

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

MAHESH C. GOEL, M.D.,

Appellant,

vs.

STATE MEDICAL BOARD OF OHIO

Appellee

**FINAL APPEALABLE ORDER**

CASE NO. 05CVF-03-2936

JUDGE CRAWFORD

TERMINATION NO. 10  
BY *[Signature]*

**DECISION AND JUDGMENT ENTRY AFFIRMING THE ORDER OF  
THE OHIO STATE MEDICAL BOARD**

Rendered this 12<sup>th</sup> day of September, 2005

**CRAWFORD, JUDGE**

This is an appeal pursuant to R.C. 119.12 from a February 9, 2005 Order of the State Medical Board of Ohio ("the Board") permanently revoking the medical license of Appellant Mahesh C. Goel, M.D.

**I. HISTORY OF THIS MATTER**

On September 8, 2004 and October 13, 2004, the Board notified Appellant that proposed to take disciplinary action against his medical license. The Board alleged that Appellant had violated R.C. 4731.22(A) by engaging in "fraud, misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the board." The Board alleged that Appellant had violated R.C. 4731.22(B)(5) by "making a false, fraudulent, deceptive or misleading statement ... in securing or attempting to secure any certificate to practice or certificate of registration issued by the board." The Board also alleged that discipline was appropriate under R.C. 4731.22(B)(22) based on disciplinary actions taken by an agency regulating the practice of medicine in another state.

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Appellant requested a hearing, which was held on November 23, 2004.

On January 3, 2005, the Hearing Examiner issued a Report and Recommendation concluding that Appellant had committed the violations charged and recommending an indefinite suspension of his license, not less than 18 months, with conditions for reinstatement.

The Board considered this matter at its February 9, 2005 meeting. At the conclusion of the discussion, the Board voted to confirm the Hearing Examiner's findings and amend the proposed order by permanently revoking Appellant's medical license.

On March 16, 2005, Appellant filed this appeal of the Board's Order.

## II. FACTS

Appellant received his medical degree in India in 1987. (Resp. Ex. A). In 1996, he emigrated to the United Kingdom to continue his medical training. From 1993 to 2000, Appellant practiced medicine in the United Kingdom as a "registrar," the equivalent of a resident. (*Id.*).

Appellant acknowledged in his testimony at the hearing that during an operation in January, 2000, he mistakenly removed a healthy kidney, rather than a diseased kidney, of Patient 1. (Tr. 8). On January 26, 2004, the Professional Conduct Committee of the General Medical Council of the United Kingdom found that Appellant's conduct in the surgery had been unprofessional, incompetent and detrimental to the health and welfare of the patient. (State Ex. 4 at p. 4). The Professional Conduct Committee suspended Appellant's registration for 12 months. (State Ex. 4 at 5-7). Appellant testified that he remains under suspension in the United Kingdom. (Tr. at 29, 44).

On February 1, 2000, Appellant was suspended from his position by the National Health Trust, an organization which included the hospital where the surgery on Patient 1 was performed. (Tr. 20; State Ex. 6). During the suspension, he was not allowed to treat patients at the hospital. (State Ex. 6 at 1-2, 4). The suspension continued through August 31, 2001, when Appellant's contract was terminated. (State Ex. 6 at 2, 4).

Appellant was also criminally charged for his conduct in the surgery, which resulted in the death of Patient 1. (State Ex. 3). The charge was that Appellant unlawfully killed Patient 1. (*Id.*, at 2, 5). Appellant testified that the case went to trial, and that the charge was dismissed. (Tr. 43).

On May 23, 2001, Appellant submitted to the Board an application for a training certificate. In the application, he certified, under oath, that the information provided in the application was true. (State Ex. 2). In the application, Appellant answered "no" to the following question:

Have you ever been warned, censured, disciplined, had admissions monitored, had privileges limited, **had privileges suspended** or terminated, been put on probation, or been requested to withdraw from or resign privileges **at any hospital** .... (emphasis added)

In fact, Appellant's privileges had been suspended on February 1, 2000. (State Ex. 6 at 17).

On May 20, 2002, Appellant submitted to the Board an application for renewal of his training certificate, in which he certified that the information he provided was true.

Appellant answered "no" to the following question:

At any time since signing your last application for renewal of your Training Certificate have you:

Been notified by any board, bureau, department, agency, or other governmental body, other than this board, of any investigation concerning you, or any charges, allegations, or complaints filed against you?

(State Ex. 2). In fact, Appellant had been a defendant in a criminal action on September 17, 2001. (State Ex. 3). In this application, Appellant again answered no to the question regarding suspensions of privileges. (State Ex. 2 at p. 2).

On April 7, 2003, Appellant submitted to the Board an application for a license to practice medicine and surgery in Ohio. In the application, Appellant certified under oath that the information provided was true. (State Ex. 2 at 65). Appellant again answered “no” to the question regarding whether his privileges had been suspended by a hospital. (State Ex. 2 at 25). Appellant also answered “no” to the following question:

Have you ever been requested to appear before any board, bureau, department, agency, or other body, including those in Ohio, concerning allegations against you?

(State Ex. 2 at 26).

On May 5, 2003, Appellant signed a “Prospective Staff Questionnaire” for the Cleveland Clinic Foundation and answered “no” to a question regarding whether any hospital had ever suspended his privileges. (State Ex. 8 at 7).

On May 14, 2003, Appellant submitted an Ohio Department of Insurance Standardized Credentialing form in which he answered “no” to the following question:

Have you ever been named as a defendant in any criminal case (excluding minor traffic infractions, but not DUIs)?

Appellant also answered “no” to a question regarding whether any hospital had ever suspended his privileges. (State Ex. 7 at 12).

On September 23, 2004, the West Virginia Board of Medicine informed Appellant that it had voted to deny him a license to practice medicine and surgery in

West Virginia because of the license suspension in the United Kingdom, a false and fraudulent answer to an application question, and the wrong-site surgery on Patient 1. (State Ex. 5).

Appellant testified that the reason he answered the application questions as he did was that he believed the questions related only to his activities in the United States. (Tr. 12, 14-15, 19, 22-26, 50-51). He acknowledged that the questions do not contain language limiting the questions to events in the United States. (Tr. 12). He acknowledged that elsewhere in the applications he provided information on his medical training and activities outside the United States. (Tr. 22). He also agreed that it would be important for the Board to know about what happened in the United Kingdom before he came to practice in Ohio. (Tr. 14).

### **III. FINDINGS OF THE BOARD**

In the Report and Recommendation, the Hearing Examiner found that Appellant had violated R.C. 4731.22(A) by engaging in “fraud, misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the board” and violated R.C. 4731.22(B)(5) by “making a false, fraudulent, deceptive or misleading statement in ... securing or attempting to secure any certificate to practice or certificate of registration issued by the board.” The Hearing Examiner also found that discipline was appropriate under R.C. 4731.22(B)(22) based on actions taken by agencies regulating the practice of medicine in other states, namely the disciplinary action by the West Virginia Board. (Report, pgs. 23-24).

The Hearing Examiner concluded as follows:

The evidence demonstrates that Dr. Goel has lied numerous times to this Board, the West Virginia Board, and to the Cleveland Clinic. All of these

lies stem from one tragic incident: his involvement in a wrong-site surgery which resulted in a patient's death. Dr. Goel testified that he had not volunteered information about this incident because it had happened in Great Britain, and he had believed that the questions only concerned his activities in the United States. This is a poor rationalization for his deceit. Further, the incident about which he lied was extremely serious.

(Report, p. 24). The Hearing Examiner stated that Appellant "seems to be a physician who can be rehabilitated." The Hearing Examiner recommended an indefinite suspension of Appellant's license, not less than 18 months, with conditions for reinstatement. (*Id.*, pgs. 24-29).

The Board considered this matter at its February 9, 2005 meeting. Several Board members expressed the view that this case is not about a medical error, but about fraud and misrepresentation. (Minutes, p. 14891-14896). They stated that Appellant's explanation of his answers to the application questions was not plausible, given that he provided information on his training and practice in the United Kingdom. Board members expressed the view that permanent revocation was appropriate because they believed Appellant purposely did not tell the Board about what happened in the United Kingdom because he did not want the Board to know. (*Id.*) At the conclusion of the discussion, the Board voted to confirm the Hearing Examiner's findings, but to amend the Order to impose permanent revocation.

#### IV. LAW

When considering an appeal from an order of the Medical Board, a common pleas court must uphold the order if it is supported by reliable, probative, and substantial evidence, and is in accordance with law. R.C. 119.12. *Pons v. Ohio State Med. Bd.* (1993), 66 Ohio St.3d 619, 621; *Landefeld v. State Med. Bd.* (2000), Tenth Appellate District No. 99AP-612, 2000 Ohio App. LEXIS 2556.

The Ohio Supreme Court has recognized that the General Assembly granted the Medical Board a broad measure of discretion. *Arlen v. State* (1980), 61 Ohio St.2d 168, 174. In *Farrand v. State Med. Bd.* (1949), 151 Ohio St. 222, 224, the court stated:

... The purpose of the General Assembly in providing for administrative hearings in particular fields was to facilitate such matters by placing the decision on facts with boards or commissions composed of men equipped with the necessary knowledge and experience pertaining to a particular field. ...

“Accordingly, when courts review a medical board order, they are obligated to accord due deference to the board’s interpretation of the technical and ethical requirements of the medical profession.” *Landefeld, supra*, at pg. 9.

## V. THE COURT’S FINDINGS AND CONCLUSIONS

Appellant raises two issues for this Court’s review. First, Appellant argues that the evidence does not show fraudulent intent as necessary for a violation of R.C. 4731.22(A) and 4731.22(B)(5).

This Court’s review is for the purpose of determining whether the Board’s Order is supported by reliable, probative and substantial evidence and is in accordance with law. This Court’s scope of review is limited. This Court “will not substitute its judgment for the Board’s where there is some evidence supporting the Board’s Order.” *Harris v. Lewis* (1982), 69 Ohio St.2d 577, 579.

It is well-established that intent need not be proven directly but can be inferred from the facts and circumstances. *State v. Teamer* (1998), 82 Ohio St.3d 490. A person is presumed to intend the natural, reasonable and probable consequences of his voluntary acts. *State v. Lott* (1990), 51 Ohio St.3d 160.

In *Krain v. State Medical Board* (1998), Tenth App. Dist. Case No. 97APE08-981, 1998 Ohio App. LEXIS 5339, the court found that there was sufficient evidence of intent to deceive when an applicant completely failed to disclose prior disciplinary proceedings to the Board on his renewal applications.

The record plainly establishes that there is reliable, probative and substantial evidence supporting the Board's conclusion that Appellant intended to deceive. Appellant repeatedly failed to disclose the suspension of his license, suspension of his privileges, and criminal action against him in the United Kingdom. As the finder of fact, the Board was entitled to find implausible Appellant's claim that he believed the questions pertained only to activities in the United States. As noted, the questions on the applications inquire about **any** suspensions, disciplinary actions, etc. In other parts of the applications, Appellant provided information on his medical activities and training outside the United States. Appellant also acknowledged that it would be important to the Board to know about what happened in the United Kingdom.

Appellant's second argument is that the penalty imposed on him, permanent revocation, constitutes discriminatory or disparate treatment because it is inconsistent with penalties imposed by the Board in similar cases, depriving Appellant of equal protection.

In an equal protection claim, the alleged victim has the burden of proving discriminatory intent or purpose. *Vaughn v. State Medical Board* (1995), Tenth District Court of Appeals No. 95APE05-645, 1995 Ohio App. LEXIS 5258, pg. 17.

The Court notes that revocation is one of the penalties available to the Board in this matter. R.C. 4731.22 (B).

This Court's scope of review of the penalty imposed by the Board is limited. In *Henry's Café v. Board of Liquor Control* (1959), 170 Ohio St. 233, the Ohio Supreme Court held as follows:

On such appeal, the Court of Common Pleas has no authority to modify a penalty that the agency was authorized to and did impose, on the ground that the agency abused its discretion. [paragraph three of syllabus]

See also *Hale v. Ohio State Veterinary Medical Board* (1988), 47 Ohio App.3d 167 (if the penalty is within the range of choices for the infraction, the court must affirm the order even if the penalty is viewed as too harsh). This rule applies to state medical board cases. In *King v. State Medical Board* (1999), Tenth Appellate District, No. 98AP-570, 1999 Ohio App. LEXIS 201, the Court stated: "the common pleas court, in concluding the board's order is supported by reliable, probative and substantial evidence, is precluded from interfering with or modifying the penalty imposed if such penalty is authorized." (*Id.*, p. 4).

Appellant discusses two cases in which the Board imposed a penalty less than revocation for failures to disclose prior disciplinary matters. Appellant emphasizes certain facts in each of these cases in arguing that they were more egregious.

Appellee counters with its own list of cases involving failures to disclose in which the licensee received the same or similar penalty to the one in this case.

Addressing a similar argument, the Court of Appeals in *Vaughn, supra*, stated as follows:

Appellant offered no evidence to support her claim of discrimination other than a list of other physicians who received lesser sanctions. The board offered its own list of physicians whose certificates were revoked. We agree with the court of common pleas that 'the information provided is insufficient for the Court to conclude that the Board violated Appellant's

right to equal protection based on a comparison of the discipline of the cited physicians and that of the Appellant. '

Opinion, pg. 18.

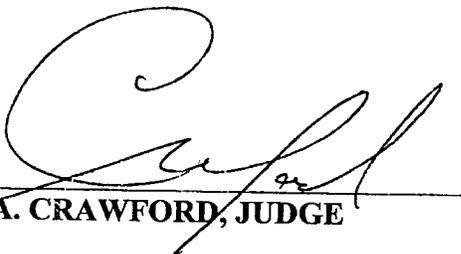
The Court has reviewed the information submitted by both parties concerning discipline imposed in other cases by the Board. As in *Vaughn*, the Court concludes that the information is insufficient to show that the Board violated Appellant's right to equal protection.

For the foregoing reasons, the Court finds that the Board's Order is supported by reliable, probative and substantial evidence and in accordance with law.

The Board's Order is **AFFIRMED**. This is a final, appealable Order. Costs to Appellant. Pursuant to Civil Rule 58, the Clerk of Court shall serve upon all parties notice of this judgment and its date of entry.

This Decision is being referred to the Franklin County Prosecutor's Office for a determination of whether criminal sanctions should be imposed against Appellant.

IT IS SO ORDERED.

  
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**DALE A. CRAWFORD, JUDGE**

Copies to:  
Kevin P. Byers, Counsel for Appellant  
Rebecca J. Albers, Counsel for Appellee

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

STATE MEDICAL BOARD  
OF OHIO

Mahesh C. Goel, MD,  
445 Richmond Park West, #402-B  
Cleveland, Ohio 44143  
Appellant,

v.

State Medical Board of Ohio,  
77 South High St., 17th Floor  
Columbus, Ohio 43266-0315  
Appellee.

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CASE NO. \_\_\_\_\_

JUDGE \_\_\_\_\_

Appeal from the State Medical Board of Ohio

APPELLANT'S NOTICE OF APPEAL

Pursuant to RC 119.12, notice is hereby given that Appellant, Mahesh C. Goel, MD, appeals the order of the State Medical Board mailed March 1, 2005, (copy attached as *Exhibit A*.) The Medical Board order is not supported by the necessary quantum of reliable, probative and substantial evidence nor is it in accordance with law.

Respectfully submitted,

KEVIN P. BYERS CO., L.P.A.

*Kevin P. Byers*

Kevin P. Byers 0040253  
Fifth Third Center  
21 East State Street, Suite 220  
Columbus, Ohio 43215  
614.228.6283 Fax 228.6425

Trial Attorney for Mahesh C. Goel, MD

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STATE MEDICAL BOARD  
OF OHIO

Certificate of Service

I certify that an original of the foregoing document was hand delivered this <sup>16<sup>th</sup></sup>~~9<sup>th</sup>~~ day of March, 2005, to the State Medical Board, 77 South High Street, 17th Floor, Columbus, Ohio 43215-0315.

KPB/Er S  
Kevin P. Byers

STATE MEDICAL BOARD  
OF OHIO

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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)

February 9, 2005

Mahesh Chand Goel, M.D.  
445 Richmond Park W., Apt. 2B  
Cleveland, OH 44143

Dear Doctor Goel:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Siobhan R. Clovis, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on February 9, 2005, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order.

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

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

THE STATE MEDICAL BOARD OF OHIO

Lance A. Talmage, M.D.  
Secretary

LAT:jam  
Enclosures

CERTIFIED MAIL NO. 7002 2410 0002 3141 3154  
RETURN RECEIPT REQUESTED

Cc: Kevin P. Byers, Esq.  
CERTIFIED MAIL NO. 7002 2410 0002 3141 3185  
RETURN RECEIPT REQUESTED

*Mailed 3-1-05*

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Siobhan R. Clovis, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on February 9, 2005, 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 Mahesh Chand Goel, 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)

February 9, 2005

Date

**BEFORE THE STATE MEDICAL BOARD OF OHIO**

IN THE MATTER OF

\*

\*

MAHESH CHAND GOEL, M.D.

