



State Medical Board of Ohio

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April 11, 2007

Alla Mikhli, D.P.M.
2388 Beachwood Blvd.
Beachwood, OH 44122

Dear Doctor Mikhli:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Gretchen L. Petrucci, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on April 11, 2007, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order.

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

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

THE STATE MEDICAL BOARD OF OHIO

Lance A. Talmage *rw*
Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

CERTIFIED MAIL NO. 91 7108 2133 3933 4658 8589
RETURN RECEIPT REQUESTED

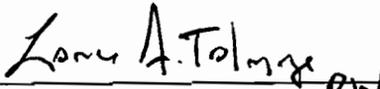
Cc: Eric J. Plinke, Esq.
CERTIFIED MAIL NO. 91 7108 2133 3933 4658 8596
RETURN RECEIPT REQUESTED

Mailed 5-7-07

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Gretchen L. Petrucci, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on April 11, 2007, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order; constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Alla Mikhli, D.P.M., 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. *rw*
Secretary

(SEAL)

April 11, 2007

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

ALLA MIKHLI, D.P.M.

*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on April 11, 2007.

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

It is hereby ORDERED that:

- A. **PERMANENT REVOCATION, STAYED; SUSPENSION:** The certificate of Alla Mikhli, D.P.M., to practice podiatric medicine and surgery in the State of Ohio, shall be PERMANENTLY REVOKED. Such revocation is STAYED, and Dr. Mikhli's certificate shall be SUSPENDED for an indefinite period of time, but not less than one year.
- B. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Mikhli's certificate to practice podiatric medicine and surgery in Ohio until all of the following conditions have been met:
 - 1. **Application for Reinstatement or Restoration:** Dr. Mikhli shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
 - 2. **Obey the Terms of Criminal Probation:** Dr. Mikhli shall submit an application for reinstatement or restoration, Dr. Mikhli shall provide

acceptable documentation certifying that she has maintained full compliance with all terms imposed by the United States District Court, Northern District of Ohio, Eastern Division, in *United States v. Alla Mikhli*, Case No. 1:06CR0104.

3. **Coding/Billing Course**: At the time she submits her application for reinstatement or restoration, Dr. Mikhli shall provide acceptable documentation of successful completion of a course or courses dealing with podiatric medicine coding and billing. 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 the provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.

In addition, at the time Dr. Mikhli submits the documentation of successful completion of the course or courses dealing with coding and billing, she shall also submit to the Board a written report describing the course, setting forth what she learned from the course, and identifying with specificity how she will apply what she has learned to her practice of podiatric medicine in the future.

4. **Personal Ethics Course**: At the time she submits her application for reinstatement or restoration, Dr. Mikhli 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 period(s) in which they are completed.

In addition, at the time Dr. Mikhli submits the documentation of successful completion of the course or courses dealing with personal ethics, she shall also submit to the Board a written report describing the course, setting forth what she learned from the course, and identifying with specificity how she will apply what she has learned to her practice of podiatric medicine in the future.

5. **Professional Ethics Course**: At the time she submits her application for reinstatement or restoration, Dr. Mikhli 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 period(s) in which they are completed.

In addition, at the time Dr. Mikhli submits the documentation of successful completion of the course or courses dealing with professional ethics, she shall also submit to the Board a written report describing the course, setting forth what she learned from the course, and identifying with specificity how she will apply what she has learned to her practice of podiatric medicine in the future.

6. **Practice Plan:** Dr. Mikhli shall submit to the Board and receive its approval for a plan of practice in Ohio. In addition to describing the type of practice, the practice plan shall specifically address the billing procedures, documentation and responsibilities in the practice. Dr. Mikhli shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

At the time Dr. Mikhli submits her practice plan, she 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. Mikhli and who is engaged in the same or similar practice specialty.

7. **Additional Evidence of Fitness to Resume Practice:** In the event that Dr. Mikhli has not been engaged in the active practice of podiatric 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 her fitness to resume practice.

