December 14, 2004 report to police that your wife had physically abused your child, which allegation you recanted the following day.

Your plea of guilty or the judicial finding of guilt as alleged \*\*\* above, individually and/or collectively, constitutes "[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of

conviction for, a misdemeanor involving moral turpitude," as that clause is used in Section 4731.22(B)(13), Ohio Revised Code.

At Appellant's request, a Medical Board Hearing Examiner conducted a hearing on October 30, 2006, on the Board's charges against Appellant. Appellant testified on his own behalf and numerous exhibits were admitted into evidence. The relevant evidence presented at the hearing is summarized above in the recitation of the undisputed facts.

In a Report and Recommendation filed on December 7, 2006, the Hearing Examiner recommended that the Medical Board suspend Appellant's certificate to practice medicine and surgery in Ohio for one year. Appellant filed written objections to the Report and Recommendation.

The Medical Board met to consider Appellant's case on January 10, 2007. Appellant and the Assistant Attorney General addressed the Board. At the conclusion of the Board's deliberations, the Board entered an Order suspending Appellant's certificate to practice medicine and surgery in Ohio for six months, instead of the one year recommended by the Hearing Examiner. The Board mailed a copy of the Order to Appellant on February 6, 2007.

On February 14, 2007, Appellant appealed the Medical Board's Order to this Court, pursuant to R.C. 119.12.

Before the Court may address the merits of this appeal, the Court must rule on several procedural motions that have been filed in this case.

**Appellant's "Motion for Admitting Newly Discovered Evidence," filed March 23, 2007**

Appellant has moved the Court, pursuant to R.C. 119.12, to admit into evidence four documents from various Dakota County, Minnesota governmental entities, which Appellant describes as: (1) a letter from a probation officer; (2) a certificate of completion of a domestic abuse education program; (3) a court order dismissing a prior domestic abuse charge; and (4) a court printout regarding the disposition of a prior criminal offense. Appellant has not proffered the documents themselves for the Court's review. The Medical Board has opposed Appellant's motion to admit additional evidence. For the following reasons, Appellant's motion must be denied.

Revised Code 119.12 provides in pertinent part:

Unless otherwise provided by law, in the hearing of the appeal, the court is confined to the record as certified to it by the agency. Unless otherwise provided by law, the court may grant a request for the admission of additional evidence when satisfied that such additional evidence is *newly discovered and could not with reasonable diligence have been ascertained prior to the hearing before the agency.* (Emphasis added.)

The Tenth District Court of Appeals has held that "newly discovered" evidence is evidence that was in existence at the time of the administrative hearing. *Golden Christian Academy v. Zelman* (2001), 144 Ohio App. 3d 513, 517. "Newly discovered" evidence does not refer to newly created evidence. *Id.*

The letter from the probation officer was issued in December 2006, subsequent to the hearing on October 30, 2006 before the Medical Board Hearing Examiner. Because that document was not in existence at the time of the administrative hearing, it is not "newly discovered" evidence under R.C. 119.12. With respect to the certificate of completion of a domestic abuse education program, Appellant has not informed the

Court when that document was created. It is not, therefore, "newly discovered" evidence under R.C. 119.12. With respect to the court order dismissing a prior domestic abuse charge, Appellant, by his own admission, was in possession of that document at the time of the hearing on October 30, 2006. That document, therefore, is not "newly discovered" evidence under R.C. 119.12. Finally, with respect to the court printout regarding the disposition of a prior criminal offense, that document was issued in December 2006, subsequent to the hearing on October 30, 2006 before the Medical Board Hearing Examiner. Because that document was not in existence at the time of the administrative hearing, it is not "newly discovered" evidence under R.C. 119.12.

Accordingly, Appellant's "Motion for Admitting Newly Discovered Evidence," filed March 23, 2007, is hereby **DENIED**.

**"Motion of Appellee to Strike Appellant's Brief," filed April 27, 2007**

The Medical Board has moved the Court to strike Appellant's April 24, 2007 brief, pursuant to Local R. 12.01, which provides:

A supporting or opposing memorandum or brief including administrative appeals, shall not exceed fifteen (15) pages exclusive of any supporting documents. Any supporting or opposing memorandum or brief which exceeds fifteen (15) pages shall not be accepted for filing without prior leave of the Court.

Appellant's April 24, 2007 brief is ninety pages long, exclusive of any supporting documents. (The supporting documents exceed six hundred pages.) Appellant, in his memorandum in opposition to the Medical Board's motion to strike his brief, submits that his violation of the Court's page limitation is "so slight and unimportant that the sensible treatment is to overlook" it. Appellant also submits that the Court should take into account the fact that Appellant is a pro se litigant without legal education or training.

The Court finds the Medical Board's motion to strike well taken, in part. Appellant's brief exceeds the Court's page limitation by seventy-five pages, which is hardly a "slight and unimportant" violation of the rule. In addition, Appellant did not seek prior leave of Court to file such a lengthy brief. Furthermore, Appellant has chosen to represent himself in this appeal. Pro se litigants are held to the same procedural standards as litigants who have chosen to retain counsel. "While one has the right to represent himself or herself and one may proceed into litigation as a pro se litigant, the pro se litigant is to be treated the same as one trained in the law as far as the requirement to follow procedural law and the adherence to court rules. If the courts treat pro se litigants differently, the court begins to depart from its duty of impartiality and prejudices the handling of the case as it relates to other litigants represented by counsel." *Beneficial Ohio, Inc. v. Kennedy*, Franklin App. No. 04AP-1383, 2005-Ohio-5159, ¶12, quoting *Justice v. Lutheran Social Servs.* (Apr. 8, 1993), Franklin App. No. 92AP-1153, unreported.

Accordingly, the "Motion of Appellee to Strike Appellant's Brief," filed April 27, 2007, is hereby **GRANTED IN PART**. The Court will consider the first fifteen pages of Appellant's April 24, 2007 brief, but the remaining pages, exclusive of supporting documents, are hereby ordered **STRICKEN**.

**Appellant's "Motion to Delete Records Containing Confidential Information," filed May 1, 2007**

Appellant has moved the Court to delete "records containing confidential information" from the Report and Recommendation that the Hearing Examiner filed with the Medical Board on December 7, 2006. The Court, however, has reviewed the Report and Recommendation and concludes that it contains no confidential information.

Appellant's "Motion to Delete Records Containing Confidential Information," filed May 1, 2007, is hereby DENIED.

**"Motion of Appellant to Strike the Report and Recommendation of the Hearing Examiner of the State Medical Board of Ohio," filed May 17, 2007**

Appellant has moved the Court to strike the Report and Recommendation filed by the Hearing Examiner on December 7, 2006, because the Hearing Examiner did not comply with Ohio Adm. Code 4731-13-15(A), which provides:

*\*\*\* Within thirty days following the close of an adjudication hearing conducted pursuant to Chapter 119. of the Revised Code, the hearing examiner shall submit a written report setting forth proposed findings of fact and conclusions of law and a recommendation of the action to be taken by the board. \*\*\* (Emphasis added.)*

The hearing concluded on October 30, 2006. Pursuant to Ohio Adm. Code 4731-13-15(A), *supra*, the Hearing Examiner was to have submitted his written report to the Medical Board on or before November 29, 2006. He did not submit his report until eight days later, on December 7, 2006.

The Court does not find Appellant's motion to strike the Hearing Examiner's report to be well taken, for three reasons. First, Appellant has not demonstrated that he was prejudiced by the late filing of the Hearing Examiner's report. Second, Appellant has waived any claimed error in the late filing because he did not raise this error in his written objections to the report, in his remarks to the Medical Board, in his notice of appeal to this Court, or in either of the merit briefs he has filed with this Court in support of this appeal. If an appellant is to preserve a claimed error for appellate review, he must make a contemporaneous objection to the alleged error. See *Ohio v. Murphy* (2001), 91 Ohio St. 3d 516, 532 (waiver rule requires that party make contemporaneous objection to alleged trial error in order to preserve error for appellate review).

Finally, the Tenth District Court of Appeals has held that R.C. 4731.23(A)(2), a statute that contains the same thirty-day deadline as Ohio Adm. Code 4731-13-15(A), *supra*, is directory, not mandatory. Revised Code 4731.23(A)(2) provides:

**\*\*\*** *The hearing examiner shall hear and consider the oral and documented evidence introduced by the parties and issue in writing proposed findings of fact and conclusions of law to the board for their consideration within thirty days following the close of the hearing. (Emphasis added.)*

The thirty-day deadline for issuing reports, contained in R.C. 4731.23(A)(2), is directory and not mandatory and therefore, failure to comply with the statute is not grounds for reversal. *Sicking v. State Med. Bd.* (1991), 62 Ohio App. 3d 387, 392; *Hill v. State Medical Bd.* (Dec. 5, 1996), Franklin App. No. 91APE-656, unreported.

Accordingly, the "Motion of Appellant to Strike the Report and Recommendation of the Hearing Examiner of the State Medical Board of Ohio," filed May 17, 2007, is hereby **DENIED**.

#### **Merits of Appeal**

Turning, then, to the merits of this R.C. 119.12 appeal, the Court observes that, in such an appeal, a trial court reviews a Medical Board order to determine whether it is supported by reliable, probative, and substantial evidence and is in accordance with law. *Lonergan v. State Med. Bd.*, Franklin App. No. 06AP-800, 2006-Ohio-6790, at ¶7; *Slingluff v. State Med. Bd.*, Franklin App. No. 05AP-918, 2006-Ohio-3614, at ¶7. Appellant contends that the Board's February 6, 2007 Order is not supported by the requisite evidence and that it is not in accordance with law. For the following reasons, Appellant's contention is without merit.

In *Our Place, Inc. v. Ohio Liquor Control Comm.* (1992), 63 Ohio St. 3d 570, 571,

the Supreme Court of Ohio held:

The evidence required by R.C. 119.12 can be defined as follows: (1) "Reliable" evidence is dependable; that is, it can be confidently trusted. In order to be reliable, there must be a reasonable probability that the evidence is true. \*\*\* (2) "Probative" evidence is evidence that tends to prove the issue in question; it must be relevant in determining the issue. \*\*\* (3) "Substantial" evidence is evidence with some weight; it must have importance and value. \*\*\*

Revised Code 4731.22(B)(13) provides:

§ 4731.22. Grounds for discipline \*\*\*

\*\*\*

(B) The board \*\*\* shall, to the extent permitted by law, limit, revoke, or suspend an individual's certificate to practice, \*\*\* or reprimand or place on probation the holder of a certificate for one or more of the following reasons:

\*\*\*

(13) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude[.]

It is undisputed that Appellant pled guilty to and was found guilty of the misdemeanor of filing a false police report, a violation of Minn. Stat. 609.505, which provides:

Whoever informs a law enforcement officer that a crime has been committed or otherwise provides information to an on-duty peace officer, knowing that the person is a peace officer, regarding the conduct of others, knowing that it is false and intending that the officer shall act in reliance upon it, is guilty of a misdemeanor. \*\*\*

In the state of Ohio, if a person files a false police report, he commits the misdemeanor of falsification, a violation of R.C. 2921.13(A)(2) and (3), which provides:

\*\*\* No person shall knowingly make a false statement, or knowingly swear or affirm the truth of a false statement previously made, when any of the following applies:

\*\*\*

\*\*\* The statement is made with purpose to incriminate another.