\*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on February 9, 2005.

Upon the Report and Recommendation of Siobhan R. Clovis, State Medical Board Attorney Hearing Examiner, designated in this Matter pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the modification, approval and confirmation by vote of the Board on the above date, the following Order is hereby entered on the Journal of the State Medical Board of Ohio for the above date.

It is hereby ORDERED that:

The certificate of Mahesh Chand Goel, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED.

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

(SEAL)



Lance A. Talmage, M.D.  
Secretary

February 9, 2005  
Date

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**REPORT AND RECOMMENDATION  
IN THE MATTER OF MAHESH CHAND GOEL, M.D.**

The Matter of Mahesh Chand Goel, M.D., was heard by Siobhan R. Clovis, Esq., Hearing Examiner for the State Medical Board of Ohio, on November 23, 2004.

**INTRODUCTION**

I. Basis for Hearing

A. By letters dated September 8 and October 13, 2004, the State Medical Board of Ohio [Board] notified Mahesh Chand Goel, M.D., that it had proposed to determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate his certificate to practice medicine and surgery, or to reprimand him or place him on probation on the basis of the following allegations:

- Dr. Goel had provided false and/or incomplete information to the Board in his May 23, 2001, application for a training certificate; his May 20, 2002, application for a renewal of his training certificate; and his April 7, 2003, application for a license to practice medicine and surgery.
- Dr. Goel had submitted false and/or incomplete information in a "Prospective Staff Questionnaire" to the Cleveland Clinic Foundation, which had been signed and dated on or about May 5, 2003.
- Dr. Goel had provided false and/or incomplete information in an Ohio Department of Insurance Standardized Credentialing Form, which he had submitted on or about May 14, 2003, in response to a request from the Administrator of Professional Staff Affairs at the Cleveland Clinic Foundation.
- On or about January 26, 2004, the Professional Conduct Committee, General Medical Council of the United Kingdom, had found Dr. Goel guilty of serious professional misconduct and had suspended his registration for 12 months.
- On or about September 23, 2004, the West Virginia State Medical Board had denied Dr. Goel a license to practice medicine and surgery. The basis for the denial included Dr. Goel's providing a false and fraudulent misrepresentation in his application for medical licensure.

The Board alleged that Dr. Goel's acts, conduct, and/or omissions, individually and/or collectively, constitute:

- ““fraud, misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the board,’ as that clause is used in R.C. 4731.22(A).”
- ““[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board,’ as that clause is used in R.C. 4731.22(B)(5).”
- ““[a]ny of the following actions taken by the agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or the limited branches of medicine in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual’s license to practice; acceptance of an individual’s license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand,’ as that clause is used in R.C. 4731.22(B)(22).”

Accordingly, the Board advised Dr. Goel of his right to request a hearing in this matter. (State’s Exhibits 1A and 1K).

- B. On September 27 and October 29, 2004, Kevin P. Byers, Esq., submitted written hearing requests on behalf of Dr. Goel. (State’s Exhibit 1C and 1L).

## II. Appearances

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

## **EVIDENCE EXAMINED**

### I. Testimony Heard

- A. Presented by the State
1. Mahesh Chand Goel, M.D.

2. Charles A. Woodbeck, Esq.

B. Presented by the Respondent

Mahesh Chand Goel, M.D.

## II. Exhibits Examined

A. Presented by the State

1. State's Exhibits 1A through 1T: Procedural exhibits. (Note: State's Exhibit 1B is a patient key and has been sealed to protect patient privacy.)
2. State's Exhibit 2: Certified copies of documents maintained by the Board concerning Mahesh Chand Goel, M.D.
3. State's Exhibit 3: Copy of an August 31, 2004, letter to the Board from Helen Allen, Crown Prosecutor, with attached documents concerning a criminal action against Dr. Goel.
4. State's Exhibit 4: Copy of a January 28, 2004, report of the General Medical Council of the United Kingdom concerning Dr. Goel.
5. State's Exhibit 5: Certified copies of documents maintained by the West Virginia Board of Medicine concerning Dr. Goel.
6. State's Exhibit 6: Certified copies of documents maintained by Carmarthenshire NHS Trust concerning Dr. Goel.
7. State's Exhibit 7: Copy of an "Ohio Department of Insurance Standardized Credentialing Form" completed by Dr. Goel on May 14, 2003.
8. State's Exhibit 8: Copy of a "Prospective Staff Questionnaire" for the Cleveland Clinic Foundation completed by Dr. Goel on May 5, 2003.

B. Presented by the Respondent

1. Respondent's Exhibit A: Curriculum vitae of Mahesh Chand Goel, M.D.
2. Respondent's Exhibit B: Letters written in support of Dr. Goel. (Note: the State did not have an opportunity to cross-examine the authors of these letters).

### **PROCEDURAL MATTERS**

1. The Board issued two separate Notices of Opportunity for Hearing, on September 8 and October 13, 2004. The Respondent requested hearings in response to each notice. Since the matters in both notices appeared to be related, on November 8, 2004, the Hearing Examiner consolidated the matters with the consent of both parties. (State's Exhibit 1R).
2. The hearing record in this matter was held open until December 7, 2004, to give the Respondent an opportunity to submit additional evidence. These documents were timely submitted and entered into the record as a supplement to Respondent's Exhibit B. (See Hearing Transcript at 63-64).

### **SUMMARY OF THE EVIDENCE**

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

1. Mahesh Chand Goel, M.D., testified that his specialty is urology and kidney transplantation. (Hearing Transcript [Tr.] at 7). His curriculum vitae provides the following information about his medical career:
  - In 1987, Dr. Goel had attained his medical degree from the University College of Medical Sciences, GTB Nagar, Shahdara, Delhi, India.
  - In 1991, he had received a master's degree in surgery from the Government Medical College, Patiala, Punjab, India.
  - From 1993 through 1996, he had been a registrar in urology and transplantation in India. Dr. Goel testified that a registrar is similar to what is known as a resident in the United States.
  - From 1996 through 2000, Dr. Goel had been a registrar in the United Kingdom.
  - From 2001 through 2004, Dr. Goel had been a clinical fellow in urology/renal transplantation at the Cleveland Clinic Foundation [Cleveland Clinic].

(Respondent's Exhibit [Resp. Ex.] A).

Dr. Goel also testified that, in India, he had qualified for a "superspecialization" called "MCH," which is equivalent to a board certification. He further testified that, in the United Kingdom, he had completed a fellowship at the Royal College of Surgeons. (Tr. at 7).

2. Dr. Goel acknowledged that, while working as a registrar in the United Kingdom, he had mistakenly removed the healthy kidney, rather than the diseased kidney, of Patient 1 during an operation. On January 26, 2004, the Professional Conduct Committee [Committee] of the General Medical Council of the United Kingdom found proved allegations that Dr. Goel's conduct in the performance of that surgical procedure had been unprofessional, incompetent, and detrimental to the health and welfare of the patient. (Tr. at 8; State's Exhibit [St. Ex.]4 at 4). The Committee's report states, in pertinent part:

At the material times Mr Goel was working as a Registrar in the Urology Department of the Prince Phillip Hospital, Llanelli.

On 24 January 2000, Mr Goel performed, under the supervision of Mr John Gethin Roberts, a left nephrectomy on [Patient 1]. The patient had been admitted to the hospital on 23 January 2000 in order to undergo an operation for a right nephrectomy. Mr Goel had seen the patient on 15 July 1999 and noted from an ultrasound record and an arteriogram that his right kidney was non-functioning and that the right renal artery was blocked. Mr Goel arranged for an intravenous urogram to be carried out on 26 July 1999. Thereafter, Mr Goel correctly interpreted from the findings that the patient's right kidney was abnormal whereas his left kidney was functioning and draining normally. On 23 November 1999, Mr Goel reviewed the patient again in the Urology Clinic and, either by himself or with Mr Roberts, arranged for him to be admitted to the hospital in order to undergo a right-sided percutaneous nephrostomy. As this was not successful, the patient, on the advice of Mr Roberts, subsequently gave his consent in writing on 9 December 1999 to undergo a right nephrectomy. This operation was scheduled for 13 December 1999, but was cancelled due to the non-availability of a bed in the Intensive Therapy Unit. The operation was rescheduled for 24 January 2000.

Mr Goel became aware of the rescheduled date upon his return to work at the hospital on or about 13 December following a 10-day period of study leave. At some time after his return, Mr Goel made an incorrect entry into the Urology Department diary, using the information contained on a wrongly completed "to come in" ("TCI") slip. This TCI slip incorrectly indicated that he rescheduled operation was a left nephrectomy. Whilst this transcription error was not Mr Goel's fault, the Committee consider that Mr Goel should have been familiar with the clinical details of the patient. Mr Goel should have known that the operation to be performed was a right nephrectomy.

The Committee have heard that Mr Goel conducted a ward round on the morning of 24 January 2000 but did not speak to the patient as he was asleep. The Committee consider that, in these circumstances, it was imperative that Mr Goel should have taken extra care at this point to consult the available notes and records which included the signed consent forms. Mr Goel was the senior medical practitioner on the ward round and therefore he had the responsibility to ensure that the operation specified on the typed operating list was the correct operation to be carried out. Moreover, Mr Goel should have had a reasonable expectation that he might be called upon to operate on this patient. The Committee found [] Mr Goel's failures on the ward round to be unprofessional, incompetent and detrimental to the health and welfare of his patient.

Mr Goel was instructed in theatre by Mr Roberts that he was to carry out the operation. At this time, he again failed to consult the patient's notes and records, including the signed consent forms, and to view his X-rays properly. In addition Mr Goel did not ask Mr Roberts if he had consulted the patient's notes and records nor did he clarify the nature of the operation. Mr Goel also failed to observe that the X-rays had been placed back to front on the viewing box in the operating theatre.

The Committee heard that Mr Roberts had positioned the patient on the incorrect side in preparation for the operation. Nevertheless, they consider that, as the operating surgeon, Mr Goel had full delegated responsibility for the patient. Given the seriousness of the operation, in that the patient had only one normal functioning kidney, Mr Goel should have satisfied himself that he was about to carry out the correct operation. The Committee find that by failing to do so, Mr Goel breached his fundamental duty of care to his patient as Registrar.

In the course of carrying out the operation, Mr Goel divided and ligated the pulsating left renal artery. The Committee have heard from Mr. N2., an expert witness in Urology, that this was a key stage of the procedure when Mr Goel should have recognized that he was not operating on the correct side. This should have alerted him to the fact he was removing the wrong kidney.

The Committee consider that Mr Goel's failures in the operating theatre were unprofessional, incompetent, and detrimental to the health and welfare of his patient.

For all these reasons, the Committee consider that Mr. Goel's failures and omissions on 24 January 2000 demonstrated fundamental breaches of his duty of care to his patient.

The Committee recognize that Mr Goel has had an otherwise unblemished career with no previous complaints. They have borne in mind Mr. Goel's experience since his qualification as a medical practitioner in 1987 and have noted his curriculum vitae. They have also had regard to the fact that there were errors and omissions made by a number of other people which had a material impact on the sequence of events. Whilst there was a series of failures on 24 January 2000 on Mr Goel's part, the Committee have approached this case as a single isolated incident involving one patient.

Nevertheless, the Committee consider that as Registrar and operating surgeon, Mr Goel had a fundamental duty of care to ensure that he was familiar with the clinical condition of his patient and to ensure that he was carrying out the operation for which the patient had given his consent. Moreover, Mr Goel should have been aware of the grave implications for this patient of excising his only normal functioning kidney and that it was imperative that he should operate on the correct side.

The Committee, therefore, find Mr Goel guilty of serious professional misconduct.

\* \* \*

\* \* \* The Committee have therefore directed the Registrar to suspend Mr Goel's registration for a period of 12 months.

The Committee direct that before the end of the 12-month period of suspension, Mr Goel's case will be resumed. The Committee will consider at this hearing whether to reinstate Mr Goel's registration.

(St. Ex. 4 at 5-7).

Dr. Goel testified that he remains under suspension in the United Kingdom. However, he also testified that he does not intend to return to practice there. (Tr. at 29, 44).

Dr. Goel further advised that Dr. Roberts, who had been in charge of his training and had overseen the surgery, had received the same sanction as Dr. Goel. (Tr. at 44).

3. Dr. Goel was criminally charged for his conduct in the surgical procedure which resulted in the death of Patient 1. On September 17, 2001, in Llanelli, Wales, United Kingdom, Dr. Goel was arrested and charged with the following offense:

On 01/03/2000 at Morryston in the County of Swansea unlawfully killed [Patient 1] contrary to common law.

(St. Ex. 3 at 2, 5). Dr. Goel was granted bail with conditions, including the requirement that he remain in the United Kingdom and that he surrender to the custody of the Llanelli Magistrates Court at 9:30 a.m. on September 17, 2001. (St. Ex. 3 at 4).

Dr. Goel testified that the case had gone to trial, but that during the trial the charge had been dismissed. (Tr. at 43, 50).

4. Further, Dr. Goel was suspended from his position at Carmarthenshire NHS Trust (an organization which included Prince Phillip Hospital) because of his conduct which contributed to the death of Patient 1. (Tr. at 20, 35-36; St. Ex. 6 at 2). A letter dated February 1, 2000, and addressed to Dr. Goel, sets forth the following:

I am writing to you on behalf of the Carmarthenshire NHS [National Health Service] Trust, to confirm that a decision has been made to suspend you from your employment immediately on full pay and until further action.

The decision to suspend has been taken in the interests of both yourself and the continuing care of patients as a result of the series of events which led to a left nephrectomy being carried out on [Patient 1], as opposed to the planned right nephrectomy, on the 24<sup>th</sup> January 2000.

The current position is that preliminary enquiries have revealed that there has been an apparent failure in clinical procedures, which necessitate a comprehensive independent investigation. The Royal College of Surgeons have been instructed to carry out such an investigation which is to commence on Thursday 3<sup>rd</sup> February 2000. \* \* \* We would ask you to fully co-operate with their enquiries.

(St. Ex. 6 at 2).

In an October 8, 2004, letter to the Board, James Gutteridge, Solicitor for the Carmarthenshire NHS Trust, reported that Dr. Goel had not been allowed to treat any patients during his period of suspension. However, Dr. Goel remained employed with the Carmarthenshire NHS Trust, on full pay, until August 31, 2001, when his contract was terminated. (St. Ex. 6 at 1-2, 4).

Dr. Goel testified that, while on suspension, he was required to cooperate with the investigation into the death of Patient 1. He advised that he had completed paperwork during his suspension, but confirmed that he had not seen any patients during that time. (Tr. at 41, 45-47).

**Dr. Goel's May 23, 2001, Application for a Training Certificate**

5. On May 23, 2001, Dr. Goel submitted to the Board an application for a training certificate. In his application, he certified, under oath, that the information provided in his application was true, and he promised to notify the Board, in writing, of any changes to his answers to the questions in the ADDITIONAL INFORMATION section of the application, if any such changes were warranted prior to the issuance of the training certificate. (St. Ex. 2 at 13).

Dr. Goel was issued a training certificate on September 25, 2001. (St. Ex. 2 at 17).

6. In his application for a training certificate, Dr. Goel answered "NO" to the following question in the ADDITIONAL INFORMATION section:

2. Have you ever been warned, censured, disciplined, had admissions monitored, had privileges limited, had privileges suspended or terminated, been put on probation, or been requested to withdraw from or resign privileges at any hospital, nursing home, clinic, health maintenance organization, or other similar institution in which you have trained, been a staff member, or held privileges, for reasons other than failure to maintain records on a timely basis or failure to attend staff or section meetings? (Emphasis added.)

(St. Ex. 2 at 10).

In fact, as explained in more detail above, Dr. Goel had been suspended from his position with the Carmarthenshire NHS Trust on February 1, 2000. (St. Ex. 6 at 2).

7. In the "Resume of Activities" section of his application, Dr. Goel was instructed to list all activities in a chronological order using the month and year. For each activity, he was directed to specify the percentage of working time spent in clinical and administrative duties. Dr. Goel was also required to state, with particularity, his activities during any non-working time. (St. Ex. 2 at 7).

Below are Dr. Goel's entries in his "Resume of Activities" for the periods of September 1999 through July 2000, and August 2000 through February 2001.

<b>Mo.Yr. to Mo. Yr.</b>	<b>Hospital, University or Other, Complete Street Address, City, State/Country, Zip:</b>	<b>Position &amp; Department</b>	<b>% Clinical</b>	<b>% Admin.</b>
09 99 07 00	Carmarthenshire NHS Trust, Carmarthen, UK SA14 8QF	Registrar (Urology)	80	20

<b>Mo.Yr.to Mo. Yr.</b>	<b>Hospital, University or Other, Complete Street Address, City, State/Country, Zip:</b>	<b>Position &amp; Department</b>	<b>% Clinical</b>	<b>% Admin.</b>
08 00 02 01	Working for Exams & Occasional LOCUM, Bungalow 3, Burnley General Hospital, Burnley, UK BB10 2PQ			

(St. Ex. 2 at 9).