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

1. **Obey the Law and Terms of Criminal Probation:** Dr. Mikhli shall obey all federal, state and local laws, and all rules governing the practice of podiatric medicine and surgery in Ohio, and all terms imposed by the United States District Court, Northern District of Ohio, Eastern Division, in *United States v. Alla Mikhli*, Case No. 1:05CR0104.
2. **Declarations of Compliance:** Dr. Mikhli 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. Mikhli'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. Mikhli 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. Mikhli'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 any appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
4. **Monitoring Physician:** The monitoring physician approved pursuant to Paragraph B.6., above, shall monitor Dr. Mikhli and her medical practice, and shall review Dr. Mikhli'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. Mikhli and her medical practice, and on the review of Dr. Mikhli's patient charts. Dr. Mikhli 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. Mikhli's quarterly declaration.

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

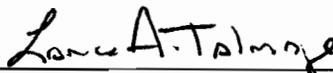
5. **Absence from Ohio:** Dr. Mikhli shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall be reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed.
6. **Violation of Terms of Probation:** If Dr. Mikhli violates probation in any respect, the Board, after giving her notice and the opportunity to be heard,

may institute whatever disciplinary action it deems appropriate, up to and including permanent revocation of her certificate.

- D. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Mikhli'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. Mikhli shall provide a copy of this Order to all employers or entities with which she is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where she has privileges or appointments. Further, Dr. Mikhli shall provide a copy of this Order to all employers or entities with which she contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where she applies for or obtains privileges or appointments.
- F. **REQUIRED REPORTING TO OTHER STATE LICENSING AUTHORITIES:** Within in thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Mikhli shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which she currently holds any professional license. Dr. Mikhli 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 she applies for any professional license or reinstatement or restoration or restoration of any professional license. Further, Dr. Mikhli 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.

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

(SEAL)



Lance A. Talmage, M.D. *rw*
Secretary

April 11, 2007

Date

2007 FEB 22 A 10:47

**REPORT AND RECOMMENDATION
IN THE MATTER OF ALLA MIKHLI, D.P.M.**

The Matter of Alla Mikhli, D.P.M., was heard by Gretchen L. Petrucci, Hearing Examiner for the State Medical Board of Ohio, on January 18, 2007.

INTRODUCTION

I. Basis for Hearing

- A. By letter dated October 11, 2006, the State Medical Board of Ohio [Board] notified Alla Mikhli, D.P.M., that it had proposed to take disciplinary action against her certificate to practice podiatric medicine and surgery in Ohio. The Board based its proposed action on an allegation that Dr. Mikhli had been charged, pleaded guilty to, and was convicted of one count of Health Care Fraud in violation of 18 United States Code Section 1347. The Board alleged that Dr. Mikhli's acts, conduct and/or omissions constituted a "plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony," as that language is used in Section 4731.22(B)(9), Ohio Revised Code.

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

- B. By letter received by the Board on November 22, 2006, Eric J. Plinke, Esq., requested a hearing on behalf of Dr. Mikhli. (State's Exhibit 1B)

II. Appearances

- A. On behalf of the State of Ohio: Marc Dann, Attorney General, by Kyle C. Wilcox, Assistant Attorney General.
- B. On behalf of Dr. Mikhli: Eric J. Plinke, Esq.

EVIDENCE EXAMINED

I. Testimony Heard

Alla Mikhli, D.P.M.
Michael William Forman, D.P.M.

II. Exhibits Examined

A. Presented by the State

State's Exhibits 1A through 1I: Procedural exhibits.

State's Exhibit 2: Information and waiver of indictment in *United States of America v. Alla Mikhli*, Case No. 1:06CR0104.

State's Exhibit 3: Plea Agreement in *U.S. v. Mikhli*, Case No. 1:06CR0104.

State's Exhibit 4: June 13, 2006, Judgment in *U.S. v. Mikhli*, Case No. 1:06CR0104.