\*\*\* The statement is made with purpose to mislead a public official in performing the public official's official function.

Moral turpitude is generally defined as an "act or behavior that gravely violates moral sentiment or accepted moral standards of [the] community and is a morally culpable quality held to be present in some criminal offenses as distinguished from others." *Davidson v. State Med. Bd.* (May 7, 1998), Franklin App. No. 97APE08-1036, unreported, citing Black's Law Dictionary (6 Ed. 1991) 698. The Tenth District Court of Appeals has held that falsification, a violation of R.C. 2921.13, is a misdemeanor involving moral turpitude. *Hayes v. State Med. Bd.* (2000), 138 Ohio App. 3d 762, 771.

In the case of *Haley v. Med. Disciplinary Bd.* (1991), 117 Wash. 2d 720, 734, the Washington Supreme Court observed:

\*\*\* To perform their professional duties effectively, physicians must enjoy the trust and confidence of their patients. Conduct that lowers the public's esteem for physicians erodes that trust and confidence, and so undermines a necessary condition for the profession's execution of its vital role in preserving public health through medical treatment and advice.

This Court concludes, as did the State Medical Board of Ohio, that when Appellant pled guilty to and was found guilty of the misdemeanor of filing a false police report in Minnesota, he pled guilty to and was found guilty of a misdemeanor involving moral turpitude. Appellant purchased a knife, concealed the knife in his pocket, stabbed himself in the presence of his young child, tossed the knife into his wife's car, and then called the police and reported to them, falsely, that he had been stabbed by his wife.

Appellant's conduct gravely violated moral sentiment and the accepted moral standards of the community, thereby potentially eroding the public's esteem for him. The record in this case contains reliable, probative, and substantial evidence that Appellant engaged in conduct that constitutes grounds for discipline pursuant to R.C. 4731.22(B)(13). Pursuant to R.C. 4731.22(B), the Medical Board was authorized to take disciplinary action against Appellant's certificate to practice medicine and surgery in Ohio.

Upon consideration of the entire record on appeal, the Court finds that the Order that the State Medical Board of Ohio issued on February 6, 2007, suspending Appellant's certificate to practice medicine and surgery in Ohio for six months, is supported by reliable, probative, and substantial evidence and is in accordance with law. The Order is therefore **AFFIRMED**.



---

**JUDGE JOHN F. BENDER**

Copies mailed to:

AZBER AZHER ANSAR, M.D., Appellant *pro se*, 2274 Clark St., Eagan, MN 55122-1915

BARBARA PFEIFFER, AAG (0029609), Counsel for Appellee, 30 E. Broad St., Fl. 26, Columbus, OH 43215-3400

**THE STATE MEDICAL BOARD OF OHIO  
( ADMINISTRATIVE AGENCY)**

~~07 CVF - 2 02181~~

**In Re the matter of :**

**Case Number : None at this time.**

**Azber Azher Ansar, MD, *Pro Se*  
2274 Clark Street  
Eagan, Minnesota 55122-1915**

**Appellant,**

**COPY**

**vs.**

**The State Medical Board of Ohio  
77 South High Street, 17<sup>th</sup> Floor  
Columbus, Ohio 43215-6127**

**Appellee**

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**NOTICE OF APPEAL**

PLEASE TAKE NOTICE that on the 12th day of February 2007,

Azber Azher Ansar, MD, Appellant, gives notice of appeal on questions of law and fact to the Franklin County Court of Common Pleas, upon the authority of Ohio Revised Code 119.12 and 2505.04, from the action of The State Medical Board of Ohio pursuant to an order issued on January 10<sup>th</sup>, 2007.

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**Nature Of The Order Being Appealed**

Appellant is appealing to the Franklin County Court of Common Pleas from an order issued by The State Medical Board of Ohio ("Appellee") in its meeting on January 10<sup>th</sup>, 2007 wherein the Certificate to practice Medicine and Surgery of Azber Azher Ansar, MD ("Appellant") was ordered suspended for a period of six months. The above order was issued as the Appellee concluded that the Appellant was convicted of a Misdemeanor involving moral turpitude in the State of Minnesota and pursuant to Ohio Administrative Code 4731.22 (13) took disciplinary action. The State Medical Board of Ohio ("Appellee") is an Administrative agency that regulates the practice of Medicine and Surgery in the great State of Ohio, issues certificates to practice the art of Medicine and Surgery to qualified applicants and initiates disciplinary proceeding against physicians deemed in violation of the Ohio Administrative Code. The order of the State Medical Board Of Ohio was mailed on February 06, 2007.

**Grounds For Appeal And The Errors Complained Of Are As Follows:**

1. The Order of the State Medical Board of Ohio is not supported by “Reliable, Probative and Substantial” evidence and is not in accordance with law.
2. Appellant asserts that The State Medical Board of Ohio (“Appellee”) did not appropriately evaluate the credibility of witnesses, the probative character of the evidence, and the weight to be given to the evidence.
3. “Reliable, Probative and Substantial” evidence offered by Appellant was not admitted as evidence by the hearing examiner of the State Medical Board of Ohio (“Appellee”) and was proffered.
4. Proffered evidence was not considered by the Attorney Hearing Examiner Of the State Medical Board of Ohio (“Appellee”) while preparing the Report And Recommendations. (*Page 4 of 16, lines 3-4 of the Report and Recommendations*).
5. The written objections of Appellant to the Report and Recommendations of the hearing examiner of The State Medical Board of Ohio (“Appellee”) were not completely analyzed or considered while issuing the order.

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6. Appellant found multiple discrepancies in the Report and Recommendations of the hearing examiner of The State Medical Board of Ohio (“Appellee”).

7. Appellant asserts that evidence admitted onto the record by the Attorney Hearing examiner of the State Medical Board of Ohio (“Appellee”) for the Appellee was not dependable and cannot be confidently trusted. In order To be reliable, there must be a reasonable probability that the evidence is True.

8. The hearing examiner admitted evidence in the form of non-certified, hearsay and unsworn investigative reports.

Appellant asserts that an unsworn investigative report is not reliable, probative, and substantial evidence (*B & N Ent., Inc. v. Ohio Liquor Control Comm., 131 Ohio App. 3d 394, 722 N. E. 2d 599 (10<sup>th</sup> Dist. Franklin County 1999)*).

9. “Probative” evidence that was relevant in determining the issue in Question was proffered by the Attorney Hearing Examiner.

10. “Substantial” evidence with some weight , having importance and value Intended to be used as rebuttal evidence by Appellant was proffered.

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12. Appellant objects to the ruling of the hearing examiner of not admitting Appellant's Exhibits C, D, E, F, G, H (Page 2 of 16 of Report and Recommendations). The hearing examiner did not use these exhibits or considered them in preparing his report and Recommendations (*Page 4 of 16, first paragraph of the Report and Recommendations*). These exhibits pertain to letters received by Appellant from, the Arizona Medical Board, Washington Medical Quality Assurance Commission, Iowa Board of Medical Examiners, Illinois Department of Financial and Professional Regulation and the Wisconsin Department of Regulation and Licensing. These letters pertain to the outcomes in the above mentioned states of investigations related to the charges against Appellant in Minnesota and the decision to impose disciplinary action against respondent or not. These letters were written after extensive peer review and investigations conducted by various Medical Licensing Authorities in the United States. These exhibits are crucial in Appellant's case and should have been considered by the Honorable members of the State Medical Board of Ohio. (*Refer to Trial transcript pages 33-51*). This evidence was "Reliable, Probative and Substantial" evidence. It was an error to not admit it.

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13. The hearing examiner asked the Appellant to testify about the accuracy of documents not prepared by him (*Refer to trial transcript, pages 76-81*).

The state did not call the officers who wrote the police reports on June 30<sup>th</sup>, 2005 to testify. When Appellant requested to introduce rebuttal evidence to prove that many statement written out by the Eagan Police officers were false, the honorable hearing examiner denied admissibility of such evidence (*Refer to trial transcript, page 83, lines 4-18*).

14. Appellant deems it an error for the hearing examiner to include the intricate details of a December 2004 incident (Refer to the Report and Recommendations, page 7 of 16, item 12). **That case has been completely dismissed in 2005.** That matter has no bearing whatsoever on the matter being considered currently by the State Medical Board of Ohio.

15. Appellant feels that there have been double standards in this case. Appellant's objection to the admission of State Exhibit 1-A secondary to that exhibit containing details from a December 2004 incident (Case Dismissed) and being irrelevant to the current case was overruled by the honorable hearing examiner (*Refer to Trial Transcript, page 8, lines 13-24 and Page 9, lines 1-16*). This is prejudicial error and grounds for appeal.

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16. When Appellant attempted to introduce Appellant's Exhibits C-H, which are very relevant to the current matter as they relate to the disposition of Appellant after he was investigated by multiple other Medical Licensing authorities, stemming from Appellant's self reporting of his Misdemeanor ( under trial by the State Medical Board of Ohio), the honorable hearing examiner sustained the objection of opponent counselor (*Refer to Trial Transcript, Page 41, lines 2-24 and Page 42, lines 1-16*). Appellant Deems the above ruling of the honorable hearing examiner to be an Prejudicial error and grounds for an appeal.

17. "Moral Turpitude" is defined as "the act of baseness, vileness, or the depravity in private and social duties which one owes to society, contrary to accepted and customary rule of right and duty between human beings" The discipline in Appellant's case is being imposed upon the grounds that he has committed a crime of Moral Turpitude. This act did not involve Appellant's professional acts or professional skills and was not related to the practice of the art of Medicine.

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**18.** The definition of Moral Turpitude as cited in Davidson v State Med. Bd of Ohio (May 7, 1998), Franklin App. No 97APE08-1036 is characterized by “baseness, vileness, or the depravity in private and social duties which man owes to his fellow man, or to society in general.” Significantly, the “Moral Turpitude” with which that case is concerned was a phrase set forth not in an administrative regulation but in the Ohio Revised Code R.C. 4731.22(B)(13). It appears, then, that the concept of a crime of moral turpitude, unlike the concepts of minimum standards of medical care or medical ethics, which were the subject of discipline in Pons v. Ohio State Medical Board (66 Ohio St.3d 619), supra, is not a concept that is confided exclusively, or even primarily, to the professional judgment of the State Medical Board Of Ohio.

**19.** Obviously, not all misdemeanors are crimes of moral turpitude. If they were, there would be no need for the limitation in the phrase “A misdemeanor involving moral turpitude” in Ohio Revised Code R.C. 4731.22(B)(13). as a basis for suspending a Physician’s license. The regulation could have provided simply that any misdemeanor would provide a basis for suspending a Physician’s license.

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Thus, although any misdemeanor offense, by definition, involves the breach of a social duty that man owes to his fellow man, or to society in general, the issue is whether the breach of duty involves baseness, vileness, or depravity.