In fact, Dr. Goel was employed, at full pay, at Carmarthenshire NHS Trust through August 31, 2001, although he had been suspended on February 1, 2000. Dr. Goel explained that he had not included the entire period of his employment because, after he had been suspended, he had ceased working for Carmarthenshire NHS Trust, although he had continued to be paid. (Tr. at 21, 41-42, 45-47).

Further, Dr. Goel admitted that he had had no clinical duties during his suspension from February 1, 2000, through August 31, 2001. However, Dr. Goel suggested that he that “80% clinical / 20% administrative” figure had been an average of the entire time he had worked there, including the time he was under suspension. He advised that, before his suspension, 90 - 95% of his work had been clinical. (Tr. at 16, 20, 49).

8. On September 17, 2001, prior to the issuance of his training certificate, Dr. Goel had been charged with an unlawful killing in the United Kingdom. (St. Ex. 3 at 5). Despite this change in circumstances, Dr. Goel admitted that he had never updated his “NO” answer to the following question in the ADDITIONAL INFORMATION section of his application for a training certificate:

10. Have you ever been requested to appear before any board, bureau, department, agency, or other body, including those in Ohio, concerning allegations against you?

(Tr. at 11-13; St. Ex. 2 at 11).

**Dr. Goel’s May 20, 2002, Application for Renewal of his Training Certificate**

9. On May 20, 2002, Dr. Goel submitted an application for renewal of his training certificate, in which he certified, under penalty of loss of his right to participate in a training program in Ohio, that the information he had provided was true and correct in every respect.

(St. Ex. 2 at 2). However, Dr. Goel answered “No” to Question Number 5, which asked:

At any time since signing your last application for renewal of your Training Certificate have you:

Been notified by any board, bureau, department, agency, or other governmental body, **other than this board**, of any investigation concerning you, or any charges, allegations, or complaints filed against you? (Emphasis in original.)

(St. Ex. 2 at 2).

In fact, as shown in more detail above, on September 17, 2001, Dr. Goel had been a defendant in a criminal action in the Magistrates Court of Llanelli, Wales. (St. Ex. 3).

10. Further, Dr. Goel answered “No” to Question Number 4, which asked:

At any time since signing your last application for renewal of your training certificate have you:

Had any clinical privileges or other authority to practice suspended or revoked by any institution or program or have you been placed on probation for any reason other than academic performance? (Emphasis added.).

(St. Ex. 2 at 2).

In fact, as explained in more detail above, Dr. Goel had been suspended from the Carmarthenshire NHS Trust on February 1, 2000. (St. Ex. 6 at 2).

### **Dr. Goel’s April 7, 2003, Application for a License to Practice Medicine and Surgery**

11. On April 7, 2003, Dr. Goel submitted an application for a license to practice medicine and surgery in Ohio. In his application, Dr. Goel certified under oath that the information he had provided was true. (St. Ex. 2 at 65).

12. In the ADDITIONAL INFORMATION section of the application, Dr. Goel answered “No” to Question Number 2, which asked:

Have you ever been warned, censured, disciplined, had admissions monitored, had privileges limited, had privileges suspended or terminated, been put on probation, or been requested to withdraw from or resign privileges at any hospital, nursing home, clinic, health maintenance organization, or other similar institution in which you have trained, been a

staff member, or held privileges, for reasons other than failure to maintain records on a timely basis or failure to attend staff or section meetings?  
 (Emphasis added.)

(St. Ex. 2 at 25).

In fact, on February 1, 2000, the Carmarthenshire NHS Trust had suspended Dr. Goel, with full pay. The suspension continued through August 31, 2001, when Dr. Goel's contract was terminated. (St. Ex. 6 at 2, 4).

13. In the ADDITIONAL INFORMATION section of the application, Dr. Goel answered "No" to Question Number 10, which asked:

Have you ever been requested to appear before any board, bureau, department, agency, or other body, including those in Ohio, concerning allegations against you?

(St. Ex. 2 at 26).

In fact, on September 17, 2001, Dr. Goel had been charged with an unlawful killing and summoned to appear before the Magistrates Court in Llanelli, Wales. (St. Ex. 3).

14. In the "Resume of Activities" section of his application, Dr. Goel was required to list all activities in chronological order using the month and year, and to indicate the percentage of working time spent in clinical and administrative duties. (St. Ex. 2 at 22).

Below are Dr. Goel's entries for the periods of August 1998 through July 2000 and August 2000 through February 2001:

<b>Mo. Yr. to Mo. Yr.</b>	<b>Hospital, University or Other, Complete Street Address, City, State/Country, Zip:</b>	<b>Position &amp; Department</b>	<b>% Clinical</b>	<b>% Admin.</b>
08 98 07 00	South Wales Health Care (illegible entry), --Prince Philip Hospital/Dyfed, Carmarthen [sic] NHS Trust, Carmarthen, UK CF4 4XW	Registrar Urology (Locum)	80	20

<b>Mo. Yr. to Mo. Yr.</b>	<b>Hospital, University or Other, Complete Street Address, City, State/Country, Zip:</b>	<b>Position &amp; Department</b>	<b>% Clinical</b>	<b>% Admin.</b>
08 00 02 01	Working for USMLE & Step I/II/III, Bungalow 3, Burnley General Hospital, Burnley, UK BB10 2PQ			

(St. Ex. 2 at 23).

In fact, Dr. Goel was employed, at full pay, at Carmarthenshire NHS Trust through August 31, 2001, although he had been suspended on February 1, 2000. Dr. Goel explained that he had not included the entire period of his employment because, after he had been suspended, he had ceased working for Carmarthenshire NHS Trust, although he had continued to be paid. (Tr. at 21, 41-42, 45-47).

Further, Dr. Goel admitted that he had had no clinical duties during his suspension from February 1, 2000, through August 31, 2001. However, Dr. Goel suggested that the “80% clinical / 20% administrative” figure had been an average of the entire time he had worked there, including the time he was under suspension. He advised that, before his suspension, 90 - 95% of his work had been clinical. (Tr. at 16, 20, 49).

**Dr. Goel’s May 5, 2003, “Prospective Staff Questionnaire”**

15. On May 5, 2003, Dr. Goel signed and dated a “Prospective Staff Questionnaire” for the Cleveland Clinic Foundation Office of Professional Staff Affairs. Dr. Goel’s signature indicated that all information submitted by him had been true and complete to the best of his knowledge. (St. Ex. 8 at 8).

In the “Professional Status” section of the Questionnaire, Dr. Goel answered “No” to Question 6, which asked:

Has any hospital ever suspended, diminished, revoked, or failed to renew your privileges? (Emphasis added.)

(St. Ex. 8 at 7).

In fact, on February 21, 2000, Dr. Goel had been suspended from his position at the Carmarthenshire NHS Trust in the United Kingdom. (St. Ex. 6).

**Dr. Goel’s May 14, 2003, Ohio Department of Insurance Standardized Credentialing Form**

16. On May 14, 2003, in response to an April 13, 2003, request from the Administrator of Professional Staff Affairs at the Cleveland Clinic, Dr. Goel submitted a completed Ohio Department of Insurance Standardized Credentialing Form. (St. Ex. 7). The written request from the Administrator instructed the following:

Because the Office of Professional Affairs realizes the burden on our physicians to complete reams of paperwork, we have electronically transferred information from the applicant’s CCF [Cleveland Clinic Foundation] Questionnaire onto this form.

The applicant need only review the form and check off the answers on “Section X [Disclosure Information],” sign “Section XI [Affirmation of Information]” and date the form.

(St. Ex. 7).

On May 14, 2003, Dr. Goel signed and dated Section XI, the Affirmation of Information, thereby warranting that the information provided and responses given had been true and complete to the best of his knowledge and belief. (St. Ex. 7 at 14).

However, in Section X, Disclosure of Information, Dr. Goel had answered “No” to Question Number 9, which asked:

Have you ever been named as a defendant in any criminal case (excluding minor traffic infractions, but not DUIs)?

(St. Ex. 7 at 12).

In fact, on September 17, 2001, Dr. Goel had been criminally charged with an unlawful killing in Llanelli, Wales. (St. Ex. 3).

17. Dr. Goel also answered “No” to Question 4, which asked the following:

Has your hospital or facility medical staff membership or have your hospital or faculty professional privileges ever been voluntarily or involuntarily suspended, limited, revoked, denied, or surrendered for reasons related to professional competence or conduct, other than non-completion of medical records or are any such actions pending?  
(Emphasis added.)

(St. Ex. 7 at 12).

In fact, Dr. Goel had been suspended from his position with Carmarthenshire NHS Trust from February 1, 2000, through August 31, 2001, when his contract was terminated, because of his involvement in a wrong-site surgery. (St. Ex. 6).

### **Action of the West Virginia Board of Medicine**

18. On September 23, 2004, the West Virginia Board of Medicine [West Virginia Board] informed Dr. Goel that, on September 13, 2004, it had voted to deny him a license to practice medicine and surgery in West Virginia, because of his violations of the West Virginia Code. Specifically, the determination was based upon: the one-year suspension of Dr. Goel’s license in the United Kingdom; a false and fraudulent misrepresentation to an

application question; and the wrong-site surgery which had resulted in the death of Patient 1. (St. Ex. 5).

Dr. Goel testified that he had applied for a West Virginia license because he had had an academic job opportunity at the University of West Virginia. He advised that he is appealing the decision of the West Virginia Board. (Tr. at 52).

### **Dr. Goel's defense**

19. Dr. Goel testified that the reason that he had provided each of the false and/or incomplete answers was that he had believed that the questions related only to his activities in the United States. However, he could not point to any specific language which had restricted the questions to United States activities. Further, he acknowledged that he now understands that he should have provided complete information about his activities in the United Kingdom, and the actions against him there. (Tr. at 12, 14-15, 19, 22-26, 50-51).

Dr. Goel testified that he had not intended to deceive or mislead the Board. He advised that, in the future, he will consult the Board or an attorney if he is unsure of how to answer such questions. (Tr. at 50-53).

Dr. Goel advised that he currently works at the Cleveland Clinic doing research. He testified that his Ohio license is very important to him. (Tr. at 51, 53).

20. Dr. Goel submitted letters of support from friends and colleagues which praise his character and his medical skills. (Resp. Ex. B).

### **FINDINGS OF FACT**

1. a. On May 23, 2001, Mahesh Chand Goel, M.D., submitted an application to the Board for a training certificate. In submitting this application, Dr. Goel certified, under oath, that the information he had provided was true, and promised to notify the Board, in writing, of any changes to the answers to any of the questions in the ADDITIONAL INFORMATION section of the application, if such change in an answer was warranted at any time prior to licensure being granted to him.

In the ADDITIONAL INFORMATION section of the application, Dr. Goel responded "No" to Question Number 10, which asks the following:

Have you ever been requested to appear before any board, bureau, department, agency, or other body, including those in Ohio, concerning allegations against you?

In fact, on or about September 17, 2001, in Llanelli, Wales, United Kingdom, Dr. Goel were arrested and charged with the below offense:

Charge 1: On 01/03/2000, at Morryston, in the County of Swansea, unlawfully killed [Patient 1] Contrary to Common Law.

Dr. Goel was granted bail with conditions, including the conditions that he was not to leave the United Kingdom, and that he was under a duty to surrender to the custody of Llanelli Magistrates Court at 9:30 am on September 17, 2001.

Dr. Goel failed to notify the Board of the criminal charge, which warranted a change in his answer to Question Number 10, prior to the issuance of his training certificate on September 25, 2001.

- b. Further, in Dr. Goel's application for renewal of the above Training Certificate, submitted May 20, 2002, he certified that the information provided was true and correct in every respect.

Dr. Goel responded "No" to Question Number 5, which asks the following:

At any time since signing your last application for renewal of your Training Certificate have you:

Been notified by any board, bureau, department, agency, or other governmental body, **other than this board**, of any investigation concerning you, or any charges, allegations, or complaints filed against you. (Emphasis in the original.)

In fact, on or about September 17, 2001, in the Magistrates Court, Llanelli, Wales, Dr. Goel was the defendant on a criminal charge, as provided in Findings of Fact 1(a).

2. On April 7, 2003, Dr. Goel submitted an application for a license to practice medicine and surgery to the Board. In submitting this application, Dr. Goel certified under oath that the information he had provided was true.

In the ADDITIONAL INFORMATION section of this application, Dr. Goel responded "No" to Question Number 10, which asks:

Have you ever been requested to appear before any board, bureau, department, agency, or other body, including those in Ohio, concerning allegations against you?

In fact, on September 17, 2001, in the Magistrates Court, Llanelli, Wales, Dr. Goel was the defendant on a criminal charge, as provided in Findings of Fact 1(a).

3. In response to an April 13, 2003, request from the Administrator, Professional Staff Affairs, Cleveland Clinic Foundation, Cleveland Ohio, Dr. Goel submitted an Ohio Department of Insurance (ODI) Standardized Credentialing Form on May 14, 2003.

Dr. Goel was informed that the information from his "Applicant's Cleveland Clinic Foundation Questionnaire" had been electronically transferred to the form, and that he needed only to review the form and check off the answers in Section X, Disclosure Information, and sign and date Section XI, Affirmation of Information.

In Section XI, Affirmation of Information, which Dr. Goel signed and dated May 14, 2003, Dr. Goel warranted that all of the information provided and responses given were true and complete to the best of his knowledge and belief.

In Section X, Disclosure Information, Dr. Goel checked off the answer "No" to Question Number 9, which asks:

Have you ever been named as a defendant in any criminal case (excluding minor traffic infractions, but not DUIs)?

In fact, on September 17, 2001, in the Magistrates Court, Llanelli, Wales, you were the defendant on a criminal charge, as provided in Findings of Fact 1(a).

4. On January 26, 2004, the Professional Conduct Committee, General Medical Council of the United Kingdom, having found proved the allegations that Dr. Goel's conduct in the performance of a surgical procedure was unprofessional, incompetent and detrimental to the health and welfare of the patient, found Dr. Goel guilty of serious professional misconduct.

The General Medical Council of the United Kingdom contemporaneously directed the Registrar to suspend Dr. Goel's registration for a period of 12 months. Further, before the end of this period of suspension, Dr. Goel's case will be resumed by the General Medical Council of the United Kingdom, to consider whether or not to reinstate Dr. Goel's registration.

5. On May 23, 2001, Dr. Goel submitted to the Board an application for a training certificate. In submitting this application, he certified, under oath, that the information he had provided was true.
  - a. In the ADDITIONAL INFORMATION section of the above application, Dr. Goel

responded “No” to Question No. 2, which asks the following:

Have you ever been warned, censured, disciplined, had admissions monitored, had privileges limited, had privileges suspended or terminated, been put on probation, or been requested to withdraw from or resign privileges at any hospital, nursing home, clinic, health maintenance organization, or other similar institution in which you have trained, been a staff member, or held privileges, for reasons other than failure to maintain records on a timely basis or failure to attend staff or section meetings? (Emphasis added.)

In fact, on February 1, 2000, the Carmarthenshire National Health Service [NHS] Trust, Carmarthen, Wales, United Kingdom, suspended Dr. Goel’s employment immediately, on full pay, at Prince Philip Hospital, Llanelli, Wales, United Kingdom, as a result of the series of events which led to a left nephrectomy, as opposed to the planned right nephrectomy [wrong site surgery], on Patient 1, on January 24, 2000. Dr. Goel was not permitted to treat any patients during the period of suspension.

Further, the Carmarthenshire NHS Trust informed Dr. Goel that the suspension was taken in the interests of both himself and the continuing care of patients. He was informed that the Royal College of Surgeons had been instructed to carry out a comprehensive independent investigation, and he was requested to fully cooperate with their enquiries.

- b. In the Resume of Activities Section of the above Application, Dr. Goel was instructed to list all activities in a chronological order using the month and year. Further, he was to indicate the percentage of working time spent in clinical and administrative duties.

Below are his entries for the period September 1999 through July 2000:

<b>Mo. Yr. to Mo. Yr.</b>	<b>Hospital, University or Other, Complete Street Address, City, State/Country, Zip:</b>	<b>Position &amp; Department</b>	<b>% Clinical</b>	<b>% Admin.</b>
09 99 07 00	Carmarthenshire NHS Trust, Carmarthen, UK SA14 8QF	Registrar (Urology)	80	20

In fact, at the time of his February 1, 2000, suspension, as provided in Findings of Fact 5(a) above, Dr. Goel was still employed, on full pay, by the Carmarthenshire NHS Trust at the Prince Philip Hospital, Llanelli, Wales, United Kingdom.

Further, Dr. Goel remained employed, on full pay while suspended, by the Carmarthenshire NHS Trust until August 31, 2001.