State's Exhibit 5: Transcript of the June 12, 2006, proceedings in *U.S. v. Mikhli*, Case No. 1:06CR0104.

State's Exhibit 6: Affidavit of publication and copies of the December 10, 17, and 24, 2006, publication notices.

B. Presented by the Respondent

Respondent's Exhibit A: Curriculum vitae of Dr. Mikhli.

Respondent's Exhibit B: Excerpt from *Current Procedural Terminology 2006*, Standard Edition, from the American Medical Association.

Respondent's Exhibit C: Dr. Mikhli's Sentencing Memorandum in *U.S. v. Mikhli*, Case No. 1:06CR0104

Respondent's Exhibit D: Copy of one of Dr. Mikhli's patient records. [Admitted under seal to protect patient confidentiality.]

PROCEDURAL MATTER

The Hearing Examiner held the record open until February 1, 2007, in order to allow for receipt of the original affidavit of publication and accompanying publication notices, which were collectively marked in advance as State's Exhibit 6. (Hearing Transcript [Tr.] at 70). The documents were provided to the Hearing Examiner on February 1, 2007. The Hearing Examiner held the record open for additional time while counsel for the Respondent reviewed State's Exhibit 6. On February 2, 2007, counsel for the Respondent informed the Hearing Examiner that he had no objection to State's Exhibit 6. The Hearing Examiner admitted State's Exhibit 6 and closed the record on February 2, 2007.

SUMMARY OF THE EVIDENCE

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

1. Alla Mikhli, D.P.M., graduated in 1976 from the Winogradov School of Medicine in the former Soviet Union with a nursing degree. She moved to the United States in 1976, settling in Cleveland, Ohio. In 1978, she obtained an Ohio nursing certificate and worked as a nurse at the Cleveland Clinic for four years. In 1986, she entered the Ohio College of Podiatric Medicine and graduated in 1990. She was on the Dean's list each year. Upon graduation, she completed a one-year podiatric surgical residency at Mt. Sinai Medical Center in Cleveland, Ohio. She received a certificate to practice podiatric medicine and surgery in Ohio in 1991 and that certificate remains active. Dr. Mikhli is board-qualified in surgery. (Respondent's Exhibit [Resp. Ex.] 1; Tr. at 13-15, 28, 31, 34). See also, February 13, 2007 <<https://license.ohio.gov/Lookup/SearchDetail.asp?ContactIdnt=2962548&DivisionIdnt=78&Type=L>>)
2. After completing the residency, Dr. Mikhli opened her own podiatric practice in Cleveland Heights, Ohio. She had a second office for a period of time as well. Dr. Mikhli explained that she typically saw patients at her office 3 days each week, with the average being 20-30 patients per day. Her office patients were predominately Russian-speaking senior citizens. Additionally, she visited patients in three area nursing homes two days each week. She specialized in diabetic foot care. Dr. Mikhli explained that, although her patients largely suffered from diabetes, her approach to podiatric medicine did not involve much surgery or amputations. Rather, she stressed preventative care and encouraged her patients to see her if a small problem arose, instead of waiting until the situation became so severe that it required more-involved treatment. Most of her podiatric services included nail care, calluses, heel pain and occasionally fracture treatment. (Tr. at 15-16, 32-33)
3. Dr. Mikhli handled the billing in her office until her legal problems began in 2004. In October 2004, the Federal Bureau of Investigation executed a warrant and seized Dr. Mikhli's medical records. (Tr. at 48-49)
4. On March 7, 2006, an information was filed in the Eastern Division of the United States District Court for the Northern District of Ohio charging Dr. Mikhli with one felony count of violating 18 United States Code Section 1347. That provision of federal law states:

Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice - (1) to defraud any health care benefit program; or (2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care benefit program, in connection with the delivery of or payment for health care benefits, items, or services, - shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as

defined in section 1365 of this title), such person shall be fined under this title or imprisoned not more than 20 years, or both; and if the violation results in death, such person shall be fined under this title, or imprisoned for any term of years or for life, or both.