Appellant's act did not involve baseness, vileness or depravity.

20. Appellant does not agree with the conclusion of law that he has been convicted of a "Misdemeanor involving moral turpitude" but rather admits to being convicted of a "Misdemeanor not involving his professional skills or professional acts and not meeting the definition of Moral Turpitude" as defined in Ohio revised Code 4731.22(B)(13). Appellant supports his conclusion of law based on the case law From Holycross v. State Bd of Emergency Med. Ser., 163 Ohio App.3d (Refer to pages 2, 3 and 4 of this case IN THE COURT OF APPEALS FOR CHAMPAIGN COUNTY, OHIO.

21. The Appellant asserts that the conclusion of law is not supported by the Finding of fact and the finding of fact are not supported by evidence Wherein reasonable minds could reach the factual findings from the Evidence. Appellant was in violation of Minnesota Statute Section 609.505 but respectfully disagrees by asserting that this violation did not meet the definition of a "Crime of Moral Turpitude."

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22. The Appellant noted Prejudicial Error during the meeting of the State Medical Board of Ohio, Dr Robbins a board member of the Appellee had the preconceived notion that Appellant had stabbed his son in front of his mother (*Refer to the transcript of videotaped proceedings of the State Medical Board of Ohio on January 10<sup>th</sup>, 2007, Page 26, lines 12-14*). This prejudicial statement is not supported by “Reliable, Probative and Substantial” evidence and is not in accordance with law. Appellant also very strongly asserts that the excerpts from the draft minutes of January 10<sup>th</sup>, 2007 meeting of the State Medical Board of Ohio (“Appellee”) were intentionally doctored to exclude the fact that Dr Robbins was under the impression that Appellant had stabbed his son in front of his mother (*Refer to the Excerpt from the draft minutes of January 10, 2007, page 6, 7<sup>th</sup> paragraph*). Appellant also had the entire meeting of the State Medical Board of Ohio (“Appellee”) videotaped and this videotape and transcript of the videotaped proceeding will show otherwise. Intentional doctoring and alteration of records of an Administrative Agency of the Great State of Ohio to conceal the true nature of the statements of a sitting member of the State Medical Board of Ohio (“Appellee”) in a public meeting in Appellant’s view

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is a "Crime of Moral Turpitude" in itself and grounds for appeal.

Appellant respectfully appeals to the honorable Franklin County Court of

Common Pleas and urges to hold the State Medical Board of Ohio

("Appellee") accountable for its actions and errors which can have

Disastrous and calamitous consequences on the life of a licensed physician.

23. The Appellant noted another Prejudicial Error during the meeting of the

State Medical Board of Ohio , Ms Sloan a board member of the Appellee

had the prejudicial notion that Appellant had filed two false police reports.

*(Refer to the transcript of videotaped proceedings of the State*

*Medical Board of Ohio on January 10<sup>th</sup>, 2007, Page 22, lines 20-23).* This

prejudicial statement is not supported by "Reliable, Probative and

Substantial" evidence and is not in accordance with law. Charges related to a

December 2004 incident were completely dismissed and appellant was never

convicted. Appellant fully explained the circumstances surrounding that

incident *(Refer to the report and recommendations of the attorney hearing*

*examiner, page 7 of 16, item 12).* This error prejudiced all the members of

the State Medical Board of Ohio and is grounds for an appeal.

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The Appellee never introduced any evidence related to this matter and when Appellant tried to introduce "Reliable, Probative and Substantial" evidence and in accordance with law it was not admitted into the record

*(Appellant's Exhibit Q/Proffered Exhibit)*. Aggressiveness of the assertions Of some of the board members during the meeting of the State Medical Board of Ohio ("Appellee") were clearly biased, harsh and severely flawed.

24. The prejudicial Errors described above by Appellant were not harmless and caused extreme prejudice among the members of the State Medical Board of Ohio ("Appellee").

25. The findings of fact of the Attorney Hearing Examiner of the State Medical Board of Ohio are "Arbitrary and Capricious" and he misrepresented the findings of fact. He was of the opinion that Appellant's wife had filed a report accusing him of mistreating their son which is an error *(Refer to the Report and Recommendations page 15 of 16, Findings of fact, item3(2).)* Appellant's grounds for appeal to the Franklin County Court of Common Pleas is to conduct an inquiry of "Reasoned Decisionmaking" and the honorable court can decide whether the action of the State Medical Board of Ohio ("Appellee") is "Arbitrary and Capricious."

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26 Appellant further asserts that the order of the State Medical Board of Ohio (“Appellee”) has ambiguous Intents and was issued with

Unreasonable Interpretations.

The Ohio Revised Code R.C. 4731.22(B)(13) does not elaborate on the different misdemeanors that meet the definition of “Crimes of Moral Turpitude.” Per the *Chevron* opinion (*Chevron U.S.A, Inc. v. NRDC, 467 U.S. 837 (1984).*), Appellant asserts that the views of the State Medical Board of Ohio (“Appellee”) may be rejected if the Franklin County Court of Common Pleas finds the views to be “Unreasonable.” Appellant believes that the interpretation of the definition of a “Crime of Moral Turpitude” by the State Medical Board of Ohio (“Appellee”) as it pertains to Appellant’s case and circumstances is “Unreasonable” and creates a ground for Appeal.

27. Appellant asserts that that State Medical Board of Ohio (“Appellee”) does not have any lawmaking authority and the honorable Franklin County Court of Common Pleas should not be bound the Appellee’s interpretations of the definition of a “Crime of Moral Turpitude.”

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Appellant's wants the Honorable judge of the Franklin County Court of Common Pleas to examine the deference due to interpretations of the State Medical Board of Ohio ("Appellee") of the definition of "Crime of Moral Turpitude." (*Skidmore v. Swift & Co.*, 323 U.S. 134 (1944)). The *Skidmore* Standard should apply to the interpretative rules which lack the force of law.

28. Appellant asserts that the interpretation of the definition of a "Crime of Moral Turpitude" by the State Medical Board of Ohio ("Appellee") as it relates to Appellant's case lacks the force of law. Appellant's case did not involve Appellant's professional acts or professional skills and was not related to the practice of the art of Medicine. It appears, then, that the concept of a crime of moral turpitude, is not a concept that is confided exclusively, or even primarily, to the professional judgment of the State Medical Board Of Ohio. (*Holycross v. State Bd of Emergency Med. Ser.*, 163 Ohio App.3d). Appellant feels that this is a ground for appeal.

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29. Appellant asserts another ground for appeal wherein he finds that the findings of the State Medical Board of Ohio ("Appellee") are not within a zone of reasonableness. The State Medical Board of Ohio ("Appellee") does not pass the "Substantial Evidence Test" and appeals to the honorable Franklin County Court of Common Pleas to assess the reasonableness of the State Medical Board of Ohio's ("Appellee") factfinding. Substantial Evidence which was relevant evidence as a reasonable mind might accept as adequate to support a conclusion was not admitted and proffered by the Attorney Hearing Examiner of the State Medical Board of Ohio ("Appellee") Appellant asserts that the State Medical Board of Ohio ("Appellee") has not done a careful, workmanlike job of collecting and evaluating the available data or taken a "hard look" at the important factual issues.

30. Appellant is also appealing to the honorable Franklin County Court of Common Pleas on the grounds that substantial injustice has been done when the Attorney Hearing Examiner of the State Medical Board of Ohio ("Appellee") used hearsay police reports as the best available evidence to support his findings in the report and recommendations.

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The old "Legal Residuum Rule" which requires that there be a residuum of legally competent evidence to support an agencies finding when hearsay is the best available evidence (*Carroll v. Knickerbocker Ice Co.*, 218 N.Y. 435, 113 N.E. 507 (1916)) should be taken into account. The hearing examiner admitted evidence in the form of non-certified, hearsay and unsworn investigative reports. (*Kindly refer to trial transcript page 10-11*). Appellant asserts that an unsworn investigative report is not reliable, probative, and substantial evidence (*B & N Ent., Inc. v. Ohio Liquor Control Comm.*, 131 Ohio App. 3d 394, 722 N. E. 2d 599 (10<sup>th</sup> Dist. Franklin County 1999)).

31. The final ground for appeal is that Appellant feels that there has been a "Clear error of Judgment" by the State Medical Board of Ohio ("Appellee") In issuing its order and Appellant appeals to the honorable Franklin County Court of Common Pleas to conduct an "Arbitrariness Review" as an inquiry whether the decision of the State Medical Board of Ohio ("Appellee") was based on a consideration of all the relevant factors and whether there has been a clear error of judgment. (*Citizens to Preserve Overton Park, Inc. v. Volpe*, 401 U.S. 402 (1971)).

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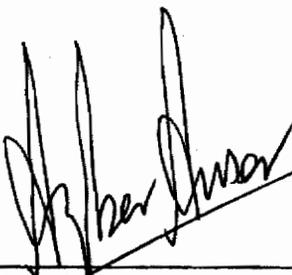
In the matter of Azber Azher Ansar, MD vs The State Medical Board of Ohio

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As a part of the Arbitrariness Review the Appellant appeals to the Honorable Franklin County Court of Common Pleas to conduct a scrutiny of the quality of the reasoning of the State Medical Board of Ohio ("Appellee").

32. The findings of The State Medical Board of Ohio ("Appellee") are internally inconsistent, rest on unsupported inferences, inconsistent with the evidence, not supported by "Reliable, Probative and Substantial" evidence, "Arbitrary and Capricious" and not in accordance with law.

Dated: FEBRUARY 12<sup>th</sup>, 2007



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# State Medical Board of Ohio

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

January 10, 2007

Azber Azher Ansar, M.D.  
P. O. Box 111097  
St. Paul, MN 55111-1097

Dear Doctor Ansar:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Christopher B. McNeil, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on January 10, 2007, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order.

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

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

THE STATE MEDICAL BOARD OF OHIO

  
Lance A. Talmage, M.D. RW  
Secretary

LAT:jam  
Enclosures

CERTIFIED MAIL NO. 7003 0500 0002 4330 2252  
RETURN RECEIPT REQUESTED

*mailed 2-6-07*

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Christopher B. McNeil State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on January 10, 2007, 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 Azber Azher Ansar, 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.

  
\_\_\_\_\_  
Lance A. Talmage, M.D.  
Secretary

(SEAL)

January 10, 2007  
\_\_\_\_\_  
Date

**BEFORE THE STATE MEDICAL BOARD OF OHIO**

IN THE MATTER OF

\*

\*

AZBER AZHER ANSAR, M.D.

\*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on January 10, 2007.

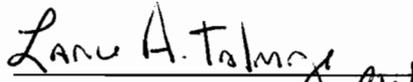
Upon the Report and Recommendation of Christopher B. McNeil, State Medical Board Attorney Hearing Examiner, designated in this Matter pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the modification, approval and confirmation 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:

SUSPENSION OF CERTIFICATE: The certificate of Azber Azher Ansar, 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.