Further, Dr. Goel had no clinical percentage working time from the above February 1, 2000, suspension through the termination of his employment by the Carmarthenshire NHS Trust, on August 31, 2001.

- c. In the Resume of Activities Section of the above Application, Dr. Goel was instructed to list all activities in a chronological order using the month and year. Further, for any non-working time Dr. Goel was required to state on the resume exactly what his activities were.

Below are his entries for the period August 2000 through February 2001:

<b>Mo. Yr. to Mo. Yr.</b>	<b>Hospital, University or Other, Complete Street Address, City, State/Country, Zip:</b>	<b>Position &amp; Department</b>	<b>% Clinical</b>	<b>% Admin.</b>
08 00 02 01	Working for Exams & Occasional LOCUM, Bungalow 3, Burnley General Hospital, Burnley, UK BB10 2PQ			

In fact, at the time of his February 1, 2000, suspension, as provided in Findings of Fact 5(a), Dr. Goel was still employed, on full pay, by the Carmarthenshire NHS Trust.

Further, he remained employed, on full pay while suspended, by the Carmarthenshire NHS Trust until August 31, 2001.

6. On April 7, 2003, Dr. Goel submitted an application for a license to practice medicine and surgery to the Board. In submitting this application, Dr. Goel certified under oath that the information provided was true.
- a. In the ADDITIONAL INFORMATION section of this application, Dr. Goel responded "No" to Question No. 2, which asks:

Have you ever been warned, censured, disciplined, had admissions monitored, had privileges limited, had privileges suspended or terminated, been put on probation, or been requested to withdraw from or resign privileges at any hospital, nursing home, clinic, health maintenance organization, or other similar institution in which you have trained, been a staff member, or held privileges, for reasons other than failure to

maintain records on a timely basis or failure to attend staff or section meetings? (Emphasis added.)

In fact, on February 1, 2000, the Carmarthenshire NHS Trust, Carmarthen, Wales, United Kingdom, suspended Dr. Goel's employment immediately, on full pay, as a result of the series of events which led to a left nephrectomy, as opposed to the planned right nephrectomy, on Patient 1 on January 24, 2000. Dr. Goel was not permitted to treat any patients during the period of suspension.

Further, the Carmarthenshire NHS Trust informed Dr. Goel that the suspension had been given in the interests of both himself and the continuing care of patients. Dr. Goel was informed that the Royal College of Surgeons had been instructed to carry out a comprehensive independent investigation, and Dr. Goel was requested to fully cooperate with their enquiries.

- b. In the Resume of Activities Section of the above Application, Dr. Goel was instructed to list all activities in a chronological order using the month and year. Further, he was to indicate the percentage of working time spent in clinical and administrative duties.

Below are his entries for the period August 1998 through July 2000:

<b>Mo. Yr. to Mo. Yr.</b>	<b>Hospital, University or Other, Complete Street Address, City, State/Country, Zip:</b>	<b>Position &amp; Department</b>	<b>% Clinical</b>	<b>% Admin.</b>
08 98 07 00	South Wales Health Care (illegible entry), --Prince Philip Hospital/Dyfed, Carmarthen [sic] NHS Trust, Carmarthen, UK CF4 4XW	Registrar Urology (Locum)	80	20

In fact, at the time of Dr. Goel's February 1, 2000, suspension, as provided in Findings of Fact 5(a) above, Dr. Goel was still employed, on full pay, by the Carmarthenshire NHS Trust for more than one year after his reported departure.

Further, Dr. Goel remained employed, on full pay while suspended, by the Carmarthenshire NHS Trust until August 31, 2001.

Further, Dr. Goel had no clinical percentage working time from the above February 1, 2000, suspension through the termination of his employment by the Carmarthenshire NHS Trust on August 31, 2001.

- c. In the Resume of Activities Section of the above Application, Dr. Goel was instructed to list all activities in a chronological order using the month and year. For any non-working time, Dr. Goel was required to state on the resume exactly what his activities were.

Below are his entries for the period August 2000 through February 2001:

<b>Mo. Yr. to Mo. Yr.</b>	<b>Hospital, University or Other, Complete Street Address, City, State/Country, Zip:</b>	<b>Position &amp; Department</b>	<b>% Clinical</b>	<b>% Admin.</b>
08 00 02 01	Working for USMLE & Step I/II/III, Bungalow 3, Burnley General Hospital, Burnley, UK BB10 2PQ			

In fact, at the time of Dr. Goel's February 1, 2000, suspension, as provided in Findings of Fact 5(a) above, he was still employed, on full pay, by the Carmarthenshire NHS Trust.

Further, he remained employed, on full pay, while suspended by the Carmarthenshire NHS Trust, until termination of his employment by the Carmarthenshire NHS Trust on August 31, 2001.

7. On May 20, 2002, Dr. Goel submitted an application for renewal of his training certificate. In submitting this application, he certified, under penalty of loss of his right to participate in the training program in the State of Ohio, that the information provided on this application for renewal was true and correct.

Dr. Goel responded "No" to Question No. 4., which asks:

At any time since signing your last application for renewal of your training certificate have you:

Had any clinical privileges or other authority to practice suspended or revoked by any institution or program or have you been placed on probation for any reason other than academic performance? (Emphasis added.)

In fact, on February 1, 2000, the Carmarthenshire NHS Trust, Carmarthen, Wales, United Kingdom, suspended Dr. Goel's employment immediately, on full pay, as a result of the series of events which led to a left nephrectomy, as opposed to the planned right nephrectomy [wrong site surgery], on Patient 1 on January 24, 2000. Dr. Goel was not permitted to treat any patients during the period of suspension.

Further, the Carmarthenshire NHS Trust informed Dr. Goel that the suspension was taken in the interests of both himself and the continuing care of patients. Dr. Goel was informed that the Royal College of Surgeons had been instructed to carry out a comprehensive independent investigation, and Dr. Goel was requested to fully cooperate with their enquiries.

Dr. Goel's suspension, on full pay, continued until the termination of his employment by the Carmarthenshire NHS Trust on August 31, 2001.

8. In response to an April 13, 2003, request from the Administrator, Professional Staff Affairs, Cleveland Clinic Foundation, Cleveland Ohio, Dr. Goel submitted the Ohio Department of Insurance ODI Standardized Credentialing Form on May 14, 2003.

Dr. Goel was informed that the information from his "Applicant's Cleveland Clinic Foundation Questionnaire" had been electronically transferred to the form, and that he needed only to review the form and check off the answers in Section X, Disclosure Information, and sign and date Section XI, Affirmation of Information.

In Section XI, Affirmation of Information, which Dr. Goel signed and dated on May 14, 2003, Dr. Goel warranted that all the information provided and responses given were true and complete to the best of his knowledge and belief.

In Section X, Disclosure Information, of the above Ohio Department of Insurance Standardized Credentialing Form, Dr. Goel checked off the answer "No" to Question No. 4, which asks:

Has your hospital or facility medical staff membership or have your hospital or faculty professional privileges ever been voluntarily or involuntarily suspended, limited, revoked, denied, or surrendered for reasons related to professional competence or conduct, other than non-completion of medical records or are any such actions pending?  
(Emphasis added.)

In fact, on February 1, 2000, the Carmarthenshire NHS Trust, Carmarthen, Wales, United Kingdom, suspended Dr. Goel's employment immediately, on full pay, as a result of the series of events which led to a left nephrectomy, as opposed to the planned right nephrectomy [wrong site surgery], on Patient 1, on January 24, 2000. Dr. Goel was not permitted to treat any patients during the period of suspension.

Further, the Carmarthenshire NHS Trust informed Dr. Goel that the suspension was taken in the interests of both himself and the continuing care of patients. Dr. Goel was informed the Royal College of Surgeons had been instructed to carry out a comprehensive independent investigation, and Dr. Goel was requested to fully cooperate with their enquiries.

9. On May 5, 2003, Dr. Goel signed and dated a “Prospective Staff Questionnaire The Cleveland Clinic Foundation,” which he submitted to the Cleveland Clinic Foundation Office of Professional Staff Affairs. Dr. Goel stated that all information submitted by him was true and complete to the best of his knowledge.

In the Professional Status section of the above Questionnaire, Dr. Goel responded “No” to the below Question No. 6:

Has any hospital ever suspended, diminished, revoked or failed to renew your privileges? (Emphasis added.)

In fact, on February 1, 2000, the Carmarthenshire NHS Trust, Carmarthen, Wales, United Kingdom, suspended Dr. Goel’s employment immediately, on full pay, as a result of the series of events which led to a left nephrectomy, as opposed to the planned right nephrectomy, on Patient 1 on January 24, 2000. Dr. Goel was not permitted to treat any patients during the period of suspension.

Further, the Carmarthenshire NHS Trust informed Dr. Goel that the suspension had been given in the interests of both himself and the continuing care of patients. Dr. Goel was informed that the Royal College of Surgeons had been instructed to carry out a comprehensive independent investigation, and Dr. Goel was requested to fully cooperate with their enquiries.

10. On September 23, 2004, the West Virginia State Medical Board [West Virginia Board] informed Dr. Goel that they had voted, on September 13, 2004, to deny him a license to practice medicine and surgery in West Virginia, due to violations of the West Virginia Code.

The basis for the West Virginia Board determination to deny Dr. Goel licensure included his presentation of an application for medical license with an answer to an application question, which was a false and fraudulent misrepresentation.

### CONCLUSIONS OF LAW

1. The acts, conduct, and/or omissions of Mahesh Chand Goel, M.D., as set forth in Findings of Fact 1, 2, 5, 6, and 7, individually and/or collectively constitute “fraud, misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the board,” as that clause is used in Section 4731.22(A), Ohio Revised Code.
2. The acts, conduct, and/or omissions of Dr. Goel as set forth in Findings of Fact 1, 2, 3, 5, 6, 7, 8, 9, and 10, individually and/or collectively constitute “[m]aking a false, fraudulent,

deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board,” as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

3. The January 26, 2004, Minutes of the General Medical Council of the United Kingdom, as set forth in Findings of Fact 4, constitutes “[a]ny of the following actions taken by the agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or the limited branches of medicine in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual’s license to practice; acceptance of an individual’s license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand,” as that clause is used in Section 4731.22(B)(22), Ohio Revised Code.

\* \* \* \* \*

The evidence demonstrates that Dr. Goel has lied numerous times to this Board, the West Virginia Board, and to the Cleveland Clinic. All of these lies stem from one tragic incident: his involvement in a wrong-site surgery which resulted in a patient’s death. Dr. Goel testified that he had not volunteered information about this incident because it had happened in Great Britain, and he had believed that the questions only concerned his activities in the United States. This is a poor rationalization for his deceit. Further, the incident about which he lied was extremely serious. For these reasons, permanent denial of an Ohio license is warranted.

However, Dr. Goel seems to be a physician who can be rehabilitated. He appeared truly remorseful at hearing. Further, he participated in the wrong-site surgery as a resident, and his supervising physician was found to be equally at fault. Great Britain did not permanently revoke his medical license for his involvement in the patient’s death. For these reasons, the Hearing Examiner submits that Dr. Goel should be allowed licensure with probationary conditions after serving a significant period of suspension.

### **PROPOSED ORDER**

It is hereby ORDERED that:

- A. The application of Mahesh Chand Goel, M.D., for a certificate to practice medicine and surgery in Ohio is GRANTED, provided that he otherwise meets all statutory and regulatory requirements. Immediately upon issuance, such certificate shall be suspended for an indefinite period of time, but not less than 18 months.

B. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Goel's certificate to practice medicine and surgery until all of the following conditions have been met:

1. **Application for Reinstatement or Restoration:** Dr. Goel shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
2. **Clinical Education Program:** At the time he submits his application for reinstatement or restoration, Dr. Goel shall provide acceptable documentation of satisfactory completion of a clinical education program, to be approved in advance by the Board or its designee. The clinical education program shall be related to the violations found in this matter. The exact number of hours and the specific content of the program shall be determined by the Board or its designee. The Board may require Dr. Goel to pass an examination related to the content of the program. This program shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education acquisition period(s) in which the program is completed.

In addition, at the time Dr. Goel submits the documentation of successful completion of the course, he shall also submit to the Board a written report describing the course, setting forth what he learned from the course, and identifying with specificity how he will apply what he has learned to his practice of medicine in the future.

3. **Professional Ethics Course:** At the time he submits his application for reinstatement or restoration, Dr. Goel shall provide acceptable documentation of successful completion of a course or courses dealing with professional ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education acquisition period(s) in which they are completed.

In addition, at the time Dr. Goel submits the documentation of successful completion of the course, he shall also submit to the Board a written report describing the course, setting forth what he learned from the course, and identifying with specificity how he will apply what he has learned to his practice of medicine in the future.

4. **Personal Ethics Course:** At the time he submits his application for reinstatement or restoration, Dr. Goel shall provide acceptable documentation of successful completion of a course or courses dealing with personal ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for

relicensure for the Continuing Medical Education acquisition period(s) in which they are completed.

In addition, at the time Dr. Goel submits the documentation of successful completion of the course, he shall also submit to the Board a written report describing the course, setting forth what he learned from the course, and identifying with specificity how he will apply what he has learned to his practice of medicine in the future.

5. **Additional Evidence of Fitness To Resume Practice:** In the event that Dr. Goel has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222 of the Revised Code to require additional evidence of his fitness to resume practice.

C. **PROBATION:** Upon reinstatement or restoration, Dr. Goel's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least two years:

1. **Obey the Law:** Dr. Goel shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.
2. **Declarations of Compliance:** Dr. Goel shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which Dr. Goel's certificate is restored or reinstated. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
3. **Personal Appearances:** Dr. Goel shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which Dr. Goel's certificate is restored or reinstated, or as otherwise directed by the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
4. **Practice Plan:** Within thirty days of the date of Dr. Goel's reinstatement or restoration, or as otherwise determined by the Board, Dr. Goel shall submit to the Board and receive its approval for a plan of practice in Ohio. The practice plan, unless otherwise determined by the Board, shall be limited to a supervised structured environment in which Dr. Goel's activities will be directly supervised and overseen by a monitoring physician approved by the Board. Dr. Goel shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

At the time Dr. Goel submits his practice plan, he shall also submit the name and curriculum vitae of a monitoring physician for prior written approval by the Secretary or Supervising Member of the Board. In approving an individual to serve in this capacity, the Secretary or Supervising Member will give preference to a physician who practices in the same locale as Dr. Goel and who is engaged in the same or similar practice specialty.

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

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

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

5. **Submit Surgical Records:** Dr. Goel shall submit copies of his surgical schedule, complete with patient names and procedures performed, and copies of the admitting history and physical, operative report, and the discharge summary for each patient upon whom he performed surgery. Dr. Goel shall certify that all such documents are complete and accurate. Documents submitted under this paragraph are "medical records" as defined in Section 149.43(A)(3), Ohio Revised Code, and shall not be subject to public disclosure. Dr. Goel shall ensure that the documents are forwarded to the Board on a quarterly basis and are received in the Board's offices no later than the due date for Dr. Goel's quarterly declaration.
6. **Observation by Another Surgeon:** Within thirty days of the date of Dr. Goel's reinstatement or restoration, or as otherwise determined by the Board, Dr. Goel shall submit for the Board's prior approval the name of a physician observer. The physician observer shall be a board certified surgeon, who shall scrub with Dr. Goel and shall personally observe Dr. Goel's performance of nephrectomies.

The physician observer for each procedure shall submit a written report of each such observed nephrectomy to the Board on a quarterly basis. In the event that the physician observer becomes unable or unwilling to serve in this capacity, Dr. Goel must immediately so notify the Board in writing, and make arrangements acceptable to the Board for another physician observer as soon as practicable. Dr. Goel shall further ensure that the previously designated physician observer also notifies the Board directly of the inability to continue to serve and the reasons therefore.

Moreover, Dr. Goel shall not perform any nephrectomy without a Board approved physician observer present until:

- a. Dr. Goel has been observed performing the procedure a minimum of fifteen times;
- b. The physician observer has submitted the reports to the Board; and
- c. The Board has notified Dr. Goel in writing that he may perform nephrectomies without a Board approved physician observer.

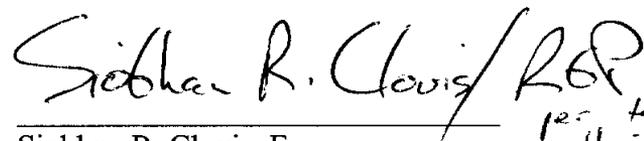
All reports of the physician observer required under this paragraph must be received in the Board's offices no later than the due date for Dr. Goel's quarterly declaration. It is Dr. Goel's responsibility to ensure that reports are timely submitted.

7. **Tolling of Probationary Period While Out of State:** In the event that Dr. Goel should leave Ohio for three consecutive months, or reside or practice outside the State, Dr. Goel must notify the Board in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of this probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that the purposes of the probationary monitoring are being fulfilled.
8. **Noncompliance Will Not Reduce Probationary Period:** In the event Dr. Goel is found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Order.
9. **Violation of Terms of Probation:** If Dr. Goel violates probation in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.