The March 7, 2006, information stated in part:

From on or about March 2001 through in or about January 2005, * * * Alla Mikhli, knowingly and willfully executed, and attempted to execute, a scheme and artifice to defraud a health care benefit program, and to obtain, by means of the false and fraudulent pretenses, representations and promises described herein, money and property owned by, and under the custody and control of, a health care benefit program, in connection with the delivery of or payment for health care benefits, items and services.

It was a part of the scheme to defraud that the defendant claimed payment from Medicare and Ohio Medicaid for surgical incision and drainage procedures, when in fact she performed lesser procedures or routine foot care that was reimbursable, if at all, at lesser rates.

(State's Exhibit [St. Ex.] 2 at 2-3) The case was designated *United States of America v. Alla Mikhli*, Case No. 1:06CR0104.

5. On March 13, 2006, Dr. Mikhli entered a plea of guilty to the one count in the information. Dr. Mikhli admitted the following:

From on or about March 2001 through in or about January 2005, in the Northern District of Ohio, Eastern Division, and elsewhere, Defendant knowingly and willfully executed payment from Medicare and Ohio Medicaid for surgical podiatry services known as incision and drainage procedures, and represented falsely that she had performed those procedures, when in fact she performed lesser procedures or routine foot care that was reimbursable, if at all, at lesser rates. As a result, Medicare and Ohio Medicaid suffered a loss of \$120,000.

(St. Ex. 3 at 5)

6. On June 12, 2006, Dr. Mikhli was sentenced to five months of imprisonment, three years of supervised release (including home confinement with electronic monitoring for five months). Additionally, Dr. Mikhli was required to pay \$120,000 in restitution, a \$100 assessment, and the cost of home monitoring. (St. Ex. 4; Tr. at 23-24; St. Ex. 5 at 12-13)

During the sentencing hearing, Dr. Mikhli stated that she "willingly and knowingly used the wrong code" on certain procedures. (St. Ex. 5 at 11)

7. Dr. Mikhli testified that the government's focus was upon her use of the Current Procedural Terminology [CPT] Code 10060 because she "used [it] more than any other podiatrist in [her] area." In the American Medical Association's *Current Procedural Terminology 2006*, Code 10060 involves "incision and drainage of abscess (eg, carbuncle, suppurative hidradenitis, cutaneous or subcutaneous abscess, cyst, furuncle, or paronychia); simple or single." Dr. Mikhli stated that, in all instances, she actually provided services to her patients; the criminal charges were based upon the CPT code that she used in connection with billing for those services. Dr. Mikhli also explained that there was no "lower code" for her to have used for the procedures/services she actually provided. (Tr. at 21, 34-35, 44, 57; Resp. Ex. B)

Dr. Mikhli testified that she did not commit the acts out of greed because, if she had been greedy, she would have used other CPT codes (e.g., 10061 and 11750) that provide even higher reimbursement. (Tr. at 55)

8. Dr. Mikhli noted that she has complied with all terms of the sentence imposed. She completed the imprisonment, is now under house arrest, and has paid the restitution. As a consequence of her criminal conviction, Dr. Mikhli also explained that she has been excluded by Medicare for five years. As a result, for five years, she is not able to see patients or work in an office that provides services for which Medicare may cover payment. (Tr. at 25, 44-46)
9. Dr. Mikhli also noted that she has been active for many years in her community. Among her activities, she was involved in an area youth group (a local chapter of The National Conference of Synagogue Youth) to provide a good environment for the area children and in Bikur Cholim, a support group for those who are ill. Additionally, many character letters submitted during her criminal sentencing noted Dr. Mikhli's many years of extensive community involvement. (Tr. at 47-48; Resp. Ex C at 15-20 and attachments).