(SEAL)

  
\_\_\_\_\_  
Lance A. Talmage, M.D. RW  
Secretary

January 10, 2007

Date

STATE MEDICAL BOARD  
OF OHIO  
2006 DEC -7 A 9:46

**REPORT AND RECOMMENDATION  
IN THE MATTER OF AZBER AZHER ANSAR, M.D.**

The Matter of Azber A. Ansar, M.D. was heard by Christopher B. McNeil, Esq., Hearing Examiner for the State Medical Board of Ohio, on October 30, 2006.

**INTRODUCTION**

I. Basis for Hearing

- A. In a letter dated August 9, 2006, the State Medical Board of Ohio [Board] notified Azber Azher Ansar, M.D., that the Board intends to determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate Dr. Ansar's certificate to practice medicine and surgery, or to reprimand him or place him on probation, for one or more of the reasons set forth in the letter. The Board based its proposed action on allegations that Dr. Ansar entered "[a] plea of guilty to . . . a misdemeanor involving moral turpitude" as that clause is used in § 4731.22(B)(13) of the Ohio Revised Code. Accordingly, the Board advised Dr. Ansar of his right to request a hearing in this matter. (See State's Exhibit [St. Ex.] 1A)
- B. On September 8, 2006, the Board received a written hearing request submitted by Dr. Ansar. (St. Ex. 1B).

II. Appearances

- A. On behalf of the State of Ohio: Jim Petro, Attorney General, by Barbara Pfeiffer and Karen Unver, Assistant Attorneys General.
- B. On behalf of the Respondent: Azber A. Ansar, M.D., *pro se*.

**EVIDENCE EXAMINED**

I. Testimony Heard

Dr. Ansar testified on his own behalf.

II. Exhibits Examined

A. Presented by the State

1. State's Exhibits 1A through 1F: Procedural exhibits.
2. State's Exhibit 2: Police Incident Report re: June 30, 2005, incident.
3. State's Exhibit 3: June 30, 2005, Complaint for filing a false police report.
4. State's Exhibit 4: Petition to enter plea of guilty.
5. State's Exhibit 5: Sentencing order.

B. Presented by the Respondent

1. Respondent's Exhibit A: September 20, 2005, Report of Dr. Plaud. *SEALED EXHIBIT*
2. Respondent's Exhibit B: Child Custody Evaluation. *SEALED EXHIBIT*
3. Respondent's Exhibit C: SIRC Recommendation. *PROFFERED EXHIBIT*
4. Respondent's Exhibit D: August 15, 2006, letter to Dr. Ansar from Arizona Medical Board. *PROFFERED EXHIBIT*
5. Respondent's Exhibit E: July 26, 2006, letter to Dr. Ansar from Washington Department of Health. *PROFFERED EXHIBIT*
6. Respondent's Exhibit F: May 15, 2006, letter to Dr. Ansar from Iowa Board of Medical Examiners. *PROFFERED EXHIBIT*
7. Respondent's Exhibit G: Letter to Dr. Ansar from Illinois Department of Financial and Professional Regulation. *PROFFERED EXHIBIT*
8. Respondent's Exhibit H: February 16, 2006, letter to Dr. Ansar from Wisconsin Department of Regulation and Licensing. *PROFFERED EXHIBIT*
9. Respondent's Exhibit I: October 3, 2006, letter from Mary Swain.
10. Respondent's Exhibit J: October 2, 2006, letter from Linda Lund.

11. Respondent's Exhibit K and K-1: Post Commander's Distinguished Service Certificate and April 6, 2005, letter to Dr. Ansar from Sen. Mark Dayton.
12. Respondent's Exhibit L-1 through L-15: State medical licenses.
13. Respondent's Exhibit M: AMA Physician's Recognition Award.
14. Respondent's Exhibit N: American Board of Internal Medicine, Diplomate Certificate.
15. Respondent's Exhibit O: September 22, 2003, letter to Dr. Ansar from University of Minnesota.
16. Respondent's Exhibit P: California Medical Association Educational Certificate.
17. Respondent's Exhibit Q: four DVD disks: VA Daycare interaction.  
*PROFFERED EXHIBIT*
18. Respondent's Exhibit R: Notice of Motion and Motion, with attachments, from which the Hearing Examiner received as a proffer only Respondent's Motion Exhibits E-1 through E-4 and F-1 and F2, due to the Examiner's finding that these are copies of documents that were not admissible during the hearing. In addition, the Hearing Examiner removed Respondent's Motion Exhibit J and placed it under seal, due to the finding that this is the same as Respondent's Exhibit A, which is in the record under seal.
19. Respondent's Exhibit S: Notice of Action by Department of Homeland Security, and Passport photocopies. *PROFFERED EXHIBIT*

#### **DR. ANSAR'S MOTION FOR NO FURTHER ACTION**

Shortly before the start of the evidentiary hearing, Dr. Ansar filed a motion in which he asked for an order that "no further action" be taken with respect to the charges now against him. (Resp. Ex. R) He cited as authority for this motion Rule 4731-13-36(G). This motion is without merit and is denied. The cited section provides that: "'No Further Action' means that the Board finds that a violation occurred but declines to impose any disciplinary sanction" and further provides that this kind of disposition may be appropriate "under circumstances where the Board finds that all necessary remedial measures have been completed by the certificate holder, future monitoring is unnecessary and reprimand is not warranted." For reasons set forth below, a sanction greater than a reprimand is warranted in this matter, rendering inapplicable the provisions of the cited Rule.

## 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. Proffered evidence was preserved at the time of the evidentiary hearing and has not been considered in preparing this report.

### Background

1. The Respondent, Dr. Azber Ansar, holds a certificate issued by the State Medical Board of Ohio to practice medicine and surgery under License Number 35.078745. (Respondent's Exhibit [Resp. Ex.] L) There is no evidence that the Board has previously had any occasion to consider any disciplinary charges against Dr. Ansar.
2. Dr. Ansar works for the Department of Veterans Affairs at the Minneapolis Veterans Administration Medical Center. (Tr. at 15) He has worked there for over three and a half years, and testified that he has never had any claims of malpractice or patient complaints against him. (Resp. Ex. R).
3. In addition to being licensed to practice medicine and surgery in Ohio, Dr. Ansar presented proof of his medical licensure in Nevada, Washington, Arizona, Utah, New Mexico, North Dakota, Iowa, Missouri, Wisconsin, Illinois, Michigan, Indiana, Minnesota, and the Commonwealth of the Northern Mariana Islands. Dr. Ansar also presented professional credentials, including a Physician's Recognition Award presented by the American Medical Association for continuing education, and a continuing education certificate awarded by the California Medical Association in September 2006 for participating in "Pain Management and End of Life Care in California's Regulatory Environment." (Tr. at 54-57, and Resp. Ex. L, L1-15, M, N, O, P and R)
4. In addition to working as a Staff Physician in the Department of Medicine at the Minneapolis V.A. Medical Center, where he carries a patient panel of 1,200 patients, since June 1, 2003, Dr. Ansar has held a faculty position at the University of Minnesota Medical School as an instructor in medicine, and has been involved in the training of medical students and resident physicians. He is board certified in internal medicine, and his current certification is in good standing through 2012. (Resp. Ex. R)
5. Dr. Ansar is a member in good standing of the American Medical Association and the American College of Physicians, and represents to the Board that he strictly abides by the AMA Code of Medical Ethics. (Resp. Ex. R)

### June 2005 Incident

6. On June 30, 2005, a complaint against Dr. Ansar was filed in the First Judicial District Court in Dakota County, Minnesota, by an officer of the Eagan (Minnesota) Police Department. Dr. Ansar was charged with fifth degree domestic assault (a misdemeanor), and filing a false report (also a misdemeanor). (St. Ex. 3) The complaint was based upon an incident occurring at the home of Dr. Ansar's parents earlier that day. According to a written report prepared by Officer Judy Dretzke of the Eagan Police Department, police were dispatched to the home after receiving a call on 911, in which the caller claimed his wife had cut him with a knife and was still at the residence. When Officer Dretzke arrived at the scene, she found Dr. Ansar and his wife, Yasmeen Khan, M.D., and another male, standing in the driveway. Officer Dretzke asked where the knife was, and Dr. Khan indicated it was in the passenger seat of a Lexus in the driveway. (St. Ex. 2 at 3; and Tr. at 82 for the correct spelling of Dr. Khan's last name.)
7. With the assistance of another officer, Officer Dretzke separated the parties, and both Dr. Ansar and Dr. Khan gave tape-recorded statements describing what had transpired. Officer Dretzke wrote that, in Dr. Ansar's statement to her, he described the following:

Ansar advised that his wife and he had been separated for approximately six months and they had been taking turns keeping their four-year-old son. On this date, Ansar stated that it was his wife's turn to have their son for the evening but the day care that their son went to took a field trip to Como Park today at which time he went with them. Ansar then brought his son back to his house. Ansar stated that his wife called him very upset about him going to Como Park on this date when it was her day to be with him. Ansar advised that Khan stated she was coming over immediately to pick up their child. Ansar stated that this was sometime between 1700 and 1730 hours.

Ansar advised that Khan did arrive at approximately 1730 hours to pick up their son. Khan rang the doorbell of the front door at which time Ansar opened the screen door. Ansar advised that he observed a knife in Khan's right hand and that she stabbed him in his left arm with it. Ansar then immediately grabbed the knife and attempted to pull away at which time the knife went up his arm and then back down again causing a superficial laceration. I did observe the cut and puncture which had stopped bleeding at this time. HealthEast did respond and looked at the cut on Ansar's upper left arm. I also observed that the minor puncture and part of the cut was above the sleeve of the short sleeved t-shirt that Ansar was wearing. There was no damage or cut to the t-shirt. Ansar stated that he felt that it was just a superficial cut and that he did not need any medical attention. Ansar then signed a waiver provided by HealthEast stating that. HealthEast then left the scene. Ansar continued with his statement to me.

Ansar advised that after Khan had cut him, then she threw the knife into the driver's side window of her vehicle at which time he followed her to the car to prevent her from leaving. Ansar stated he grabbed her around the shoulder and arm area and escorted her back into the garage so she would not leave. Ansar made the comment that it may have appeared that he was dragging her, but he was only holding on to her. When asked if she had fallen on the ground or had been injured, Ansar stated that she had not been, nor did she fall. When asked if their four-year-old son had witnessed any of this, Ansar stated his son walked out of the front door after Khan had thrown the knife in the vehicle, but his son did see the blood on his arm and became very hysterical and screaming. I questioned Ansar about the accusation that his wife stated that he had stabbed himself. Ansar stated that this was not true, but his fingerprints would be on the handle of the knife because he had grabbed it when she stabbed him. When asked why he didn't keep a hold on the knife to take it away from her, Ansar stated that he was not afraid of her because she is so small and that the only way she was able to stab him was because it surprised him and he had not expected it.