- D. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Goel's certificate will be fully restored.

- E. **REQUIRED REPORTING TO EMPLOYERS AND HOSPITALS:** Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Goel shall provide a copy of this Order to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Goel shall provide a copy of this Order to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments.
- F. **REQUIRED REPORTING TO OTHER STATE LICENSING AUTHORITIES:** Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Goel shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Dr. Goel shall also provide a copy of this Order by certified mail, return receipt requested, at the time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement or restoration of any professional license. Further, Dr. Goel shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt, unless otherwise determined by the Board.

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

  
Siobhan R. Clovis, Esq.  
Hearing Examiner

*per telephone authorization*



# State Medical Board of Ohio

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## EXCERPT FROM THE DRAFT MINUTES OF FEBRUARY 9, 2005

### REPORTS AND RECOMMENDATIONS

Dr. Davidson announced that the Board would now consider the findings and orders appearing on the Board's agenda. She 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: Emeka Obinna Ekwulugo, M.D.; Wenshi Gao, M.D.; Mahesh Chand Goel, M.D.; and Willie L. Josey, M.D. A roll call was taken:

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

Dr. Davidson 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. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye

Dr. Garg - aye  
Dr. Steinbergh - aye  
Dr. Davidson - aye

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

Dr. Davidson stated that if there were no objections, the Chair would dispense with the reading of the proposed findings of fact, conclusions and orders in the above matters. No objections were voiced by Board members present.

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

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MAHESH CHAND GOEL, M.D.

Dr. Davidson directed the Board's attention to the matter of Mahesh Chand Goel, M.D. She advised that objections were filed to Hearing Examiner Clovis' Report and Recommendation and were previously distributed to Board members; however, these objections were not filed in a timely manner. Dr. Davidson asked whether the Board members wished to admit the late objections into the record.

**DR. GARG MOVED TO ADMIT DR. GOEL'S OBJECTIONS INTO THE HEARING RECORD.  
DR. ROBBINS SECONDED THE MOTION.** A vote was taken:

Vote:

Mr. Albert	- abstain
Dr. Egner	- aye
Dr. Talmage	- abstain
Dr. Bhati	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Robbins	- aye
Dr. Garg	- aye
Dr. Steinbergh	- aye

The motion carried.

Dr. Davidson continued that a request to address the Board has been timely filed on behalf of Dr. Goel.

Five minutes would be allowed for that address.

Dr. Goel was accompanied by his attorney, Kevin Byers.

Dr. Goel thanked the Board for allowing him to appear before it. He apologized for taking the Board's valuable time.

Dr. Goel stated that he graduated from medical school in 1987, and he has had an unblemished medical career ever since, with the exception of this one tragic incident that happened in the United Kingdom. He has a family to look after, including his wife, two daughters, and his elder parents. Medicine is his only profession, and he is dependent upon this profession for his livelihood, as well as for a visa to live in this country.

Dr. Goel stated that he made a mistake in the United Kingdom that was a part of systems failure five years ago. He stressed the trauma and ordeal he has been through in the last five years. No one can turn the clock back. If he could, he would.

Dr. Goel stated that he wanted to pursue medical training in the United States and was preparing for the USMLE examinations long before this incident happened in the United Kingdom. He filed the Ohio State Medical Board training certificate application form with the best of his knowledge and understanding. He had no intention to misrepresent or to deceive the Board.

Dr. Goel continued that most of the events in the United Kingdom happened later in time. He answered the question with the perspective of the United States. He added that this information is easily available and accessible to anyone, either through the internet or through the media. It was stupid to think that one could escape from the regard of the licensing boards and not disclose information.

Dr. Goel stated that he personally informed the Federation of State Medical Boards when his license was suspended in the United Kingdom. He made a similar mistake on the application form for the West Virginia Board, despite the volunteer information he gave to the Federation of State Medical Boards.

Dr. Goel advised that the Board could look at his C.V. and find that he is an academically oriented person. He wants to pursue an academic area if he is permitted to do so. He was not involved in any other lawsuit, or even in a traffic violation incident during his entire life. These, as well as his recommendations can vouch for his character.

Dr. Goel asked the Board to note that he has had no clinical difficulties or any adverse incident in the past five years, since that particular incident. In retrospect, he now fully understands the mistakes made by himself on the application form. He asked the Board to note that all the mistakes are related to a single incident. Dr. Goel stated that he fully accepts his responsibility for these mistakes, and he is ready to accept any monitoring or oversight by the Board.

Dr. Goel stated that he has been through a lot in the last five years, and today his 20-year career in medicine is at stake, and his livelihood remains bleak. Dr. Goel asked that the Board be empathetic to himself and to his family, and to minimize its penalty. Dr. Goel assured the Board that he will deliver and maintain the highest standards of care.

Dr. Kumar advised that he had a couple of questions for Dr. Goel.

Dr. Davidson advised him to proceed.

Dr. Kumar stated that Dr. Goel's presentation had raised two questions. Dr. Kumar asked whether the Cleveland Clinic was aware of the U.K. incident when he applied for his residency there.

Dr. Goel stated that he had told them. He added that he didn't come as a resident, but in a fellowship. He indicated to them that he had had trouble in England.

Dr. Kumar noted that Dr. Goel raised the issue of his visa in his address. He asked what Dr. Goel's alien status is at this time, and noted that the paperwork the Board has indicates that the visa would expire on December 31, and asked for verification that the visa was renewed.

Dr. Goel indicated that that was correct.

Dr. Garg asked Dr. Goel if, when he was doing surgery, his attending, Mr. Roberts, was also scrubbed.

Dr. Goel stated that when he was doing the surgery, he was a registrar.

Dr. Garg stated that he knows that. He asked whether Mr. Roberts was also scrubbed.

Dr. Goel stated that Mr. Roberts positioned the patient and put everything in order. He added that Mr. Roberts was not scrubbed.

In response to Dr. Bhati's questions, Dr. Goel again stated that he did not position the patient. He added that he wasn't even in the room at the time the patient was positioned. He was taking care of the first patient. When he came into the room, the patient was already positioned, and the consultant asked him to go ahead and start the case. He indicated that he would join in very soon. With that intention in mind, he checked the name of the patient and started the surgery. He was under the impression that Mr. Roberts would join in with the surgery. Dr. Goel stated that all the events were going smoothly, so Mr. Roberts never scrubbed in that case.

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

Ms. Albers stated that the evidence in this case is very clear, in fact, overwhelming, that Dr. Goel made numerous misstatements, misrepresentations to this Board. Nowhere in any of the questions is the

applicant limited to what happened in the United States. The fact that the Board may have found out about this because of Internet access should have no bearing on the Board's decision. The Board's decision should be based upon the fact that Dr. Goel did not correctly answer the questions on the Board's application. Dr. Goel made misrepresentations. Ms. Albers stated that she doesn't believe Dr. Goel's testimony that he thought the questions only applied to the United States is credible.

Ms. Albers continued that the Hearing Examiner did a good job of setting out the evidence in this case, but she thinks this Board needs to question whether somebody who is willing to answer questions like he did on these applications should be permitted to practice in the State of Ohio. She asked the Board to consider that.

**DR. EGNER MOVED TO APPROVE AND CONFIRM MS. CLOVIS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF MAHESH CHAND GOEL, M.D. DR. ROBBINS SECONDED THE MOTION.**

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

Dr. Garg stated that he has the start of an amendment here. Dr. Garg advised that, first, the Medical Board staff has informed him that Dr. Goel is already licensed, not waiting for a license. The license was issued as a full license to practice medicine in June 2003.

Dr. Garg stated that Dr. Goel was suspended, as was his attending, Mr. Roberts, for one year in the United Kingdom. Dr. Garg spoke in favor of reducing the Proposed suspension from 18 months to one year.

Dr. Garg stated that there are some problems in this case. If the Order stands the way it is, there are certain things that will have to be changed in the Proposed Order. Dr. Garg stated that it is very true that once a patient is positioned, which the attending did himself, according to records, and you're asked to start the case, that's a pretty normal routine in any institution. He added that he knows it is in Great Britain, having worked there. The initial mistake was not with the attending, Mr. Roberts. The initial mistake was, when Dr. Goel came back from vacation, he made a wrong entry, putting the wrong side. That's where it started. Then there was a system failure: X-rays were put the other way around, so that they read "right" as "left," and vice-versa.

Dr. Garg stated that the most important thing is that, even if the mistake of starting on the wrong side was made, you're doing surgery for a nephrectomy, a diseased kidney with a blocked artery, and you get in and you find that the artery is pulsating, which indicates that the kidney probably looked very normal. It's not very difficult for a urologist to tell if it's a diseased kidney, a bad kidney or a normal kidney. Dr. Garg stated that he thinks that that's the reason the General Medical Council of the United Kingdom's Professional Conduct Committee was really perturbed and suspended both physicians for one year.

Dr. Garg stated that the reason he asked whether Mr. Roberts was scrubbed was because the whole responsibility for this case was Dr. Goel, because the attending never scrubbed. Dr. Garg stated that he

thinks that there is culpability here, and it's just not somebody who sutures a wound that didn't heal or something. The patient died in this case because one kidney was bad and the normal kidney was taken out. Dr. Garg stated that this is a serious mistake, and it's a very perturbing situation. Dr. Garg noted that Dr. Goel advised that he does take responsibility and that this was the only mistake. Dr. Garg commented that this was a big mistake and it could have been caught.

**DR. GARG MOVED TO AMEND THE PROPOSED ORDER TO REMOVE THE LANGUAGE GRANTING A LICENSE AND TO SUSPEND DR. GOEL'S LICENSE FOR 12 MONTHS RATHER THAN 18 MONTHS. DR. KUMAR SECONDED THE MOTION.**

Dr. Egner stated that she feels the Board has really gotten off track of what this case is about. This case has absolutely nothing to do with Dr. Goel's taking out the wrong kidney or making a medical error. Dr. Egner stated that the previous day she received something that listed medical errors by specialty, and urology was in there. Whenever you have that "right/left" thing, there can be a medical error. Dr. Egner stated that this case is about fraud, misrepresentation, and publishing a fraudulent statement. It is not about Dr. Goel's practice.

Dr. Egner stated that she doesn't find the explanation given, that Dr. Goel didn't know that the Board would also be referring to his practice in Great Britain, to be plausible. When Dr. Goel filled out his timeline of what he had done in practice, he included all of his training and practice in Great Britain. If his thinking that what he did in Great Britain has no meaning in the United States, why would he include that on his timeline? Dr. Egner stated that she believes that Dr. Goel purposely did not tell the Board because he didn't want the Board to know. Dr. Egner stated that she doesn't find this to be that much different from the first case the Board considered today. She added that, even today, Dr. Goel talks about having to support his family and his concern about his visa. Dr. Egner stated that that is germane to every single physician who comes before the Board. Every physician's livelihood is on the line. Dr. Egner stated that she doesn't feel that Dr. Goel should have a license in Ohio because he lied multiple, multiple times, and he meant to.

Dr. Garg stated that he doesn't disagree that Dr. Goel committed fraud in his application.

Dr. Robbins stated that he agrees totally with Dr. Egner. He stated that this case is about a fraudulent statement. Dr. Robbins commented that there's no defense for wrong-sited surgery, adding that it is the horror of the surgeon. Dr. Robbins stated that if it happened to him, he doesn't know that he could practice. There's no defense for that, and Dr. Goel suffered a price. Dr. Robbins continued, however, that if this happened to any physician, it is the first thing he or she would tell a licensing board, anywhere in the world. You would put it in an addendum. If the question isn't in there, and you're questioning whether they just want activities in the United States, you'll put it in there because this had such a profound effect on your life because of what happened. Dr. Robbins stated that he doesn't think that there's any defense for applying for a license, as Dr. Goel did, and not revealing this. Dr. Robbins spoke in favor of revocation.

Dr. Steinbergh stated that she absolutely concurs. Dr. Goel was disciplined for the case itself. The Board didn't charge him with that. The Board charged Dr. Goel for the fact that he had misrepresented the facts. The real issue is that he fraudulently applied. She added that he misrepresented himself going into the Cleveland Clinic; he misrepresented himself in West Virginia and in the State of Ohio.

Dr. Steinbergh stated that she's surprised to learn now that Dr. Goel has an Ohio license, but when she came to the Board it was her intent to permanently deny licensure.

**DR. STEINBERGH MOVED TO AMEND THE PROPOSED ORDER TO ENTER AN ORDER OF PERMANENT REVOCATION.**

Dr. Egner stated that there is already an amendment on the table.

**DR. GARG STATED THAT HE WOULD WITHDRAW HIS MOTION TO AMEND.  
DR. KUMAR, AS SECOND, AGREED TO THE WITHDRAWAL.**

Dr. Garg suggested amending the language by substituting the following for Paragraph A of the Proposed Order:

The certificate of Mahesh Chand Goel, M.D., to practice medicine and surgery in the State of Ohio shall be suspended for an indefinite period of time, but not less than 18 months.

Dr. Garg stated that then the Board can talk about revocation or whatever it is doing or not doing.

Ms. Lubow suggested that the Board might amend the Proposed Findings to include a finding that Dr. Goel holds a current license.

Ms. Sloan agreed with Dr. Egner, Dr. Steinbergh and Dr. Robbins. She looked at this case and she didn't see any difference from the first case the Board considered. She looked at how many times a questionnaire had to be answered by Dr. Goel and how many times the answer he gave was, "no." Ms. Sloan stated that she believes it started from the fact that he was trying to hide the wrong-site surgery, because it's ridiculous the number of times Dr. Goel incorrectly answered, "no." Ms. Sloan stated that she would not be in favor of allowing Dr. Goel a license in the State of Ohio.

Dr. Kumar stated that this really points out a system failure in multiple aspects, not only what happened in the U.K. But in one way it also points to the Board that it grants training licenses or full licenses without doing criminal background checks. The Board needs to seriously look at that.

Dr. Kumar stated that, in Dr. Goel's defense, he asked Dr. Goel a specific question about whether he told the Cleveland Clinic before he applied whether he had had this problem. Dr. Goel stated that he doesn't have any record to show that. The Board has to take his word for it, and Dr. Goel did say that he told the

Cleveland Clinic about the issue when he applied for his residency.

Dr. Kumar stated that there is no way that he can really accept Dr. Goel's explanation that he was filling out the application only for USA purposes. Dr. Kumar commented that he thinks that that was an attempt by Dr. Goel to cover it up. There's no question about it.

Dr. Kumar continued that, if Dr. Goel did not have that ethical problem, and if it were only a case of wrong-site surgery, he would be willing to give Dr. Goel a chance. But since the issue comes up as his not telling the truth and trying to cover it up, he can support revoking his license, as well.

**DR. STEINBERGH MOVED TO AMEND THE PROPOSED CONCLUSIONS OF LAW BY DELETING THE SECOND PARAGRAPH UNDER THE FIVE STARS, AND TO AMEND THE FIRST PARAGRAPH TO READ AS FOLLOWS:**

The evidence demonstrates that Dr. Goel has lied numerous times to this Board, the West Virginia Board, and to the Cleveland Clinic. All of these lies stem from one tragic incident: his involvement in a wrong-site surgery which resulted in a patient's death. Dr. Goel testified that he had not volunteered information about this incident because it had happened in Great Britain, and he had believed that the questions only concerned his activities in the United States. This is a poor rationalization for his deceit. Further, the incident about which he lied was extremely serious.

**DR. STEINBERGH FURTHER MOVED TO AMEND THE FINDINGS OF FACT TO ADD A FINDING THAT DR. GOEL DOES, IN FACT, HOLD OHIO LICENSE NO. 35.082727. DR. STEINBERGH FURTHER MOVED TO AMEND THE PROPOSED ORDER BY SUBSTITUTING AN ORDER OF PERMANENT REVOCATION OF HIS LICENSE. DR. ROBBINS SECONDED THE MOTION.**

Dr. Davidson stated that she would now entertain discussion on the motion to amend.

Dr. Buchan stated that he thinks that this case is different from the first case. There is not a pattern of deceitfulness in the sense of multiple incidents. There's not a pattern of abusive behavior or poor conduct or bad language. This is one incident. He stated that, although he agrees that the wrong-site surgery is a forgivable act, it is a horrific medical nightmare and is something that, hopefully, no Board member will have to endure; the deceitfulness and lying was the issue in this case.

Dr. Buchan continued that he tried to convince himself that Dr. Goel was just in such a significant state of denial on this issue because of the horrific nature of it, he made a bad, bad choice not to disclose this information. Dr. Buchan stated that one bad surgical outcome continued into a series of bad choices not to be forthright; that warrants sanction, but not revocation. Dr. Buchan stated that this man has training, and he believes Dr. Goel is salvageable. He added that they believed he was salvageable in the U.K. on the issue of wrong-site surgery. For the issue of deceitfulness, he thinks that Dr. Goel should sit out for a

year. He stated that he would underline and highlight the requirement for a professional ethics course and a personal ethics course. Dr. Buchan stated that he doesn't think that Dr. Goel needs to be retrained or monitored. Dr. Buchan concluded that he respects his colleagues' thoughts on this matter, but he doesn't think it rises to the level of permanent revocation for this physician. Dr. Goel has some redeeming qualities, and the horrific nature of this case, for him, allows some forgiveness on the matter.