Dr. Mikhli asks the Board to allow her another chance to work as a podiatrist and provide services to her patients. (Tr. at 49-50)

10. Michael William Foreman, D.P.M., also testified on Dr. Mikhli's behalf. He was one of Dr. Mikhli's professors at the Ohio College of Podiatric Medicine, was the director while she participated in the Mt. Sinai podiatric residency program, and is now a colleague. Dr. Foreman noted that Dr. Mikhli was one of the top students and an excellent resident. He further stated:

I was shocked when I heard that she pled guilty * * *. I just don't think that's her. I know her as a beautiful, honest, elegant woman who I always felt did the best she could. She certainly didn't put financial considerations first; she put her patients first. She really was one of my best residents. She is a wonderful person, she's a wonderful doctor, and she has wonderful hands. She is an

excellent surgeon. She could do things I can't do. She could do things for patients without the need for anesthetic because she's so talented.

(Tr. at 59, 63)

FINDINGS OF FACT

1. On or about March 7, 2006, an information was filed charging Alla Mikhli, D.P.M., with one felony count of Health Care Fraud, in violation of 18 United States Code Section 1347. The case was designated *United States of America v. Alla Mikhli*, Case No. 1:06CR0104.
2. On or about March 13, 2006, Dr. Mikhli entered into a plea agreement in *U.S. v. Mikhli*, in which she agreed to plead guilty to the sole count in the information. On or about June 13, 2006, the court issued its Judgment in a Criminal Case wherein it accepted Dr. Mikhli's plea, adjudicated her guilty of the offense as charged, and sentenced her to five months of imprisonment, among other things.

CONCLUSION OF LAW

The guilty plea and/or the judicial finding of guilt of Alla Mikhli, D.P.M., as set forth in Finding of Fact 2 constitutes a "plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony," as that language is used in Section 4731.22(B)(9), Ohio Revised Code.

* * * * *

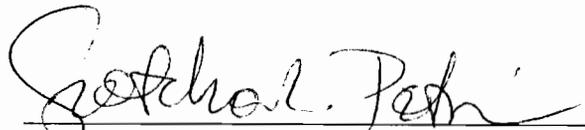
Dr. Mikhli's criminal activities occurred in the course of her practice of podiatric medicine and surgery. Over nearly four years, she repeatedly, wrongly billed for certain services that she provided. As a result, she received \$120,000 that she should not have received from Medicare and Ohio Medicaid. Her family, friends, colleagues and community certainly admire and support Dr. Mikhli. Dr. Mikhli made a strong argument that she is unlikely to repeat her offense and that other mitigating circumstances can moderate the seriousness of the offense in this case. The Hearing Examiner is aware that the Board has, in the past, addressed cases of billing code usage and imposed varying sanctions. For the Hearing Examiner, the repeated nature of the wrongful billing and the lengthy period of time involved both outweigh any mitigating circumstances, and the proposed order would permanently remove her from practicing in Ohio. Even so, the Board may determine that Dr. Mikhli deserves an opportunity to learn from her mistakes and someday return to the practice of podiatric medicine in Ohio.

PROPOSED ORDER

It is hereby ORDERED, that:

The certificate of Alla Mikhli, D.P.M., to practice podiatric medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED.

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

A handwritten signature in cursive script, reading "Gretchen L. Petrucci", written over a horizontal line.

Gretchen L. Petrucci
Hearing Examiner



State Medical Board of Ohio

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

EXCERPT FROM THE DRAFT MINUTES OF APRIL 11, 2007

REPORTS AND RECOMMENDATIONS

Dr. Kumar announced that the Board would now consider the Reports and Recommendations appearing on its agenda. He asked whether each member of the Board had received, read, and considered the hearing records, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Irina Aleksandrovna Gendler, M.D.; Eileen C. Golden, M.D.; Paul Evan Kelner, M.D.; Alla Mikhli, D.P.M.; and David Herbert Procter, M.D. A roll call was taken:

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

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

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- aye

Dr. Robbins - aye
Dr. Steinbergh - aye
Dr. Kumar - aye

Dr. Kumar noted that, in accordance with the provision in Section 4731.22(F)(2), Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of these matters. They may, however, participate in the matter of Dr. Gendler, as that case is not disciplinary in nature and concerns only the doctor's qualifications for licensure. . In the matters before the Board today, Dr. Talmage served as Secretary and Mr. Albert served as Supervising Member.