(St. Ex. 2 at 3)

8. When questioned by another police officer, Dr. Ansar admitted his statements to Officer Dretzke were false. Officer Dretzke reported the following, after Dr. Ansar was questioned further about his claim that Dr. Khan stabbed him:

Ansar then advised that earlier this date [i.e., earlier on June 30, 2006], he had picked up a copy of the police report of an incident between him and his wife which occurred on [June 20, 2006]. When Ansar read the report, he stated he became very upset because there are accusations from his wife in the report stating that he had made threats to harm or kill her and her family. Ansar stated that he never made these threats. Ansar stated that Khan did respond on this date [June 30, 2006] to pick up their son. When Khan arrived at the residence, Ansar stated that he did take a knife out from the residence and place it in his right pants pocket. He then walked his son out to Khan's vehicle where she was parked in the driveway. Ansar placed his son in the back seat at which time he then took the knife out of his pocket and stabbed and cut himself in the left arm. Ansar then advised that he threw the knife through the front driver's window. Ansar did state that his son did see him cut himself. Ansar was then placed under arrest for filing a false police report.

(St. Ex. 2 at 4)

9. Although Dr. Ansar did not deny stabbing himself, he gave inconsistent testimony about his reasons for doing so. During cross-examination, Dr. Ansar was asked whether he bought the knife “with the purpose to kind of set your wife up,” and he initially answered, “No, I didn’t.” He explained that he had bought the knife as part of a kitchen set earlier that day, with no plan or intention of setting up his wife. However, he gave a different answer when pressed. He admitted he had bought only one knife and that it did not match any of the other knives in the house. He admitted to putting the knife into his pocket and that, when his wife “came to pick up my son, when I was putting him in the car seat, that’s when I cut my arm.” When he was asked why he had put the knife in his pocket and then cut himself with it, Dr. Ansar answered: “Because, I guess, I wanted to kind of set her up.” (Tr. at 61-64)

### **Conviction and Sentencing for the June 30, 2005, Incident**

10. Dr. Ansar admitted that, based on the events that took place at his home on June 30, 2005, he was convicted of filing a false police report. (Tr. at 58) He said that, as part of a plea agreement, the prosecutor agreed to stay the adjudication of the domestic assault charge, and Dr. Ansar admitted to filing the false police report in June. Based on this agreement and after receiving Dr. Ansar’s guilty plea to filing a false police report, the court imposed a one-year term of probation and required Dr. Ansar to attend a four-month domestic abuse program (which was administered on-line and which he says he has successfully completed). In addition, court documents note that there will also be a pre-sentence investigation report presented to the court after the report is completed in December 2006. (Tr. at 74-75; Resp. Ex. B at 8)
11. During the administrative hearing, Dr. Ansar denied that he took the actions on June 30, 2005, as a means of gaining an edge in the custody dispute that was then pending in court. However, given the evidence regarding the premeditation with which he carried out his plan, the highly contested custody proceedings that were then pending, and the attendant circumstances (including the fact that Dr. Ansar was angry at Dr. Khan for the claims she made in the June 20, 2005, police report), this denial lacks credibility.

### **December 2004 Incident**

12. Dr. Ansar acknowledged that the 2005 incident was not the first time something like this happened. He explained that in December of 2004 he believed Dr. Khan had mistreated their son and he went to the police and reported the mistreatment. He said Dr. Khan then pleaded with Dr. Ansar to recant the charge because if he didn’t, she would be deported (because her immigration file was pending and they were scheduled to meet with the Department of Homeland Security shortly thereafter). Dr. Ansar said he went back to the police in December to take the blame for making the false statement, so that Dr. Khan would not be deported. According to Dr. Ansar, two days later Dr. Khan got her green

card and told him she was filing for divorce, that she had just manipulated him in order to get the green card. (Tr. at 68-69)

### **Psychological Profile and Testing**

13. Dr. Ansar testified that he is a “total tea-totaller” who has “never, ever used drugs or alcohol,” and, according to the psychological evaluations presented to the Board, he “does not present any of the risk factors for engaging in violent behavior.” (Tr. at 25)
14. In supporting his assertion that he presents no risk factors or other personality traits warranting Board attention, Dr. Ansar presented the report of Joseph J. Plaud, Ph.D., BCBA, Executive Director of Applied Behavioral Consultants, Inc., of Whitinsville, Massachusetts. Dr. Plaud is a licensed clinical psychologist and health service provider, and a board certified behavior analyst. Dr. Ansar said he commissioned this evaluation in August, 2005, because he was looking for a psychologist who could “administer [an] intense psychological battery of tests to me.” Dr. Plaud’s report is based on a clinical interview of Dr. Ansar, a record review using available records (including an investigation of fifth degree domestic assault and child neglect), a psychometric inventory administration consisting of five psychometric instruments, a psychosexual inventory administration consisting of three psychosexual instruments, and the Abel Assessment for Sexual Interest. (Resp. Ex. A at 2-3)
15. Dr. Ansar emphasized certain findings presented by Dr. Plaud. According to Dr. Plaud, and based on the results of the Psychopathic Checklist–Revised, Dr. Ansar’s antisocial scores “fall in the bottom third of this scale, indicating that he does not share the traits of antisocial personalities to any significant degree and the likelihood of present criminal behavior is not significant when compared to others in incarcerated or forensic settings.” (Tr. at 27)
16. Pointing to further findings in Dr. Plaud’s report, Dr. Ansar observed that it includes a “very important finding” which states that “[f]ew, if any, indicators of repeated lying, deceit, or chronic inability to conform to society are present. A moral or ethical blunting is not evident. Dr. Ansar is capable of affection, sympathy, and remorse.” Dr. Ansar “stresses the point that Respondent is capable of remorse, is morally responsible, and is an ethical person and does not have significant antisocial or criminal behavior.” The report also concludes that Dr. Ansar “has above average judgment abilities,” which means, according to Dr. Ansar, that his “thinking abilities are intact,” rendering him “more than capable of practicing the art of medicine in all of the states he’s licensed in.” (Tr. at 25-29)
17. According to Dr. Ansar, results from the Multiphasic Sex Inventory, which is also a part of Dr. Plaud’s report, include the finding that “[t]he level of Dr. Ansar’s emotional

maturity indicates that he's generally capable of accepting responsibility for his actions. No evidence of any conduct, disorder pattern, or sociopathic behaviors is noted."

According to Dr. Ansar, this finding is "very important, because a person who can accept responsibility for his actions does know that his actions are morally wrong and that does not constitute moral turpitude." (Tr. at 25-26)

18. Dr. Ansar acknowledged that the personality inventories and assessments in Dr. Plaud's report were limited to responses he gave, and specifically that the report is not based on any interviews with other family members. (Tr. at 59)
19. In addition to the psychological inventories he commissioned and which are described above, Dr. Ansar also participated in evaluations in the course of the court's child custody determination, shown as Respondent's Exhibit B. Dr. Ansar drew the Board's attention to the findings that included results from the Personality Assessment Inventory, the California Psychological Inventory, the State-Trait Anger Expression Inventory 2, the Problem Experiences Checklist, and the Problem Behavior Inventory. Dr. Ansar notes that the evaluator found Dr. Ansar "appeared candid . . . with no attempts to present himself differently than actually the case." The evaluator found Dr. Ansar to be "socially competent and comfortable," and "supportive of rules and conventions," with "no indications of impulse control, anger control, or behavior problems." (Tr. at 30-32)
20. According to Dr. Ansar, the results of the child custody evaluation and the evaluations he himself commissioned, support his contention that "he's been adequately tested and his abstract thinking is intact. His judgment is intact. And he feels that he's morally conscious and he should not now be prosecuted if he's upholding the morals." (Tr. at 33) As will be discussed below, this claim is in part contradicted, however, by findings expressed by Scott Terhune, Ph.D., the principle author of the report shown as Respondent's Exhibit B.
21. According to Dr. Ansar, Dr. Terhune's report was prepared for use in the child custody proceeding. Dr. Terhune's report appears to have been based on interviews and observations of Dr. Khan, Dr. Ansar, their child, the director of their child's daycare center, a close friend and babysitter, and members of their immediate family, all taken between December 2005 and March 2006. It also includes the results of seven psychological assessment instruments. (Resp. Ex. B, at 1-2)
22. The record does not include a listing of Dr. Terhune's professional credentials. It appears, however, that the Dakota County court approved the report for use in the couple's child custody dispute; and it further appears that Dr. Ansar disagreed with some of the findings, after noting that he did not select Dr. Terhune – his wife did. (Tr. at 66)
23. In his report, Dr. Terhune notes that prior to submitting to the battery of tests administered by Dr. Terhune, Dr. Ansar self-commissioned the tests administered by Dr. Plaud in Massachusetts. Dr. Terhune also observed that Dr. Plaud may not have had much

information about the events that took place on June 30, 2005, and that this is significant in that it calls into question the weight that should be given to Dr. Plaud's report:

Dr. Ansar completed a psychological evaluation in Massachusetts with Dr. Plaud. It is clear that the evaluating psychologist had access to at least some records related to the 6.30.05 incident although the evaluation did not contain a synthesis or conceptualization of the results of the evaluation relative to the questions raised by that incident. After an initial description of the event, the incident had no further exploration in the report. The evaluation occurred after the incident secondary to the custody dispute. Dr. Plaud's report noted "Dr. Ansar denies that he assaulted his estranged wife or made a false report to the police department." This examiner did not see the foundation for an opinion about parenting ability in the report. This evaluation cannot be assigned much weight towards concerns about specific behavior, although some of the test responses are consistent with Dr. Ansar's responses to the present evaluation." (Resp. Ex. B at 8, quoting from Dr. Plaud's report, Resp. Ex. A at 3)

24. Although he was the proponent of Dr. Terhune's report and offered it to the Board as an exhibit in this hearing, Dr. Ansar disputed Dr. Terhune's conclusion, saying Dr. Terhune was chosen by his ex-wife, and adding that in presenting this report to the Board, he is "relying on the integrity of the psychological assessments. Assessments, not the entire report." (Tr. at 66)
25. There are other significant findings contained in Dr. Terhune's report that are relevant, beyond those brought forward by Dr. Ansar. Dr. Terhune in his summary writes:

Dr. Ansar comes to this evaluation with a challenge to his credibility. He reported to police (12.04) that Dr. Khan struck [their son], then recanted, and now stated that the incident occurred but he recanted under pressure from Dr. Khan. He harmed himself in front of Dr. Khan and [their son] (6.30.05) then told police that Dr. Khan had done the injury before recanting and telling police within several minutes of the initial false report that he had done it. He completed a psychological evaluation (8.6.05) and denied to the evaluator he had harmed himself.

This incident of 6.30.05 was dangerous and fear provoking for Dr. Khan and [their son]. It calls into question Dr. Ansar's judgment, impulse control, emotional control, and willingness to engage [his son] in his conflict with Dr. Khan. Dr. Ansar admits to his behavior in that incident and did so on that date even though he initially informed police that Dr. Khan had stabbed him. His attribution for his behavior as he reported it during this evaluation was that he was very emotionally distressed by the accusations Dr. Khan had made about

him. He denied a plan, but reported purchas[ing] the knife in a store with his son earlier that day. There has been no information from this evaluation to indicate that Dr. Ansar has discussed his behavior in this incident and attempted to understand his actions in a way to minimize any future risk that may be suggested by such behavior.