Dr. Garg stated that Dr. Goel made a serious mistake and a patient died. Dr. Garg stated that he doesn't think that there is any question here that there is a denial when such a mistake happens. He added that he's probably learned a lesson of a lifetime. Dr. Garg stated that he thinks that there was a system failure, but he doesn't agree that there was a denial or should ever be a denial of that kind of fact. Dr. Garg stated that the only thing that the Board doesn't know is whether or not it's true that Dr. Goel thought he was supposed to write only about the United States and not about what happened outside the United States. Dr. Garg stated that, as Dr. Egner pointed out, you list everything: Where you trained, what you did, and if there had been any problem, you should list it. Dr. Garg stated that there is definitely a hiding of the fact there, that if he doesn't tell anyone, no one will know. What the Board does about it, he doesn't know at the moment.

Dr. Bhati stated that this is a difficult case. He stated that nobody denies that a serious, fatal medical error took place. That can happen to any physician, particularly in Dr. Goel's circumstances, where the patient has already been positioned. Dr. Bhati stated that that's not the issue here. The issue here is deceptive, fraudulent representation. He asked whether that justifies permanent revocation, and added that he's not sure about that. He stated that he would definitely agree with a suspension. As far as the clinical status of this doctor is concerned, which has not shown any fault like the first case discussed today in which there were problems after problems after problems in the residency programs, Dr. Bhati stated that he believes that this physician is salvageable. How that is done is a different issue.

Dr. Egner stated that one thing she would like to say is that if the Board is not going to go for a permanent revocation of Dr. Goel's license, then she definitely thinks that whatever is done should fall within the Disciplinary Guidelines, and those call for stayed permanent revocation, minimum one-year suspension, and 5-years' probation. No one has talked about placing a stayed permanent revocation on this case, should Dr. Goel be allowed to keep his license, and she thinks that that is very important – not because of the wrong-site surgery. Dr. Egner commented that she hadn't even read this case yet, when she operated this week, and even in the operating room they had a discussion about wrong-site surgery, and every nurse in that room was able to recall an incident. That's why there's such a focus on medical errors today. It has come to the public view, and physicians need to make amends for this. That's why today Dr. Goel should have fallen on the sword and said, "I did it, it will affect me for the rest of my life." Dr. Egner stated that she doesn't believe that Dr. Goel will ever do it again, and she hopes that it will live with him forever, as it would any surgeon. Dr. Egner stated that Dr. Goel didn't do that today, nor did he do it at the hearing. That's the crux of her problem. If Dr. Goel is going to maintain his license, it must be within the guidelines.

Mr. Browning agreed with Dr. Egner. He added that he doesn't understand the logic of reducing the

suspension period to one year. There was someone who was killed. It wasn't intentional, but somebody got killed. The Board members can say that they understand that, but this patient died. Now Dr. Goel lies about it repeatedly, and someone is suggesting a one-year suspension, which is a financial punishment.

Dr. Davidson suggested voting on Dr. Steinbergh's proposed amendment.

Dr. Garg stated that the question is fraud, not medical care. But if it was medical care, there were a lot of system failures. Dr. Garg stated that they are very conscious about that in the States because something is being done about it. You mark the knees, the head, the kidneys, and everybody checks and they ask the patient 20 times what is being done. Dr. Garg stated that he doesn't think that that is done in the other countries. Dr. Garg stated that there were too many people involved in this. Dr. Garg stated that he agrees that Dr. Goel is salvageable. He added that the Board doesn't know what Dr. Goel's record was in India, but knowing Great Britain, he stated that he is sure that they looked at the case and came up with a one-year suspension.

Dr. Steinbergh stated that Dr. Goel hadn't lied to the Board in Great Britain.

Dr. Garg agreed, stating that the case before the Board is lying, fraud. Whether it suspends Dr. Goel's license for one year, 18 months, five years, it doesn't matter. But the Board is dealing with misinformation. He added that he was very disappointed with Dr. Goel's presentation. He would have liked to hear Dr. Goel admit that he made all these mistakes, and he didn't. Dr. Garg stated that that was extremely disappointing for him.

Dr. Buchan stated that there is an amendment on the table, but he is in full agreement, based upon his significant feeling about the lying issue, that a stayed permanent revocation and suspension would be appropriate. He will write an order to follow, depending on the outcome of the vote on the amendment on the floor.

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

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Bhati	- nay
	Dr. Buchan	- nay
	Dr. Kumar	- nay
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Garg	- nay
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

The motion carried.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. CLOVIS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF MAHESH CHAND GOEL, M.D. DR. ROBBINS SECONDED THE MOTION.**

Dr. Davidson stated that she would entertain further discussion in this matter. There was no further discussion.

A vote was taken on Dr. Steinbergh's motion to approve and confirm, as amended:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Bhati	- nay
	Dr. Buchan	- nay
	Dr. Kumar	- nay
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Garg	- nay
	Dr. Steinbergh	- aye
	Dr. Davidson	- 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)

October 13, 2004

Mahesh Chand Goel, M.D.  
13885 Superior Road, #2507  
Cleveland, Ohio 44188

Dear Doctor Goel:

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

- (1) On or about May 23, 2001, you submitted an application for a State Medical Board of Ohio (Ohio Board) Training Certificate. In submitting this application, you certified, under oath, the information provided was true.
  - (a) In the ADDITIONAL INFORMATION section of the above application, you responded "No" to Question No. 2, which asks the following:

Have you ever been warned, censured, disciplined, had admissions monitored, had privileges limited, had privileges suspended or terminated, been put on probation, or been requested to withdraw from or resign privileges at any hospital, nursing home, clinic, health maintenance organization, or other similar institution in which you have trained, been a staff member, or held privileges, for reasons other than failure to maintain records on a timely basis or failure to attend staff or section meetings? [emphasis added].

In fact, on or about February 1, 2000, the Carmarthenshire National Health Service (NHS) Trust, Carmarthen, Wales, United Kingdom, suspended your employment immediately, on full pay, at Prince Philip Hospital, Llanelli, Wales, United Kingdom, as a result of the series of events which led to a left nephrectomy, as opposed to the planned right nephrectomy [wrong site surgery], on G.R., on January 24, 2000. You were not permitted to treat any patients during the period of suspension.

Further, the Carmarthenshire NHS Trust informed you the suspension was taken in the interests of both yourself and the continuing care of patients. You were informed the Royal College of Surgeons was instructed to carry out a comprehensive independent investigation, and you were requested to fully cooperate with their enquiries.

- (b) In the Resume of Activities Section of the above Application, you were instructed to list all activities in a chronological order using the month and year. Further, you were to indicate the percentage of working time spent in clinical and administrative duties.

*Mailed 10-14-04*

Below are your entries for the period 09/99 [September 1999] through 07/00 [July 2000]:

Mo.Yr.to Mo. Yr.	Hospital, University or Other, Complete Street Address, City, State/Country, Zip:	Position & Department	% Clinical	% Admin.
09 99 07 00	Carmarthenshire NHS Trust, Carmarthen, UK SA14 8QF	Registrar (Urology)	80	20

In fact, at the time of your February 1, 2000, suspension, as provided in paragraph (1)(a) above, you were still employed, on full pay, by the Carmarthenshire NHS Trust at the Prince Philip Hospital, Llanelli, Wales, United Kingdom.

Further, you remained employed, on full pay while suspended, by the Carmarthenshire NHS Trust at the Prince Philip Hospital until August 31, 2001.

Further, you had no clinical percentage working time from the above February 1, 2000, suspension through the termination of your employment at Prince Philip Hospital, Llanelli, Wales, by the Carmarthenshire NHS Trust, on August 31, 2001.

- (c) In the Resume of Activities Section of the above Application, you were instructed to list all activities in a chronological order using the month and year. Further, for any non-working time you were required to state on the resume exactly what your activities were.

Below are your entries for the period 08/00 [August 2000] through 02/01 [February 2001]:

Mo.Yr.to Mo. Yr.	Hospital, University or Other, Complete Street Address, City, State/Country, Zip:	Position & Department	% Clinical	% Admin.
08 00 02 01	Working for Exams & Occasional LOCUM, Bungalow 3, Burnley General Hospital, Burnley, UK BB10 2PQ			

In fact, at the time of your February 1, 2000, suspension, as provided in paragraph (1)(a) above, you were still employed, on full pay, by the Carmarthenshire NHS Trust at the Prince Philip Hospital, Llanelli, Wales, United Kingdom.

Further, you remained employed, on full pay while suspended, by the Carmarthenshire NHS Trust at the Prince Philip Hospital until August 31, 2001.

- (2) On or about April 7, 2003, you submitted an application for a license to practice medicine and surgery to the Ohio Board. In submitting this application, you certified under oath the information provided was true.
- (a) In the ADDITIONAL INFORMATION section of this application, you responded "No" to Question No. 2, which asks:

Have you ever been warned, censured, disciplined, had admissions monitored, had privileges limited, had privileges suspended or terminated, been put on

probation, or been requested to withdraw from or resign privileges at any hospital, nursing home, clinic, health maintenance organization, or other similar institution in which you have trained, been a staff member, or held privileges, for reasons other than failure to maintain records on a timely basis or failure to attend staff or section meetings? [emphasis added].

In fact, on or about February 1, 2000, the Carmarthenshire National Health Service (NHS) Trust, Carmarthen, Wales, United Kingdom, suspended your employment immediately, on full pay, at Prince Philip Hospital, Llanelli, Wales, United Kingdom, as a result of the series of events which led to a left nephrectomy, as opposed to the planned right nephrectomy [wrong site surgery], on G.R., on January 24, 2000. You were not permitted to treat any patients during the period of suspension.

Further, the Carmarthenshire NHS Trust informed you the suspension was taken in the interests of both yourself and the continuing care of patients. You were informed the Royal College of Surgeons was instructed to carry out a comprehensive independent investigation, and you were requested to fully cooperate with their enquiries.

- (b) In the Resume of Activities Section of the above Application, you were instructed to list all activities in a chronological order using the month and year. Further, you were to indicate the percentage of working time spent in clinical and administrative duties.

Below are your entries for the period 08/98 [August 1998] through through 7/00 [July 2000]:

Mo.Yr.to Mo. Yr.	Hospital, University or Other, Complete Street Address, City, State/Country, Zip:	Position & Department	% Clinical	% Admin.
08 98 07 00	South Wales Health Care (illegible entry), -- Prince Philip Hospital/Dyfed, Carmarthen [sic] NHS Trust, Carmarthen, UK CF4 4XW	Registrar Urology (Locum)	80	20

In fact, at the time of your February 1, 2000, suspension, as provided in paragraph (1)(a) above, you were still employed, on full pay, by the Carmarthenshire NHS Trust at the Prince Philip Hospital, Llanelli, Wales, United Kingdom, for more than one (1) year after your reported departure.

Further, you remained employed, on full pay while suspended, by the Carmarthenshire NHS Trust at the Prince Philip Hospital until August 31, 2001.

Further, you had no clinical percentage working time from the above February 1, 2000, suspension through the termination of your employment at Prince Philip Hospital, Llanelli, Wales, by the Carmarthenshire NHS Trust, on August 31, 2001.

- (c) In the Resume of Activities Section of the above Application, you were instructed to list all activities in a chronological order using the month and year. For any non-working time, you were required to state on the resume exactly what your activities were.

Below are your entries for the period 08/00 [August 2000] through 02/01 [February 2001]:

Mo.Yr.to Mo. Yr.	Hospital, University or Other, Complete Street Address, City, State/Country, Zip:	Position & Department	% Clinical	% Admin.
08 00 02 01	Working for USMLE & Step I/II/III, Bungalow 3, Burnley General Hospital, Burnley, UK BB10 2PQ			

In fact, at the time of your February 1, 2000, suspension, as provided in paragraph (1)(a) above, you were still employed, on full pay, by the Carmarthenshire NHS Trust at the Prince Philip Hospital, Llanelli, Wales, United Kingdom.

Further, you remained employed, on full pay, while suspended by the Carmarthenshire NHS Trust at the Prince Philip Hospital, until termination of your employment by the Carmarthenshire NHS Trust, on August 31, 2001.

- (3) On or about May 20, 2002, you submitted an application for renewal of your Ohio Board Training Certificate. In submitting this application, you certified, under penalty of loss of your right to participate in the training program in the State of Ohio that the information provided on this application for renewal was true and correct.

You responded “No” to Question No. 4.) which asks:

At any time since signing your last application for renewal of your training certificate have you:

Had any clinical privileges or other authority to practice suspended or revoked by any institution or program or have you been placed on probation for any reason other than academic performance? [emphasis added].

In fact, on or about February 1, 2000, the Carmarthenshire National Health Service (NHS) Trust, Carmarthen, Wales, United Kingdom, suspended your employment immediately, on full pay, at Prince Philip Hospital, Llanelli, Wales, United Kingdom, as a result of the series of events which led to a left nephrectomy, as opposed to the planned right nephrectomy [wrong site surgery], on G.R., on January 24, 2000. You were not permitted to treat any patients during the period of suspension.

Further, the Carmarthenshire NHS Trust informed you the suspension was taken in the interests of both yourself and the continuing care of patients. You were informed the Royal College of Surgeons was instructed to carry out a comprehensive independent investigation, and you were requested to fully cooperate with their enquiries.

Your suspension, on full pay, at the Prince Philip Hospital, Llanelli, Wales, continued until your termination of employment by the Carmarthenshire NHS Trust, on August 31, 2001.

- (4) In response to an April 13, 2003, request from the Administrator, Professional Staff Affairs, Cleveland Clinic Foundation, Cleveland Ohio, you submitted the Ohio Department of Insurance (ODI) Standardized Credentialing Form on or about May 14, 2003.

You were informed the information from your Applicant's Cleveland Clinic Foundation Questionnaire had been electronically transferred to the form, and you needed to only review the form and check off the answers in Section X, Disclosure Information, and sign and date Section XI, Affirmation of Information.

In Section XI, Affirmation of Information, which you signed and dated May 14, 2003, you warranted all the information provided and responses given were true and complete to the best of your knowledge and belief.

In Section X, Disclosure Information, of the above Ohio Department of Insurance Standardized Credentialing Form, you checked off the answer "No" to Question No. 4., which asks:

Has your hospital or facility medical staff membership or have your hospital or faculty professional privileges ever been voluntarily or involuntarily suspended, limited, revoked, denied, or surrendered for reasons related to professional competence or conduct, other than non-completion of medical records or are any such actions pending? [emphasis added].

In fact, on or about February 1, 2000, the Carmarthenshire NHS Trust, Carmarthen, Wales, United Kingdom, suspended your employment immediately, on full pay, at Prince Philip Hospital, Llanelli, Wales, United Kingdom, as a result of the series of events which led to a left nephrectomy, as opposed to the planned right nephrectomy [wrong site surgery], on G.R., on January 24, 2000. You were not permitted to treat any patients during the period of suspension.

Further, the Carmarthenshire NHS Trust informed you the suspension was taken in the interests of both yourself and the continuing care of patients. You were informed the Royal College of Surgeons was instructed to carry out a comprehensive independent investigation, and you were requested to fully cooperate with their enquiries.

- (5) On or about May 5, 2003, you signed and dated a "Prospective Staff Questionnaire The Cleveland Clinic Foundation, which you submitted to the Cleveland Clinic Foundation Office of Professional Staff Affairs. You stated all information submitted by you was true and complete to the best of your knowledge.

In the Professional Status section of the above Questionnaire, you responded "No" to the below Question No. 6:

Has any hospital ever suspended, diminished, revoked or failed to renew your privileges? [emphasis added].

In fact, on or about February 1, 2000, the Carmarthenshire NHS Trust, Carmarthen, Wales, United Kingdom, suspended your employment immediately, on full pay, at Prince Philip

Hospital, Llanelli, Wales, United Kingdom, as a result of the series of events which led to a left nephrectomy, as opposed to the planned right nephrectomy [wrong site surgery], on G.R., on January 24, 2000. You were not permitted to treat any patients during the period of suspension.

Further, the Carmarthenshire NHS Trust informed you the suspension was taken in the interests of both yourself and the continuing care of patients. You were informed the Royal College of Surgeons was instructed to carry out a comprehensive independent investigation, and you were requested to fully cooperate with their enquiries.

- (6) On or about September 23, 2004, the West Virginia State Medical Board (West Virginia Board) informed you they had voted, on or about September 13, 2004, to deny you a license to practice medicine and surgery in West Virginia, due to violations of the West Virginia Code.