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

.....
ALLA MIKHILI, D.P.M.

Dr. Kumar directed the Board's attention to the matter of Alla Mikhli, D.P.M. He advised that objections were filed to Hearing Examiner Petrucci's Report and Recommendation and were previously distributed to Board members.

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

Dr. Mikhli was accompanied by her attorney, Eric J. Plinke.

Mr. Plinke stated that they filed objections, which were really directed at the Proposed Order's recognition of the mitigating circumstances. The summation of the evidence and the testimony that was presented is not objectionable; everything is perfectly fine. It's an excellent Report and Recommendation in that respect. Even the recognition of mitigating circumstances that Dr. Mikhli presented is consistent with what the record shows. From that point, though, the proposed permanent revocation is what they are targeting in the objections.

Mr. Plinke advised that the case before the Board is a plea agreement resulting in a felony conviction. The Board sees these every month, and oftentimes the Board has a record that doesn't have a lot of substantive information regarding the offense at issue or the practitioner. In this case, they presented the Board with as much information as was available regarding Dr. Mikhli in connection to this offense. There are samples of clinical records, samples of billing documentation, and substantial information and attestations from members of her community, and professional colleagues, one of whom actually came to the hearing to testify on her behalf as to her excellent reputation in the community and her commitment to her patients.

Mr. Plinke stated that, as he mentioned in his objections, Dr. Mikhli is a solo practitioner. In this day and

age, solo practitioners are at risk of developing bad billing practices, more than physicians in groups or physicians in solo practices who have compliance plans or use outside auditors to evaluate their billing. Mr. Plinke stated that he thinks that Dr. Mikhli's testimony speaks to this. She started utilizing a code and stuck with it. It was inappropriate. When Medicare is serving as your compliance office five years after you started that billing practice, that is not a good situation to be in because they have five years of repeated use of this code. If you have a misunderstanding of the code, even if your motivations are not for greed or personal benefit, as was this case, you are in a circumstance from which it is very difficult to extract yourself. Mr. Plinke stated that he's not saying this to suggest that Dr. Mikhli is free of wrongdoing or that she didn't plead guilty. This is an area of intense scrutiny in medicine. For a solo practitioner, particularly in podiatry, it can lead to these types of situations.

Mr. Plinke stated that Dr. Mikhli would like to address the Board briefly. Before she does, he would like to add one last point that is reflected in the record. Dr. Mikhli was excluded from the Medicare/Medicaid rolls, which essentially prevents her from practicing. Typically, the exclusion for this type of offense is a five-year minimum exclusion. Mr. Plinke stated that, if the aggrieved party in this case, which is Medicare/Medicaid, is going to set up a system that will allow Dr. Mikhli to some day again become a participating provider, he would request that the Board give the same consideration.

Dr. Mikhli thanked the Board for permitting her to speak. She stated that, most importantly, her intentions were not to defraud the government. If she were to have set out to defraud the government, she probably would not have used a single code. There are so many varieties. Her priority was to take care of the patients and do the best she can do. Dr. Mikhli stated that she has been one of the busiest podiatrists in Cleveland, and her salary was below the average in Ohio. So, she did not go for the money.

Dr. Mikhli stated that she now realizes that the code she was using was inappropriate. The CPT code that she used, 10060, was for a simple abscess. Medicare describes that as a single sterile #15 blade to drain the abscess. Dr. Mikhli stated that she thinks that she provided more care than Medicare described. She advised that when she knew that they were questioning whether she was doing appropriate things, she told them to go ahead and check. She thought she was doing the right things, but now she knows that, sometimes, for paronychia, because she has patients who are mostly diabetic and over 70 to 80 years old, she didn't think that she had any other option to do a higher code, which would have so much more grave complications.