It is this evaluator's opinion that there have been insufficient attempts to address the clear questions raised by Dr. Ansar's behavior. While Dr. Ansar described his behavior on 6.30.05 as a poor choice secondary to stress, it is unsatisfactory to dismiss his conduct in this way. Such dismissal requires neither the underlying reasons for such risky behavior nor the impact on others, including [his son], to be satisfactorily explored in an effort toward prevention.

(Resp. Ex. B at 8)

#### **Action by Other State Medical Licensing Boards**

26. In addition to presenting the Board with the records showing these psychological test results, Dr. Ansar sought to introduce records from boards regulating the practice of medicine in Illinois, Arizona, Washington, Iowa, and Wisconsin, indicating the outcome of administrative actions in those states. The State's objection to the admission of these documents was sustained, but the record nevertheless includes Dr. Ansar's sworn testimony that in each case, the states found no cause to discipline Dr. Ansar based on the same criminal misdemeanor charges that are now before the Ohio State Medical Board. (Tr. at 33-51)
27. Dr. Ansar also presented substantial evidence demonstrating his good character and reputation in the relevant medical and professional communities. Included is a letter from the clinical director of the Department of Veterans Affairs, who described Dr. Ansar as "an asset to the Maplewood VA Outpatient Clinic" who "incorporates family values, ethnicity into each veteran's care [and] works well and closely with families, ancillary services, and is greatly respected by co-workers and colleagues." There is also a character reference letter from the director of the lab where Dr. Ansar works, in which he is described as "a team player and makes us all feel we are an important member of the team." In addition to a Post Commander's Distinguished Service Certificate awarded to Dr. Ansar in recognition of his service to the AMVETS Post in December 2003, there is a letter from United States Senator Mark Dayton commending Dr. Ansar for his "caring attitude, your concern for patients, and your willingness to serve." (Tr. at 52-55; Resp. Ex. J, K, K1).

#### **Summary of Evidence Presented in Mitigation of the Offense**

28. During the hearing, Dr. Ansar presented testimony in which he brought out several factors which he believes should be taken as mitigating the charge against him. These include:
- His claim that he has been licensed in other state jurisdictions and “no action has been taken against my licenses in those state medical boards”;
  - His evidence showing good character, from testimonials supplied by individuals with whom he works at the Department of Veterans Affairs;
  - His claim that he has been working at the Minneapolis V.A. Medical Center for three years and seven months, “without any medical malpractice suites being filed against me [and] without any patient complaints”;
  - His claim that the charge against him does not constitute a misdemeanor “involving moral turpitude”;
  - His claim that his “judgment is completely intact . . . and I am not prone for criminal behavior or for morally despicable behavior”;
  - His claim that he has no criminal history;
  - His claim that he “[does] not have any cognitive distortions,” as demonstrated by test results described in a report by Dr. Joseph Plaud, shown on page 3 of Respondent’s Exhibit A;
  - His claim that in another test report, based on the Millon Clinical Multi-Axial Inventory III, he “did not have a significant antisocial score measured through this objective protocol”;
  - His claim that in another test report, based on the Personality Assessment Inventory, the author writes that “[t]here are no indications of significant psychopathology”;
  - His assertion that in light of these and other test results, “this should suffice as far as mental health issues are concerned or issues of moral turpitude or morality are concerned, also, because these are intensive clinical tests proven and administered by a licensed psychologist.” (Tr. at 21-24)

### ANALYSIS

The record establishes without contradiction that Dr. Ansar was convicted of violating Minn. Stat. § 609.505 (2005) (falsely reporting crime). This offense is established whenever a person “informs a law enforcement officer that a crime has been committed or otherwise provides information to an on-duty peace officer, knowing that the person is a peace officer, regarding the conduct of others, knowing that it is false and intending that the officer shall act in reliance upon it.” *Id.*

The record also establishes that, under the circumstances, the offense was a crime involving moral turpitude. Dr. Ansar is correct when he points to Ohio case law in support of his argument that “moral turpitude” is “characterized by ‘baseness, vileness, or the depravity in private and social duties which man owes to his fellow man, or to society in general.’” (Tr. at 17) Dr. Ansar’s conduct meets this definition. It is undisputed that he was engaged in a bitter custody dispute, that he had reacted angrily when he learned his wife reported his mistreatment of their son, that with premeditation he brought his son with him while he purchased a knife, confronted

his wife with the knife, and then stabbed himself in front of his son, with the intention of filing a police report falsely accusing his wife of the assault so as to improve his chances of gaining custody of their son in the pending domestic relations action.

The record establishes that Dr. Ansar deliberately lied to police as a means of punishing his wife and in an attempt to gain the upper hand in the custody dispute, and willfully placed his four-year-old son in the middle of a base and vile course of conduct, breaching the duty he owed to his family and to the community. He knew his statements were false and expected they would be relied upon by the police, as was the case, up to the moment he recanted.

Dr. Ansar is mistaken when he suggests the offense as committed does not fall within the definition of moral turpitude. While not all misdemeanors fall within that definition, there are some common threads that characterize such crimes. One thread is the presence of an act of false pretenses or fraud, particularly when it is perpetrated on the government. “Without exception, federal and state courts have held that a crime in which fraud is an ingredient involves moral turpitude.”<sup>1</sup> Certainly false pretenses are involved in the misdemeanor charged here, where Dr. Ansar knew he was falsely making a claim that he intended the police to rely upon, knowing that if they did rely upon the claims his wife would be charged with a crime. In another case involving false statements, where a druggist presented a forged prescription for narcotics, the court held this was a crime involving moral turpitude, because it constitutes “an impairment of the administration of governmental functions even though there be no pecuniary loss to the Government.”<sup>2</sup> Calling the police to deliberately misrepresent a stabbing, when the caller is the person who did the stabbing and is using the police as leverage in a child custody battle, constitutes an “impairment of the administration of governmental functions” so as to render the crime one of moral turpitude.

The parties in their respective closing statements correctly noted the decision of the Tenth Circuit Court of Appeals decision in *Davidson v. Ohio State Medical Board*,<sup>3</sup> in which the court held that “the act of ‘obstructing official business,’ in violation of a statutory law, can be considered to be an act or behavior that violates moral sentiment or accepted moral standards of the community, and . . . would appear to be a morally culpable quality of fraudulent activity.”<sup>4</sup> Similarly, as the State noted, the Ohio Supreme Court has expressed the view that the deliberate falsification of documents under any circumstances “is immediately morally suspect.”<sup>5</sup> In that case, an attorney pled no contest to a misdemeanor charge of falsifying accounting records he filed in connection with two private adoptions. Notwithstanding substantial evidence of the attorney’s good character, the Ohio Supreme Court nevertheless found such falsification to constitute moral turpitude and imposed an indefinite suspension.<sup>6</sup>

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<sup>1</sup> *Jordan v. DeGeorge*, 341 U.S. 223, 227 (1951).

<sup>2</sup> *United States ex rel. Abbenante v. Butterfield*, 112 F. Supp. 324, 326 (D.C. Mich. 1953).

<sup>3</sup> 1998 WL 226426 (10<sup>th</sup> Ohio App. Dist. 1998).

<sup>4</sup> *Id.* at \*9.

<sup>5</sup> *Office of Disciplinary Counsel v. Bell*, 472 N.E.2d 1069, 1071 (Ohio 1984).

<sup>6</sup> *Id.*

On the other hand, Dr. Ansar's reference to the decision in *Holycross v. State Board of Emergency Medical Services*<sup>7</sup> is unavailing. In *Holycross*, the licensee had been convicted of trespass, attempted harassment by telecommunications, and harassment by telephone, after he sent an email to the fifteen-year-old daughter of a co-worker, who sought to discourage the relationship. In that case, the licensee did not appear at the administrative hearing and the court of appeals drew its conclusions entirely from the limited facts that were before it, facts which are wholly dissimilar to the fraudulent conduct attributed to Dr. Ansar. In that case, the licensee surreptitiously entered the bedroom of the co-worker's daughter and engaged in consensual sexual conduct. There the court found the circumstances did not constitute moral turpitude because the relationship between the licensee and the young woman was consensual. As such, the court's holding in *Holycross* lends no support to Dr. Ansar's claims.

Dr. Ansar also notes that other state medical boards have elected not to impose disciplinary sanctions against him based on this criminal conduct. The evidence suggests that Dr. Ansar self-reported the misdemeanor in several jurisdictions, none of which have elected to take disciplinary action against him. Each state, however, makes its own determination about the relative gravity that should be attributed to a given course of criminal behavior. Had the events leading to the conviction occurred in Ohio, there is little doubt that the acknowledged facts would support disciplinary action, at a level much more profound than a reprimand.

Dr. Ansar is correct, of course, when he complains that any discipline imposed by the Ohio Board would start a "chain reaction" in other states. Indeed, one of the inherent consequences of being licensed in multiple jurisdictions is the fact that instead of having one set of peers, the licensee invites review by multiple sets of peers. Accordingly, the risk of board action increases with every state a licensee is authorized to practice in. That does not, however, militate against imposing a substantive disciplinary sanction in Ohio. Rather, it serves as a caution to those who seek permission to practice in a number of jurisdictions, that their action must be consistent with the norms practiced in each of those jurisdictions. Having failed to abide by those norms in Ohio, Dr. Ansar properly may be punished here, notwithstanding contrary results in other jurisdictions.

Dr. Ansar's failure to conform to professional standards in Ohio should result in a substantial and determinate suspension. There is no need for further evaluations, nor would there be a benefit to a probationary period. Dr. Ansar has no ties to Ohio other than his license, and there is no reason to believe he needs to be monitored. Board evaluation and monitoring are both resource-intensive: they take Board and staff time, offer no promise of increasing public trust in Dr. Ansar's abilities, and are expensive, both for the State and the licensee. In this case, the costs of evaluation and monitoring simply outweigh the benefits that are likely to be attained through those sanctions. The record here further reflects that Dr. Ansar has received extensive psychological evaluation both at his own commission and at the court's direction. That record

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<sup>7</sup> 873 N.E.2d 423 (2d Dist. Ohio App. 2005).

provides sufficient information for this Board to impose a disciplinary suspension without the need for more tests or supervision.

There is, therefore, no basis for the Board to impose either further evaluation or a probationary period. The Board should, however, deprive Dr. Ansar of the authority to practice medicine and surgery in Ohio for a fixed period of time, as both a punitive measure and as an exemplary measure, preempting any public impression that the Board is indifferent to this kind of criminal behavior. While the applicable statute authorizes a number of lesser and greater sanctions (including permanent license revocation), the circumstances here call for a one-year suspension, without further conditions for reinstatement, and without a period of probation following the suspension.