The basis for the West Virginia Board determination to deny you licensure included your presentation of an application for medical license with an answer to an application question, which was a false and fraudulent misrepresentation. A copy of the West Virginia denial of licensure is attached hereto and incorporated herein.

Your acts, conduct, and/or omissions, as alleged in paragraphs one (1) through three (3) above, individually and/or collectively, constitute "fraud, misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the board," as that clause is used in R.C. 4731.22(A).

Further, your acts, conduct, and/or omissions, as alleged in paragraphs one (1) through six (6) above, individually and/or collectively, constitute "[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board," as that clause is used in R.C. 4731.22(B)(5).

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

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

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

Please note that, whether or not you request a hearing, R.C. 4731.22(L), 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/cw  
Enclosures

CERTIFIED MAIL # 7000 0600 0024 5142 2809  
RETURN RECEIPT REQUESTED

Duplicate Mailing  
445 Richmond Park West, #402B  
Cleveland, Ohio 44143

CERTIFIED MAIL # 7000 0600 0024 5142 2823  
RETURN RECEIPT REQUESTED

Kevin P. Byers, Esq.  
Kevin P. Byers Co., L.P.A.  
21 East State Street, Suite 220  
Columbus, Ohio 43215

CERTIFIED MAIL # 7000 0600 0024 5149 6015  
RETURN RECEIPT REQUESTED



R. Curtis Arnold, DPM  
South Charleston

Rev. Richard Bowyer  
Fairmont

Ahmed D. Faheem, MD  
Beckley

Ms. Doris M. Griffin  
Martinsburg

M. Khalid Hasan, MD  
Beckley

J. David Lynch, Jr., MD  
Morgantown

Vettivelu Maheswaran, MD  
Charles Town

Leonard Simmons, DPM  
Fairmont

Lee Elliott Smith, MD  
Princeton

John A. Wade, Jr., MD  
Point Pleasant

Kenneth Dean Wright, PA-C  
Huntington

# State of West Virginia

West Virginia Board of Medicine

101 Dee Drive, Suite 103

Charleston, WV 25311

Telephone (304) 558-2921

Fax (304) 558-2084

September 23, 2004

OHIO STATE MEDICAL BOARD

SEP 27 2004

Mahesh C. Goel, M.D.  
445 Richmond Park West #402-B  
Cleveland, Ohio 44143

**CERTIFIED MAIL**

Dear Dr. Goel:

At its regular meeting on September 13, 2004, the Board reviewed the matter of your application for a license to practice medicine and surgery in the State of West Virginia, and with a quorum present and voting, accepted the recommendation of the Licensure Committee in the matter. The Board voted to accept the Licensure Committee's recommendation that you be denied a license to practice medicine and surgery in the State of West Virginia.

The Board determined that you are unqualified to practice medicine and surgery in West Virginia due to violations of provisions of West Virginia Code §30-3-14(c)(1), (17) and (20) and 11 CSR 1A 12.1(a), (e), (g), (j) and (x), all relating to presenting false, fraudulent statements and misrepresentations in connection with your license application; unprofessional, unethical, and dishonorable conduct; having a license acted against in another jurisdiction; failing to practice medicine with that level of care, skill and treatment which is recognized by a reasonable, prudent physician engaged in the same or similar specialty as being acceptable under similar conditions or circumstances; and professional incompetence.

These determinations were based upon the following:

1. With respect to West Virginia Code §30-3-14(c)(17) and 11 CSR 1A 12.1(g) your medical license was suspended in England for a period of one year effective February 25, 2004.

PRESIDENT  
Angelo N. Georges, MD  
Wheeling

VICE PRESIDENT  
Carmen R. Rexrode, MD  
Moorefield

SECRETARY  
Catherine Slemp, MD, MPH  
Charleston

COUNSEL  
Deborah Lewis Rodecker  
Charleston

EXECUTIVE DIRECTOR  
Ronald D. Walton  
Charleston

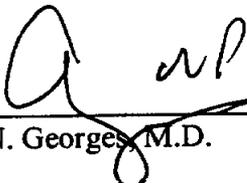
2. With respect to West Virginia Code §30-3-14(c)(1) and (17) and 11 CSR 1A 12.1(a), you presented an application for medical licensure to this Board in May, 2004, wherein you answered "no" to the question "Have you ever, in any jurisdiction, for any reason had limitations, restrictions or conditions placed upon your license to practice, or had your license to practice suspended, revoked or subjected to any kind of disciplinary action, including censure, reprimand or probation?" This answer was false and a fraudulent misrepresentation.
3. With respect to West Virginia Code §30-3-14(c)(17) and (20) and 11 CSR 1A 12.1(e), (j) and (x) the conduct resulting in the one year suspension was unprofessional, incompetent, detrimental to the health of a patient and below an acceptable standard of care.

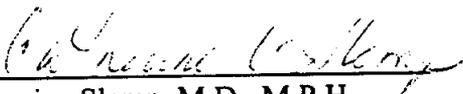
**OHIO STATE MEDICAL BOARD**

The Board determined that under all these circumstances it would not protect the public health, safety and welfare to issue you any kind of medical license and that it ~~is~~ <sup>is</sup> ~~not~~ <sup>is</sup> ~~in~~ <sup>is</sup> a professional environment that encourages the delivery of quality medical services within West Virginia to issue you any kind of medical license. You have failed to ~~meet your burden of~~ satisfying the Board of your qualifications for licensure under 11 CSR 1A 4.12.

**Notice of Appeal:** This matter is governed by West Virginia Code §30-3-14(c) and 11 CSR 3. This decision denying licensure may be appealed to the Board within thirty (30) days after the date upon which notice is received of the same.

West Virginia Board of Medicine

  
\_\_\_\_\_  
Angelo N. Georges, M.D.  
President

  
\_\_\_\_\_  
Catherine Slemp, M.D., M.P.H.  
Secretary



# 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)

September 8, 2004

**Mahesh Chand Goel, M.D.**  
13885 Superior Road, #2507  
Cleveland, Ohio 44188

Dear Doctor Goel:

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

- (1) (a) On or about May 23, 2001, you submitted an application for a State Medical Board of Ohio (Ohio Board) Training Certificate. In submitting this application, you certified, under oath, the information was true, and you promised to notify the Ohio Board, in writing, of any changes to the answers to any of the questions in the ADDITIONAL INFORMATION section of the application, if such change in an answer was warranted at any time prior to licensure being granted to you.

In the ADDITIONAL INFORMATION section of the above application, you responded "No" to Question Number 10, which asks the following:

Have you ever been requested to appear before any board, bureau, department, agency, or other body, including those in Ohio, concerning allegations against you?

In fact, on or about September 17, 2001, in Llanelli, Wales, United Kingdom, you were arrested and charged with the below offense:

Charge 1: On 01/03/2000, at Morriston, in the County of Swansea, unlawfully killed Patient 1 (as identified on the attached patient key—Key Confidential to be withheld from public disclosure). Contrary to Common Law.

You were granted bail with conditions, including you were not to leave the United Kingdom, and you were under a duty to surrender to the custody of Llanelli Magistrates Court at 9:30 am September 17, 2001.

You failed to notify the Ohio Board, of the above information, which would have warranted a change to the above answer, prior to the issuance of your Ohio Board Training Certificate on or about September 25, 2001.

*Mailed 9-9-04*

- (b) Further, in your application for renewal of the above Training Certificate, submitted May 20, 2002, you certified the information was true and correct in every respect.

You responded "No" to Question Number 5, which asks the following:

At any time since signing your last application for renewal of your Training Certificate have you:

Been notified by any board, bureau, department, agency, or other governmental body, **other than this board**, of any investigation concerning you, or any charges, allegations, or complaints filed against you. [Emphasis in the original].

In fact, on or about September 17, 2001, in the Magistrates Court, Llanelli, Wales, you were the defendant on a criminal charge, as provided more detail in paragraph one (1) above.

- (2) On or about April 7, 2003, you submitted an application for a license to practice medicine and surgery to the Ohio Board. In submitting this application, you certified under oath the information provided was true.

In the ADDITIONAL INFORMATION section of this application, you responded "No" to Question Number 10, which asks:

Have you ever been requested to appear before any board, bureau, department, agency, or other body, including those in Ohio, concerning allegations against you?

In fact, on or about September 17, 2001, in the Magistrates Court, Llanelli, Wales, you were the defendant on a criminal charge, as provided more detail in paragraph one (1) above.

- (3) In response to an April 13, 2003, request from the Administrator, Professional Staff Affairs, Cleveland Clinic Foundation, Cleveland Ohio, you submitted the Ohio Department of Insurance (ODI) Standardized Credentialing Form on or about May 14, 2003.

You were informed the information from your Applicant's Cleveland Clinic Foundation Questionnaire had been electronically transferred to the form, and you needed to only review the form and check off the answers in Section X, Disclosure Information, and sign and date Section XI, Affirmation of Information.

In Section XI, Affirmation of Information, which you signed and dated May 14, 2003, you warranted all the information provided and responses given were true and complete to the best of your knowledge and belief.

In Section X, Disclosure Information, of the above Ohio Department of Insurance Standardized Credentialing Form, you checked off the answer "No" to Question Number 9, which asks:

Have you ever been named as a defendant in any criminal case (excluding minor traffic infractions, but not DUIs)?

In fact, on or about September 17, 2001, in the Magistrates Court, Llanelli, Wales, you were the defendant on a criminal charge, as provided more detail in paragraph one (1) above.

- (4) On or about January 26, 2004, the Professional Conduct Committee, General Medical Council of the United Kingdom (General Medical Council of the United Kingdom), having found proved the allegations your conduct [in the performance of a surgical procedure] was unprofessional, incompetent and detrimental to the health and welfare of the patient, then found you guilty of serious professional misconduct.

The General Medical Council of the United Kingdom contemporaneously directed the Registrar to suspend your registration for a period of twelve (12) months. Further, before the end of this period of suspension, your case will be resumed by the General Medical Council of the United Kingdom, to consider whether or not to reinstate your registration.

Your underlying conduct is provided in detail in the January 26, 2004, Minutes of the General Medical Council of the United Kingdom, a copy of which is attached hereto and incorporated herein.

Your acts, conduct, and/or omissions as alleged in paragraphs one (1) and two (2) above, individually and/or collectively, constitute "fraud, misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the board," as that clause is used in R.C. 4731.22(A).

Further, your acts, conduct, and/or omissions as alleged in paragraphs one (1), two (2) and three (3) above, individually and/or collectively, constitute "[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board," as that clause is used in R.C. 4731.22(B)(5).

Further, the January 26, 2004, Minutes of the General Medical Council of the United Kingdom, as alleged in paragraph four (4) above, constitute "[a]ny of the following actions taken by the agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or the limited branches of medicine in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand," as that clause is used in R.C. 4731.22(B)(22).

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

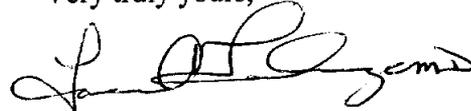
You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at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

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

Please note that, whether or not you request a hearing, R.C. 4731.22(L), 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/cw  
Enclosures

CERTIFIED MAIL # 7000 0600 0024 5142 2922  
RETURN RECEIPT REQUESTED

445 Richmond Park West, #402B  
Cleveland, Ohio 44143

CERTIFIED MAIL # 7000 0600 0024 5142 2915  
RETURN RECEIPT REQUESTED

13th July 2004

Dear Mr :

Please find attached a signed copy of the minutes in the case of Dr M Goel.

kind regards

Clairie Riley

**GENERAL  
MEDICAL  
COUNCIL**

*Protecting patients,  
guiding doctors*

5th Floor St James's Buildings 79 Oxford Street Manchester M1 6FQ Telephone 0845 357 8001 Fax 0845 357 9001  
email [gmc@gmc-uk.org](mailto:gmc@gmc-uk.org) [www.gmc-uk.org](http://www.gmc-uk.org)  
Registered Charity 1089278

**Date of Hearing:** 12 – 23 January 2004  
**Name of respondent doctor:** Mahesh Chand GOEL  
**Registration Number:** 4503394  
**Registered Qualifications:** MB BS 1987 Delhi  
**Registered Address:** Department of Urology  
Prince Philip Hospital  
Bryngwyn Mawr  
Llanelli  
Dafen  
SA14 8QF

**Date of Hearing:** 12 – 23 January 2004  
**Name of respondent doctor:** John Gethin ROBERTS  
**Registration Number:** 0694988  
**Registered Qualifications:** BM BCh 1967 Oxfd SR  
**Registered Address:** 45 Pastoral Way  
Sketty  
Swansea  
West Glamorgan  
SA2 9LY

**Panel:** Dr C Bharucha (Chair)  
Dr J Appleyard  
Dr N Hester  
Mr R Kyle  
Dr P Wilkie

**Legal Assessor:** Mr K Hamer

**Committee Secretary:** Victoria Miles  
Peter Gray

**Type of Case:** New Conduct

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**Representation:**

*GMC:*

Mr Leighton Davies, QC instructed by Mills and Reeve Solicitors, represented the Council.

*Doctor:*

Mr Goel was not present and was not represented.

Mr Roberts was present and was represented by Mr Alan Jenkins, Counsel instructed by the Medical Defence Union.

**Charge:**

**Mr Mahesh Chand GOEL**

"That, being registered under the Medical Act,

'1. At the material times you were working as a Registrar in the Urology Department of the Prince Philip Hospital, Llanelli;

**Admitted and Found Proved**

'2. On 24 January 2000 you performed under the supervision of the Consultant Surgeon in Urology, Mr John Gethin Roberts., a left nephrectomy upon John Graham R1. ('the patient');

**Admitted and Found Proved**

'3. The patient had been admitted to the hospital on 23 January 2000 in order to undergo an operation for a right nephrectomy, as you should have known by reason of the following facts and matters,

**Admitted and Found Proved**

a. You saw the patient in the Urology Clinic on 15 July 1999 and noted from an ultrasound record and an arteriogram that his right kidney was non-functioning and that the right renal artery was blocked by a stone,

**Admitted and Found Proved**

b. On 15 July 1999 you arranged for an intravenous urogram to be carried out upon the patient on 26 July 1999,

**Admitted and Found Proved**

c. Thereafter you correctly interpreted from the findings that the patient's right kidney was abnormal whereas his left kidney was functioning and draining normally,

**Admitted and Found Proved**

d. On 23 November 1999 you again saw and reviewed the patient in the Urology Clinic and, either by yourself or together with Mr John Gethin Roberts, arranged for him to be admitted to the hospital on 7 December 1999 in order to undergo a right-sided percutaneous nephrostomy;

**Admitted and Found Proved**

'4. The percutaneous nephrostomy was not carried out successfully, and the patient, on the advice of Mr John Gethin Roberts, consented in writing on 9 December 1999 to undergo a right nephrectomy;

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**Admitted and Found Proved**

'5. This operation was scheduled for 13 December 1999, but cancelled and re-scheduled for 24 January 2000

**Admitted and Found Proved**

a. You became aware of the re-scheduled date upon your return to work at the hospital on or about 13 December 1999 following an absence of 10-day study leave,

**Admitted and Found Proved**

b. However, notwithstanding the knowledge which you had or should have had that the patient's left kidney was normal, at some stage following your return to work you made an entry in the Urology Department diary that the re-scheduled operation was to be a left nephrectomy;

**Found Proved**

'6. Prior to the patient's operation on 24 January 2000 you saw him in the course of your early morning ward round and, although you knew that you would or might operate upon him later that day you failed to ascertain during the round that the operation which ought to be performed was a right nephrectomy and not a left nephrectomy as specified on the typed Operating List, either by,

**Found Proved**

a. Asking the patient, or

**Found Proved**

b. By consulting his available notes and records (including the Consent Forms which he had signed), or

**Found Proved**

c. By looking at his X-rays;

**Found Proved**

'7. When you became aware that you were to carry out the operation upon the patient you failed,

**Found Proved**

a. To consult his notes and records (which included signed Consent Forms, dated 9 December 1999 and 21 January 2000 respectively, to a right nephrectomy),

**Found Proved**

b. To view, properly or at all, his X-rays on the Theatre viewing-box,

**Found Proved**

c. To observe that his X-rays had been placed back to front on the viewing-box,

**Found Proved**

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d. To ask Mr John Gethin Roberts whether he had consulted the patient's notes and records,  
**Found Proved**

e. To discuss or to clarify with Mr John Gethin Roberts the nature of the operation which the patient was to, or should, undergo;  
**Found Proved**

'8. You proceeded wrongfully to carry out a left nephrectomy upon the patient without taking any or any adequate steps to ensure that such an operation was one which he should have undergone and to which he had consented;  
**Found Proved**

'9. In the course of carrying out the operation,

a. You divided and ligated the patient's pulsating left renal artery,  
**Found Proved**

b. This ought to have alerted you to the fact that you were performing a nephrectomy on the wrong side,  
**Found Proved**

c. You continued with the operation;  
**Found Proved**

'10. You excised the patient's only good kidney, thereby leaving him with no effectual renal function;  
**Found Proved**

'11. Your conduct as set out above was discretely and/or cumulatively,

a. Unprofessional,  
**Found Proved**

b. Incompetent,  
**Found Proved**

c. ....

d. Detrimental to the health and welfare of the patient;  
**Found Proved**

"And that in relation to the facts alleged you have been guilty of serious professional misconduct."