Dr. Mikhli stated that her patients were always happy. They were always taken care of. She thought she did it for the least amount of money. Dr. Mikhli stated did not do this through greed. She did it because she did not know that she was using the wrong code.

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

Mr. Wilcox stated that, while he thinks it is very sad that Dr. Mikhli has put herself in this position, he agrees with the Hearing Examiner Petrucci's recommendation that the Board permanently revoke Dr. Mikhli's license. The conduct to which Dr. Mikhli admitted is spelled out in her plea agreement

specifically. She admitted that, from a period of March 2001 through January 2005, she knowingly and willfully claimed payment from Medicare and Ohio Medicaid for surgical podiatry services known as “incision and drainage procedures,” and represented falsely that she had performed those procedures when, in fact, she had performed lesser procedures or routine foot care that was reimbursable, if at all, at lesser rates. As a result, Medicare and Ohio Medicaid suffered a loss of \$120,000.

Mr. Wilcox stated that today he’s again hearing from Dr. Mikhli that there was no intention to defraud. In this case, unlike many similar cases the Board sees, he thinks that there is evidence in the record that specifically addresses this point. At her sentencing hearing, Dr. Mikhli tried to tell the federal judge in this case that it was a billing mistake. If you look at the sentencing hearing transcript, the judge took Dr. Mikhli to task for trying to explain her way out of the events. Regarding her statement that it was a mistake, the judge stated, “(i)f this was simply a mistake, then you should not have entered a plea of guilty...you were not charged with a mistake; you were charged with an intentional defrauding.”

Mr. Wilcox stated that he would also like to point out what the federal prosecutor said in her statement during the sentencing hearing on June 12, 2006 before Federal Judge Patricia A. Gaughn, in Cleveland. The prosecutor responded to the sentencing memorandum filed by Dr. Mikhli’s criminal attorney and his statement that Dr. Mikhli’s behavior in this case was aberrant. The prosecutor disagreed with that characterization, stating: “according to the factual basis of the plea agreement, this was conduct that took place on a regular basis for almost a four-year period. This was not some slip of a hand on a billing form. This was a sophisticated scheme to defraud, and the victims are vulnerable.” The prosecutor went on to talk about those victims, stating: “they are not only the Medicare/Medicaid programs, which are strapped for cash and cover the elderly and poor in our state, but those beneficiaries who might have had other medical care and gone to other doctors if they knew their insurance was going to be billed this way. She is a defendant who has been here for 30 years in this country and knows how the system works.”

Mr. Wilcox stated that he thinks the record in this matter is perfectly clear that Dr. Mikhli knew what she was doing when she committed the felony offense that brought her before this Board. This behavior, defrauding Medicare and Medicaid, shows that she cannot be trusted with licensure in this state.

Mr. Wilcox again stated that he agrees with the Proposed Order of permanent revocation.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. PETRUCCI’S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF ALLA MIKHLI, D.P.M. DR. VARYANI SECONDED THE MOTION.

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

Dr. Egner stated that, when she first read this case, she was in agreement with the Report and Recommendation. Then she read it again, because her gut feeling on felony convictions generally is that this is not someone who should be allowed to practice medicine in Ohio. In looking at this case further, though, she tends to think that there may be more to this than just fraud and a felony conviction. One thing is that this did occur over a four-year period of time, resulting in a loss to Medicare and Medicaid of

\$120,000. Dr. Egner stated that, generally speaking, that means that Dr. Mikhli made \$30,000 a year from this bad code. Her logic says to her that, if you're going to defraud Medicare and Medicaid and you're going to do it knowingly, wouldn't you be more profitable? The Board has seen that time and time again. The Board has seen cases where physicians who have come before the Board knowingly defrauded the system out of greed, and they didn't make \$120,000 in four years, they made \$1.2 million in four years. Dr. Egner stated that she does not believe that Dr. Mikhli did this out of greed.