### **FINDINGS OF FACT**

1. The Respondent, Azber Azher Ansar, M.D., is licensed to practice medicine and surgery in Ohio under Certificate Number 35.078745.
2. In proceedings conducted in the First Judicial District Court of Dakota County, Minnesota, on December 12, 2005, the Respondent was convicted upon a plea of guilty to a misdemeanor charge of falsely reporting a crime, in violation of Minnesota Statute Section 609.505.
3. The circumstances attendant to the conviction include: (1) the Respondent was in a bitter custody dispute with his wife; (2) he learned his wife had filed a report accusing him of mistreating their son; (3) upon learning about this report he became angry and sought to retaliate against his wife; (4) he purchased a knife shortly before confronting his wife, and then in her presence and in the presence of their four-year-old son he stabbed himself with the knife; (5) he then falsely reported to the police that his wife had stabbed him; (6) he did so intending that she would be unjustly arrested and charged with a crime; and (7) he did so hoping to use the police and their actions as a means to obtain an advantage in the pending child custody and divorce proceedings.
4. When it received notice of Dr. Ansar's conviction, the Board set forth its allegations against the Respondent in a notice of opportunity for hearing dated August 9, 2006. In a written response received by the Board on September 8, 2006, the Respondent invoked his right to have an administrative review of the charge. In a letter dated September 8, 2006 the Board acknowledged its receipt of the Respondent's request for a hearing. The Board then set the matter for a hearing to commence on September 22, 2006, continued the hearing, appointed an administrative hearing examiner, and provided the parties with an opportunity to be heard on the charge in an evidentiary hearing conducted on October 30, 2006.

### CONCLUSION OF LAW

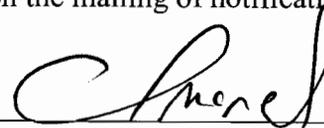
1. Because he holds a certificate to practice medicine and surgery in Ohio, the Respondent, Azber A. Ansar, M.D., is subject to the jurisdiction of the State Medical Board of Ohio in actions taken pursuant to R.C. Chapters 119 and 4731.
2. Upon receiving sufficient evidence to believe the Respondent violated a provision of R.C. Chapter 4731, the Board was authorized to take action with respect to the Respondent's certificate. The Respondent timely requested an evidentiary hearing before the Board took any final action based upon the Board's charge. Upon its receipt of the Respondent's request for a hearing, the Board set the matter for hearing in the manner provided for by the Administrative Procedure Act, and provided the Respondent with an opportunity to be heard, all in the manner provided for by state and federal statutory and constitutional law.
3. The Board may take disciplinary action against a person holding a certificate to practice medicine and surgery in Ohio upon sufficient proof that the person has been convicted of a "misdemeanor involving moral turpitude" as that clause is used in R.C. 4731.22(B)(13) (Anderson 2006).
4. The Respondent's conviction of the misdemeanor offense of filing a false police report, under the circumstances described in Finding of Fact No. 3 above, is a crime involving moral turpitude, as that term is used in R.C. 4731.22(B)(13).
5. Upon sufficient proof that the Respondent has violated any provision of R.C. 4731.22(B), as has been demonstrated in the foregoing findings of fact and conclusions of law, the Board, by an affirmative vote of not fewer than six of its members, shall to the extent permitted by law limit, revoke or suspend an individual's certificate to practice, refuse to register an individual, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate, all pursuant to R.C. 4731.22(B).

### PROPOSED ORDER

It is hereby ORDERED that:

**SUSPENSION OF CERTIFICATE:** The certificate of Azber Azher Ansar, M.D., to practice medicine and surgery in the State of Ohio shall be **SUSPENDED** for a period of one year.

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



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Christopher B. McNeil, Esq.  
Hearing Examiner



# State Medical Board of Ohio

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## EXCERPT FROM THE DRAFT MINUTES OF JANUARY 10, 2007

### REPORTS AND RECOMMENDATIONS

Dr. Kumar announced that the Board would now consider the findings and orders appearing on the Board's agenda. He asked whether each member of the Board had received, read, and considered the hearing records, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Azber Azher Ansar, M.D., and David Allen McMaken, M.D. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Robbins	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye
	Dr. Kumar	- aye

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

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Robbins	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye
	Dr. Kumar	- aye

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

The original Reports and Recommendations shall be maintained in the exhibits section of this Journal.

AZBER AZHER ANSAR, M.D.

Dr. Kumar directed the Board's attention to the matter of Azber Azher Ansar, M.D. He advised that objections were filed to Hearing Examiner McNeil's Report and Recommendation and were previously distributed to Board members.

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

Dr. Ansar advised that he has filed written objections, and he's very sure that all of the Board members have considered those objections very carefully. He stated that he is of the opinion that, for the matter currently being considered by the Board, a misdemeanor charge of moral turpitude, the sanction being considered is rather harsh. He has practiced medicine with the United States Government for four years. His primary service is to the United States Veterans Administration.

Dr. Ansar stated that he has multiple mitigating factors that he requests the Board to consider. Dr. Ansar stated that he has never had any prior disciplinary actions imposed on any of his licenses in any of the United States or Commonwealth territories. He holds active licenses in 15 U.S. jurisdictions, and none of those jurisdictions have imposed any disciplinary action on any of his licenses.

Dr. Ansar stated that he went through the Hearing Examiner's Report and Recommendation, and detected multiple discrepancies as far as omission of evidence and interpretation of multiple events. He asked that the Board members look at those discrepancies and consider all of the mitigating factors, which he mentioned in his written objections and in the transcript. He asked that the Board consider imposing no action. Dr. Ansar stated that he does agree that a violation did occur; he's not denying that. He added that it was not related to his professional practice or his professional skills. Dr. Ansar stated that he'd been going through a very high-conflict divorce situation, which lasted about two years, and went to trial for five days. The current misdemeanor charge stems from that high-conflict divorce situation.

Dr. Ansar stated that he is extremely remorseful of the action that brings him before the Board today, but he feels that the action taken by Ohio will have a dramatic impact on his professional career and his professional life. He has already completed all remedial measures imposed on him by the State of Minnesota courts, which included criminal courts and family courts. He has faced multiple, very tough

events in his life, secondary to this particular charge of a misdemeanor. The action taken by the State Medical Board of Ohio will jeopardize his career as a physician and will risk his job with the United States Government also.

Dr. Ansar stated that he doesn't stand here as one physician from the State of Minnesota, but he stands up for every physician from Ohio because this case will set a precedent. The life of a physician should not completely crumble if his act did not involve any act related to the professional practice of medicine. He advised that he has practiced medicine, abiding by the Code of Ethics of the American Medical Association, and he is practicing medicine per the guidelines of the American College of Physicians. He's a member of the American College of Physicians, and is currently board-certified by the American Board of Internal Medicine. Dr. Ansar stated that he practices medicine very ethically.

Dr. Ansar stated that he did have a lapse, and he's admitting that, but he's requesting that the Board consider not suspending his license, as recommended by Hearing Examiner McNeil, and consider imposing no Board action. He commented that even the Hearing Examiner agrees that, at the current time, remedial training or imposition of a probationary period will not be effective.

Dr. Ansar asked the Board to take no action, and to consider all the factors mentioned in his written objections.

Dr. Kumar advised Dr. Ansar that he has one minute to complete his statement.

Dr. Ansar stated that action will adversely impact his career as a physician. Even getting life insurance because of this particular act has become difficult. He has been denied life insurance. It's come to a point where he believes that the action taken today will have a domino effect in multiple other states. Dr. Ansar commented that about six U.S. jurisdictions took no action after considering the same misdemeanor charges. He stated that he knows that the State of Ohio has its own statutes, and he respects those statutes, but he requests that the Board consider taking no action on his license.

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

Ms. Pfeiffer stated that Dr. Ansar, in his presentation, indicated that he agrees that a violation occurred. She stated that she would like to recap and make sure that the Board feels that it has evidence sufficient to show that the crime committed was, in fact, a crime of moral turpitude. There is some case law and some arguments as to what constitutes a crime of moral turpitude. There are some words about a crime being "base, vile, offending the sense of common decency," and things like that. Ms. Pfeiffer stated that there is one case that was decided by the Ohio Supreme Court in which the person involved, an attorney, had falsified documents in a judicial proceeding. He was charged with and criminally prosecuted for that. The Court had absolutely no problem holding that type of an offense to be a crime of moral turpitude.

Ms. Pfeiffer stated that the Board obviously has a different situation with Dr. Ansar. She stated that she would point out that Dr. Ansar was extremely well prepared for his case. He presented himself very well,

and was very pleasant, very professional in his presentation at the hearing. He pretty much agreed that what he did was wrong, but he was in a very difficult, challenging, and emotional time. He was going through a terrible domestic dispute involving a four-year-old child. He had learned some news that was not favorable about some action his wife had taken in filing a report against him. On the day of the incident that led to his criminal conviction, Dr. Ansar was staying with his parents. He had his son with him and was returning to his parents' house from an outing with his son. Dr. Ansar stopped and bought a knife and took it home. About 20 minutes to a half hour before his wife showed up to pick up their son, he took the knife out of the box and put it in his pocket. He went outside to meet his wife and some type of an argument ensued. Dr. Ansar took the knife out, cut himself, threw the knife into his wife's car and then called the police and told the police that she cut him. When Dr. Ansar learned that the police were actually going to arrest his wife and take her away, and obviously seeing how upsetting it was for his son to see his mother being handcuffed, Dr. Ansar told the police the truth, and asked them not to arrest his wife. Ms. Pfeiffer stated that, for the most part, Dr. Ansar admitted that this is what happened and that it was wrong. She added that she thinks that Dr. Ansar's sense of remorse was genuine in this case.

Ms. Pfeiffer stated that she doesn't think that there's any doubt that this Board can make a determination that this was a crime of moral turpitude. She added that his being a medical doctor aggravates it, commenting that physicians take a Hippocratic oath to preserve life, and here is a physician cutting himself in front of his four-year-old child. Ms. Pfeiffer stated that all of the circumstances clearly show that this was a crime of moral turpitude. There is no requirement that the crime of moral turpitude take place during the course of his practice of medicine and surgery. That was not the allegation, and she agrees that it did not happen in the course of his practice. It had nothing to do with patient treatment, etc.

Ms. Pfeiffer stated that the Board is left with the question of what it should do. It has a doctor here who was in a really bad, emotional, frustrating, difficult domestic situation. He admitted to his crime, and now what does the Board do with respect to his Ohio license? That's the Board's bailiwick. She added that she thinks that Dr. Ansar, in requesting that the Board take no action, is referring to one of the options under the Board's rules. The Board can suspend, revoke or take no further action. Ms. Pfeiffer stated that "no further action" means that the Board finds that Dr. Ansar has committed the violation as alleged, but the Board is choosing to impose no penalty. The Board could reprimand him or suspend his license. The Board could adopt the recommendation of the Hearing Examiner; it's the Board's choice to make.