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**Determination:**

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"I address my remarks to you as Mr Goel is not present and is not represented.

At the material times Mr Goel was working as a Registrar in the Urology Department of the Prince Phillip Hospital, Llanelli.

On 24 January 2000, Mr Goel performed, under the supervision of Mr John Gethin Roberts, a left nephrectomy on Mr J G R1. ("the patient"). The patient had been admitted to the hospital on 23 January 2000 in order to undergo an operation for a right nephrectomy. Mr Goel had seen the patient on 15 July 1999 and noted from an ultrasound record and an arteriogram that his right kidney was non-functioning and that the right renal artery was blocked. Mr Goel arranged for an intravenous urogram to be carried out on 26 July 1999. Thereafter, Mr Goel correctly interpreted from the findings that the patient's right kidney was abnormal whereas his left kidney was functioning and draining normally. On 23 November 1999, Mr Goel reviewed the patient again in the Urology Clinic and, either by himself or with Mr Roberts, arranged for him to be admitted to the hospital in order to undergo a right-sided percutaneous nephrostomy. As this was not successful, the patient, on the advice of Mr Roberts, subsequently gave his consent in writing on 9 December 1999 to undergo a right nephrectomy. This operation was scheduled for 13 December 1999, but was cancelled due to the non-availability of a bed in the Intensive Therapy Unit. The operation was rescheduled for 24 January 2000.

Mr Goel became aware of the rescheduled date upon his return to work at the hospital on or about 13 December following a 10-day period of study leave. At some time after his return, Mr Goel made an incorrect entry into the Urology Department diary, using the information contained on a wrongly completed "to come in" ("TCI") slip. This TCI slip incorrectly indicated that the rescheduled operation was a left nephrectomy. Whilst this transcription error was not Mr Goel's fault, the Committee consider that Mr Goel should have been familiar with the clinical details of the patient. Mr Goel should have known that the operation to be performed was a right nephrectomy.

The Committee have heard that Mr Goel conducted a ward round on the morning of 24 January 2000 but did not speak to the patient as he was asleep. The Committee consider that, in these circumstances, it was imperative that Mr Goel should have taken extra care at this point to consult the available notes and records which included the signed consent forms. Mr Goel was the senior medical practitioner on the ward round and therefore he had the responsibility to ensure that the operation specified on the typed operating list was the correct operation to be carried out. Moreover, Mr Goel should have had a reasonable expectation that he might be called upon to operate on this patient. The Committee found that Mr Goel's failures on the ward round to be unprofessional, incompetent and detrimental to the health and welfare of his patient.

Mr Goel was instructed in theatre by Mr Roberts that he was to carry out the operation. At this time, he again failed to consult the patient's notes and records, including the signed consent forms, and to view his X-rays properly. In addition Mr Goel did not ask Mr Roberts if he had consulted the patient's notes and records nor did he clarify the nature of the operation. Mr Goel also failed to observe that the X-rays had been placed back to front on the viewing box in the operating theatre.

The Committee heard that Mr Roberts had positioned the patient on the incorrect side in preparation for the operation. Nevertheless, they consider that, as the operating surgeon, Mr Goel had full delegated responsibility for the patient. Given the seriousness of the operation, in that the patient had only one normal functioning kidney, Mr Goel should have satisfied himself that he was about to carry out the correct operation. The Committee find that by failing to do so, Mr Goel breached his fundamental duty of care to his patient as Registrar.

In the course of carrying out the operation, Mr Goel divided and ligated the pulsating left renal artery. The Committee have heard from Mr Nz., an expert witness in Urology, that this was a key stage of the procedure when Mr Goel should have recognised that he was not operating on the correct side. This should have alerted him to the fact he was removing the wrong kidney.

The Committee consider that Mr Goel's failures in the operating theatre were unprofessional, incompetent and detrimental to the health and welfare of his patient.

For all these reasons, the Committee consider that Mr Goel's failures and omissions on 24 January 2000 demonstrated fundamental breaches of his duty of care to his patient.

The Committee recognise that Mr Goel has had an otherwise unblemished career with no previous complaints. They have borne in mind Mr Goel's experience since his qualification as a medical practitioner in 1987 and have noted his curriculum vitae. They have also had regard to the fact that there were errors and omissions made by a number of other people which had a material impact on the sequence of events. Whilst there was a series of failures on 24 January 2000 on Mr Goel's part, the Committee have approached this case as a single isolated incident involving one patient.

Nevertheless, the Committee consider that as Registrar and operating surgeon, Mr Goel had a fundamental duty of care to ensure that he was familiar with the clinical condition of his patient and to ensure that he was carrying out the operation for which the patient had given his consent. Moreover, Mr Goel should have been aware of the grave implications for this patient of excising his only normal functioning kidney and that it was imperative that he should operate on the correct side.

The Committee, therefore, find Mr Goel guilty of serious professional misconduct.

In view of the seriousness of Mr Goel's failures to ensure patient care in this case, the Committee have decided that it is necessary to take action against Mr Goel's registration. They have considered the range of sanctions available and have also taken account of the advice provided in the Indicative Sanctions Guidance published by the GMC. They have had regard to public confidence in the profession and the protection of the public. They have also balanced the interests of patient safety and the public interest against Mr Goel's interests. The Committee have also taken into account the issue of proportionality.

In view of the serious nature of their findings, the Committee do not consider that it would be sufficient to conclude this case with no action. Neither would a reprimand suffice. The Committee then considered whether to impose conditions on Mr Goel's registration. They have concluded that, in all the circumstances of this case, conditions would not be appropriate.

The Committee then went on to consider whether to conclude the case by suspending Mr Goel's registration. They have concluded that the nature of the findings against Mr Goel are so serious, that suspension is the appropriate sanction and on the facts of this case, erasure would be disproportionate. The Committee have therefore directed the Registrar to suspend Mr Goel's registration for a period of 12 months.

The Committee direct that before the end of the 12 month period of suspension, Mr Goel's case will be resumed. The Committee will consider at this hearing whether to reinstate Mr Goel's registration. Mr Goel will be informed of the date of that meeting, which he will be expected to attend in person. At the resumed hearing, the Committee will expect Mr Goel to satisfy them that he has fully appreciated the gravity of the events which have led to his suspension. They will also wish to be satisfied that he has taken necessary steps to prevent the failures and omissions that occurred in this case from re-occurring.

The effect of the foregoing direction is that, unless Mr Goel exercises his right of appeal, his registration will be suspended for a period of 12 months beginning 28 days from the date when written notice of this decision is deemed to have been served upon him.

That concludes the hearing in relation to Mr Goel".

### **John Gethin ROBERTS**

"That, being registered under the Medical Act,

'1. At the material times were working as a Consultant in Urology at the Prince Philip Hospital, Llanelli;

**Admitted and Found Proved**

'2. On 24 January 2000, at the said hospital, your Registrar (Mr Mahesh Goel) performed in your presence and under your supervision a left nephrectomy upon John Graham R1 ('the patient');

**Admitted and Found Proved**

'3. The patient had been admitted to the said hospital in order to undergo an operation for a right nephrectomy, as you should have known by reason (at least) of the following facts and matters,

a. You saw the patient at the said hospital on 8 December 1999, after he had undergone an unsuccessful right-sided percutaneous nephrostomy on the previous day, and advised him to undergo a right nephrectomy,

**Admitted and Found Proved**

- b. On the following day the patient signed a Consent Form for a right nephrectomy,  
**Admitted and Found Proved**
- c. At some stage between 14 December 1999 and 24 January 2000 you reviewed the patient's X-rays in one of the weekly radiology meetings which were held at the said hospital,  
**Admitted and Found Proved**
- d. Such a review would, or should, have left you in no doubt that the operation to be carried out was a right nephrectomy;  
**Admitted and Found Proved**
- '4. You reviewed the Department diary on or about Friday 21 January 2000 for the purpose of arranging the order of operations scheduled for the following Monday;  
**Admitted and Found Proved**
- '5. You failed to observe that the operation which the patient was designated to undergo was entered incorrectly in the diary as a left nephrectomy;  
**Admitted and Found Proved**
- '6. At no time prior to his operation on 24 January 2000 did you ascertain that the operation which ought to be performed was a right nephrectomy and not a left nephrectomy as specified on the typed Operating List, either by,  
**Admitted and Found Proved**
- a. Asking the patient, or  
**Admitted and Found Proved**
- b. By consulting, properly or at all, his available notes and records (including the Consent Forms which he had signed);  
**Admitted and Found Proved**
- '7. a. At or about the time the patient was brought into Theatre you raised the question whether he was to undergo a right nephrectomy,  
**Admitted and Found Proved**
- b. You failed to resolve that question by consulting properly or at all the notes and records, which included a Consent Form dated 9 December 1999 and one dated 21 January 2000;  
**Admitted and Found Proved**
- '8. You further failed to resolve that question by way of asking your Registrar (Mr Goel) or your SHO (Mr U<sub>3</sub>.) whether they had consulted the patient's notes and records during a pre-operation ward round which they had conducted earlier in the morning of 24 January 2000;  
**Admitted and Found Proved**
- '9. You determined that the operation which the patient was to undergo was a left nephrectomy by relying upon correctly labelled X-rays,  
**Found proved**
- a. You placed the X-rays back to front on the Theatre viewing-box,  
**Admitted and Found Proved**
- b. You failed to ensure that the X-rays which you viewed were placed and positioned the correct way round;  
**Admitted and Found Proved**

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'10. Notwithstanding that the X-rays which you positioned and viewed did not clearly show the patient's liver and stomach, so as to enable you to be sure of the correct side of operation you,

**Admitted and Found Proved**

a. Continued to rely upon them,

**Admitted and Found Proved**

b. Failed to view other available X-rays of the patient which showed his liver and stomach;

**Admitted and Found Proved**

'11. You wrongfully decided that the patient was to undergo a left nephrectomy;

**Admitted and Found Proved**

'12. a. You positioned the patient in readiness for a left nephrectomy on the operating table, and

**Admitted and Found Proved**

b. Instructed Mr Goel to carry your decision into effect by proceeding with an operation which the patient should not have undergone and to which he had not consented;

**Admitted and Found Proved**

'13. Before instructing Mr.Goel to proceed with the operation you failed to discuss or to clarify the nature of the operation with him, and in particular failed to ensure,

**Admitted and Found Proved**

a. That he had consulted the patient's notes and records that morning,

**Admitted and Found Proved**

b. That he had looked at the patient's X-rays as displayed on the Theatre viewing-box, and agreed with your interpretation of them;

**Admitted and Found Proved**

'14. You caused a left nephrectomy to be carried out upon the patient in your presence and under your supervision without taking any or any adequate steps to ensure that such an operation was one which he should have undergone and to which he had consented;

**Admitted and Found Proved**

'15. You caused the patient's only good kidney to be excised, thereby leaving him with no effectual renal function;

**Admitted and Found Proved**

'16. Your conduct as set out above was, discretely and/or cumulatively,

a. Unprofessional,

**Admitted and Found Proved**

b. Incompetent,

**Admitted and Found Proved**

c. ....

d. Detrimental to the health and welfare of the patient;'

**Admitted and Found Proved**

"And that in relation to the facts alleged you have been guilty of serious professional misconduct."

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## Determination

At the material times you were working as a Consultant Urologist at the Prince Philip Hospital, Llanelli. On 24 January 2000, your Registrar, Mr Mahesh Goel performed, in your presence and under your supervision, a left nephrectomy upon Mr J G R1. ("the patient"). The patient had been admitted for a right nephrectomy and you should have known this, having seen the patient at the hospital on 8 December 1999. You were aware that the patient had undergone an unsuccessful right-sided percutaneous nephrostomy on the previous day (7 December 1999), and you advised him to undergo a right nephrectomy. On 9 December 1999 the patient signed a Consent Form for a right nephrectomy. At some time between 14 December 1999 and 24 January 2000 you reviewed the patient's X-rays in one of the weekly radiology meetings which were held at the hospital. Such a review would, or should, have left you in no doubt that the operation to be carried out was a right nephrectomy.

On or about Friday 21 January 2000 you reviewed the Department diary for the purposes of arranging the order of operations scheduled for the following Monday. You failed to observe that the patient's operation was incorrectly entered in the diary as a left nephrectomy. At no time prior to the operation on 24 January 2000 did you ascertain that the correct operation to be carried out was a right nephrectomy and not a left nephrectomy as specified on the typed Operating List, either by asking the patient or by consulting his notes and records (including the consent forms which he had signed).

At or about the time the patient was brought into the theatre you raised the question whether he was to undergo a right nephrectomy. You failed to resolve this question by consulting properly, or at all, the patient's notes and records which included the consent forms. Neither did you resolve the question by asking your registrar, Mr Goel, or your SHO, Mr U3., whether they had consulted the patient's notes and records during a pre-operation ward round which they had conducted earlier that morning.

You determined that the operation which the patient was to undergo was a left nephrectomy. The Committee found that you relied upon correctly labelled X-rays. You placed the X-rays back to front on the theatre viewing-box and failed to ensure that the X-rays which you viewed were placed and positioned the correct way round.

Having wrongly concluded that the patient was to undergo a left nephrectomy, you positioned him on the operating table in readiness for a left nephrectomy and instructed Mr Goel to carry out an operation which the patient should not have undergone and to which he had not consented. Before instructing Mr Goel to proceed with the operation you failed to discuss or clarify the nature of the operation with him. In particular, you failed to ensure that Mr Goel had consulted the patient's notes and records that morning and that he had looked at the patient's X-rays as displayed on the theatre viewing-box and agreed with your interpretation of them.

As a result, you caused a left nephrectomy to be carried out upon the patient in your presence and under your supervision without taking any, or any adequate, steps to

ensure that such an operation was the one which he should have undergone and to which he had consented. You caused the patient's only good kidney to be excised thereby leaving him with no effectual renal function. Your conduct as set out above was unprofessional, incompetent and detrimental to the health and welfare of the patient.

The Committee have taken into account that you are of good character and that you have had an otherwise unblemished career during your long service in the NHS. They have had regard to the fact that you readily admitted there had been serious failures and accepted full responsibility at the earliest possible opportunity. Furthermore, they have had regard to your expressions of remorse from the outset and at this hearing and that you have admitted all but one stem of the heads of charge. The Committee have also taken into account the numerous testimonials submitted on your behalf indicating that you are a respected doctor with the well-being of your patients uppermost in your mind.

The Committee have also taken account of the fact that this was a "one instance case" involving a series of errors and omissions on 24 January 2000. Many of the checks and counterchecks expected of others to prevent removal of the wrong kidney did not take place. The Committee also had regard to the fact that you had an experienced Registrar. However, although you were not the operating surgeon, the Committee consider that the ultimate and overarching responsibility in this case lay with you as the Consultant Urologist. You were aware of the patient's clinical condition, and you had advised him to undergo a right nephrectomy. On the day of the operation you positioned the patient in readiness for a left nephrectomy. You directed your Registrar, Mr Goel, to undertake the surgery. You failed on 24 January 2000 to ensure that the correct operation was carried out. In so doing, you seriously breached your duty of care to this patient on that day. The Committee are satisfied, notwithstanding that this was a "one instance case" which was in no way representative of your usual practice, that your conduct fell seriously short of the standards expected of a registered Medical Practitioner and Consultant Surgeon. The Committee find you guilty of serious professional misconduct.

In considering what action, if any, to take against your registration the Committee have balanced the interests of patient safety and the public interest against your own interests. They have also considered the importance of the maintenance of proper standards of medical care and public confidence in the medical profession.

They have considered the range of sanctions available and have also taken account of the advice provided in the Indicative Sanctions Guidance published by the GMC. The Committee have also taken into account the issue of proportionality.

The Committee have determined that it would not be sufficient to conclude your case with no action on your registration. Neither would a reprimand suffice. They consider that conditions are neither appropriate nor sufficient in the circumstances of this case. This was a serious departure from the standards expected of a Consultant Surgeon by patients and the medical profession. They consider, on the facts of this case, that erasure would be disproportionate. They have determined that suspension would be the appropriate sanction and that the period of suspension shall be for a period of 12 months.

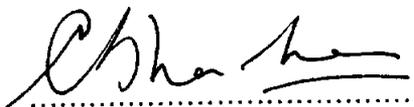
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The Committee therefore direct that your registration be suspended for a period of 12 months.

The effect of the foregoing direction is that unless you exercise your right of appeal, your name will be suspended from the Medical Register 28 days from today.

That concludes your case.

Confirmed

  
.....  
Signed

*26 January 2004*  
.....  
Date

Mr R1. - Mr Reeves  
Mr N2. - Mr Notley  
Mr U3. - Mr Umasanker

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