Ms. Pfeiffer stated that, with respect to Dr. Ansar's comments about no other states taking action, not all states permit a doctor to be disciplined for a crime of moral turpitude not in the course of practice. Many states require that, if it's a misdemeanor, it has to be in the course of practice. Ms. Pfeiffer stated that the testimony is clear, and she doesn't dispute the testimony from Dr. Ansar, that, as a result of this particular incident, no other sister board took disciplinary action against him; but she doesn't think that that's the issue before this Board.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. MCNEIL'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF AZBER AZHER ANSAR, M.D. DR. DAVIDSON SECONDED THE MOTION.**

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

Dr. Egner stated that she would like to address a couple of things that Dr. Ansar said. She stated that, first of all, Dr. Ansar is really not setting a precedent here. The Board has had moral turpitude outside the practice of medicine cases before it previously. Physicians have been disciplined by the Board for this. The Board has had this discussion many times, and it doesn't take this lightly. Dr. Egner stated that this case involved incredibly poor judgment, as do all such cases. Dr. Egner commented that, when a physician acts in this way, she knows that they're not thinking, "I'm a physician and this could have an effect on my profession." Dr. Egner stated that it is a privilege to be a physician. There is a standard of behavior that is expected. Dr. Egner stated that Dr. Ansar admits to what he has done. She added that the Proposed Order is below the minimum sanction recommended by the Board's disciplinary guidelines.

Dr. Egner stated that she is not in favor of "no further action taken." She thinks that the suspension is appropriate. Dr. Egner stated that she believes that other physicians who have come before the Board under similar situations have had some ongoing type of monitoring and a probationary period, so that the Board is sure that it doesn't recur. Dr. Egner stated that she's not in favor of anything lighter than what's proposed by the Hearing Examiner.

Dr. Kumar stated that the Report and Recommendation only imposes a suspension, and does not require a monitoring period.

Dr. Steinbergh stated that that is true.

Dr. Egner also acknowledged this, but stated that the Proposed Order falls below the minimum and maximum penalties suggested in the Board's disciplinary guidelines.

Dr. Steinbergh stated that she agrees with Dr. Egner with regard to what the Board considers to be the standard in Ohio for physicians, regarding their moral and ethical decision-making. She advised that she found it very difficult. This was not a spontaneous thing that he did; it wasn't done in the heat of the moment. It was pre-meditated. He went out, bought the knife, planned on doing what he did, and he did what he did, and he lied to the police. Dr. Ansar filed a false report. She stated that she has a hard time understanding that a physician with an education like he's had would make a decision and go through with that. She noted that Dr. Ansar did recant, but nevertheless, he, with premeditation, did this for the purpose of putting his wife into legal jeopardy.

Dr. Steinbergh stated that she found the Findings of Fact to be appropriate. The proposed licensure suspension is appropriate. Dr. Steinbergh stated that she would agree that the Board doesn't need to monitor him. She added that she doesn't think that this will recur, but he has to be held responsible for this action, and there has to be some form of discipline.

Dr. Buchan stated that he comes to the table with a feeling that a lesser sanction would be appropriate. He

does not recall a case such as this; he thinks it's quite unique. Dr. Buchan stated that he cannot imagine the emotional trauma that the potential loss of a child or a bitter divorce situation might bring to the table, but desperate people do desperate things. The Board has seen that time and time again.

Dr. Buchan stated that he is not in favor of dismissal of this case, but he is in favor of a reprimand, and he came here today with that sentence in mind. Dr. Buchan stated that he doesn't lessen what Dr. Ansar did, and he holds Dr. Ansar to a higher standard. Dr. Buchan stated that the Findings of Facts are appropriate. He added that he's disappointed that a man of this character would move in that direction, but the circumstances are so extraordinary. Not having seen these particular circumstances before, he would like to respond with a little more leniency.

**DR. BUCHAN MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF AZBER AZHER ANSAR, M.D., BY SUBSTITUTING AN ORDER OF REPRIMAND. DR. DAVIDSON SECONDED THE MOTION.**

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

Dr. Steinbergh stated that the circumstances that put a person in this condition are seen every day on the news. It simply ought not to be a physician. It's true that the Board isn't looking at this physician for standard-of-care issues, but the issue for her is the decision-making it took for Dr. Ansar to go out and purchase a knife so that he could harm himself, or, potentially, someone else. The Board doesn't know what the circumstances were: where that little boy would have been at that time or where the wife would have been at the time. The trauma of this little boy seeing his father against his mother will remain forever with him. So he harmed not only himself, physically, and then lied to the police, but there is no question that he traumatized his child. Dr. Steinbergh stated that she doesn't expect that from a physician. She does see it in the newspaper and on the news every day. Desperate people do desperate things. She agrees that she has never been in that situation, but she could guarantee that she would not respond that way. There are legal ways to respond, and intelligent people follow the law. Dr. Ansar did not follow the law.

Dr. Steinbergh stated that she is opposed to a simple reprimand. She stated that she did come with an open mind about this case, but she does oppose a simple reprimand. Dr. Steinbergh stated that she does believe that there ought to be a punishment for what Dr. Ansar did. Suspension is appropriate, and the length is debatable, from her perspective.

Dr. Robbins stated that he personally feels that a reprimand is not harsh enough. He thinks that the damage, and potential damage, done to the son and ex-wife really can't be measured. Dr. Robbins continued that, in his mind, to tell them that all the Board is doing in a situation like that is reprimanding his father for what he did, is nowhere near the correct approach. Dr. Robbins commented that Dr. Ansar's son is going to have a lifetime to try to deal with this. Dr. Robbins stated that, in his mind, Dr. Ansar's actions were egregious enough that the Order as proposed is incredibly lenient to begin with.

Dr. Davidson stated that she seconded Dr. Buchan's motion because she came to the table with the thought

of leniency, because she thought Dr. Buchan spoke very well, and because she also thought that Dr. Ansar presented himself well. She stated that she's kind of a stickler for the letter of the law and the process, and the crime of moral turpitude was filing the false police report. She stated that she thinks that the Board has been focusing on the actual trauma, and she doesn't minimize that episode by any means – she's very troubled by the premeditated part of it; however, she does agree with Dr. Buchan that desperate people do desperate things, and that doctors are human, and finds this mitigating. Dr. Davidson stated that, when it came to seeing his son upset and his wife going off in handcuffs, Dr. Ansar recanted. Dr. Davidson stated that she finds that mitigating.

Dr. Davidson indicated that she could consider an Order of a reprimand or a shorter suspension.

Mr. Browning stated that the Board needs to be fair and responsible. He noted that, having said that, for most of the damage that Dr. Ansar has done to himself and others, the punishment has begun to play out. This is really, in his mind, a question of how long the Board wants it to go on. The ripple effect of this, in many ways, with his not practicing in Ohio, is an economic discussion. The ramifications of this Board's decision today are economic. Mr. Browning stated that he probably is in the middle, between a reprimand and a year's suspension. He doesn't see anything magical about a year, and he added that it seems a bit arbitrary in that there will be no follow-up. The Board is going to take him out of practice for a year, it will be on Dr. Ansar's record, and he'll have to move on to the other states and it will just play out, and play out, and play out.

Mr. Browning stated that he would not support a reprimand, but he would support a six-month suspension.

Ms. Sloan stated that, as Dr. Davidson stated, the filing of the false police report was the crime in question. However, she added that the Board must remember that there was another incident of a false police report that was filed earlier.

Ms. Sloan stated that, as she sees this case, she understands that emotions run high; but the fact that this doctor, in front of his child, not only cut himself but then tried to blame his wife and filed that report, really sticks with her. She stated that she does think that a suspension of at least six months would be appropriate.

Dr. Varyani stated that Dr. Ansar presented himself very eloquently, but what bothers him is: 1.) The premeditation; 2.) The effects on the child; and 3.) The fact that his wife, who is also a physician, was handcuffed. Dr. Varyani stated that Dr. Ansar planned all of this. He added that a reprimand does not sit well with him.

Dr. Talmage left the meeting during the previous discussion.

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

Vote: Mr. Albert - abstain

Dr. Egner	- nay
Dr. Varyani	- nay
Dr. Buchan	- aye
Dr. Robbins	- nay
Mr. Browning	- nay
Ms. Sloan	- nay
Dr. Davidson	- aye
Dr. Madia	- nay
Dr. Steinbergh	- nay

The motion failed.

**DR. STEINBERGH MOVED TO AMEND THE PROPOSED ORDER BY LOWERING THE PROPOSED SUSPENSION PERIOD TO SIX MONTHS. MS. SLOAN SECONDED THE MOTION.**

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

Dr. Buchan stated that, thinking about this case prior to today, he does believe that it is a bit arbitrary, whether the Board says one month or one year. The point is that he has a suspension now that will have ramifications down the road. Dr. Buchan stated that he does believe that Dr. Ansar has gotten his life somewhat together, adding that he was convinced of this by the personality review and his discussion today. Dr. Buchan spoke in favor of a lesser suspension, closer to 30 days rather than six months.

Dr. Varyani stated that he would agree to a 90-day suspension.

Dr. Robbins stated that he agrees with the arbitrariness of the six months versus twelve months, and he could go along with six months. He stated that he would like to echo what Dr. Varyani said: the premeditation, stabbing himself in front of his child, and knowing what was going to happen and recanting, has such detrimental effects to the child's future. Dr. Robbins stated that he would agree to a lesser suspension period.

Dr. Steinbergh stated that she does want to make a point that is strong in her consideration. Dr. Ansar filed a false report to the police, and not for the first time. That's what the Board is looking at. It's a misdemeanor. The Board knows the circumstances; it's inappropriate. It's inappropriate for anyone, but it's most inappropriate for a physician. The number of months or days that this man is out of practice is arbitrary, but she doesn't think the Board can take this lightly. The Proposed Order is already way below the Board's guidelines for this misdemeanor, and she doesn't think that his being suspended for six months is the wrong thing to do. There needs to be a strong message. She stated that she agrees with the Hearing Examiner in this case, but she's heard other Board members, including consumer members who are very valuable in their opinion. Two of them have mentioned six months, and that is why she now proposes six months. She thinks that that is a reasonable thing for the Board to do.

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

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- nay
	Dr. Robbins	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- nay
	Dr. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. MCNEIL'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF AZBER AZHER ANSAR, M.D. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Robbins	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.



# State Medical Board of Ohio

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

August 9, 2006

Azber Azher Ansar, M.D.  
P.O. Box 111097  
St. Paul, MN 55111-1097

Dear Doctor Ansar:

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 you or place you on probation for one or more of the following reasons:

- (1) On or about December 12, 2005, in the First Judicial District Court, Dakota County, Minnesota, you entered a plea of guilty to and were convicted of Falsely Reporting a Crime, in violation of Minnesota Statute Section 609.505. The offense of Falsely Reporting a Crime stemmed from a June 30, 2005 incident during which you stabbed yourself, placed the knife in your wife's car and reported to police that your wife had stabbed you. As part of your plea agreement, a second complaint of Falsely Reporting a Crime, in violation of Minnesota Statute Section 609.505, was dismissed. The second complaint of Falsely Reporting a Crime stemmed from a December 14, 2004 report to police that your wife had physically abused your child, which allegation you recanted the following day.

Your plea of guilty or the judicial finding of guilt as alleged in paragraph (1) above, individually and/or collectively, constitutes "[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude," as that clause is used in Section 4731.22(B)(13), 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 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.

*Mailed 8-10-06*

Azber Azher Ansar, M.D.

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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 you 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 # 7003 0500 0002 4331 9274  
RETURN RECEIPT REQUESTED