Dr. Egner stated that she also agrees with Mr. Plinke. A solo practitioner today, running a practice and doing his or her own billing, is very difficult. That billing and coding system is not as straight forward as everyone would like it to be. She stated that she's not saying that she's not holding Dr. Mikhli responsible, but not to the point of a permanent revocation. Dr. Egner commented that the record indicates that Dr. Mikhli no longer does her own billing. If she is allowed to keep her license and to practice, requiring her to use a billing service should be part of the Board Order. She added that she doesn't believe the Board has ever done that before, but she thinks it would be a good thing for Dr. Mikhli. Dr. Egner stated that there is still a role for a solo practitioner today. She added that it's hard for her to believe that many of Dr. Mikhli's patients were from her community. From Dr. Mikhli's testimony today, Dr. Egner stated that she is empathetic to her; she believes that Dr. Mikhli does try to take care of her community and its needs.

Dr. Egner stated that she's not in favor of a permanent revocation, and added that she would be interested to hear what Dr. Buchan has to say. She added that Dr. Mikhli should be allowed to keep her license, and she should be on probationary status.

Dr. Buchan stated that he agrees with the Findings of Fact. Clearly, Dr. Mikhli pled guilty to this one felony count. Dr. Buchan stated that he understands Dr. Mikhli's type of practice; i.e., private, solo practice. He stated that he doesn't buy into the fact that billing and coding are necessarily confusing, but it's difficult. Where he thinks that Dr. Mikhli failed is in not just simply asking questions and getting help. It is difficult when you are on an island and you are left to those responsibilities strictly on your own. She had good background and training. She had a residency, but it was not in a highly surgical residency. It was a program that allowed her to become a good general practitioner, and she sees patients who need good general practice care.

Dr. Buchan stated that, in reading the hearing record, he would agree that it's not necessary to permanently revoke this license. He added that he would be open to some discussion on that matter. Dr. Buchan stated that the courts have spoken, Dr. Mikhli has complied, and she understands. Dr. Buchan stated that he's afraid that early in her first ten years of practice Dr. Mikhli wasn't mentored appropriately. Somehow she got hold of codes that were wholly inappropriate. Dr. Buchan stated that, that having been said, Dr. Mikhli has paid the price and he would be interested in getting her back into practice.

Dr. Steinbergh stated that she agrees with all of the comments that have been made. She does feel that Dr. Mikhli made a tragic error in the sense that she continued coding in this way. The Board holds physicians responsible for the coding. She stated that she understands Dr. Buchan's comments in regards to Dr. Mikhli's perhaps not having appropriate mentoring and went out on her own. Dr. Steinbergh stated

that Dr. Mikhli knew what she was doing, she made a decision to do it, and she was convicted. Dr. Steinbergh noted that Dr. Mikhli has served her term, although she is not sure where Dr. Mikhli is as far as restitution goes. Dr. Steinbergh stated that, after reviewing this case, she also felt that permanent revocation was not appropriate, and she developed an alternative Proposed Order.

DR. STEINBERGH MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF ALLA MIKHILI, D.P.M., BY SUBSTITUTING THE FOLLOWING:

PROPOSED ORDER

It is hereby ORDERED that:

- A. **PERMANENT REVOCATION, STAYED; SUSPENSION:** The certificate of Alla Mikhli, D.P.M., to practice podiatric medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED. Such revocation is STAYED, and Dr. Mikhli's certificate shall be SUSPENDED for an indefinite period of time, but not less than one year.

- B. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Mikhli's certificate to practice podiatric medicine and surgery until all of the following conditions have been met:
 - 1. **Application for Reinstatement or Restoration:** Dr. Mikhli shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.

 - 2. **Obey the Terms of Criminal Probation:** At the time she submits her application for reinstatement or restoration, Dr. Mikhli shall provide acceptable documentation certifying that she has maintained full compliance with all terms imposed by the United States District Court, Northern District of Ohio, Eastern Division, in *United States v. Alla Mikhli*, Case No. 1:06CR0104.

 - 3. **Coding/Billing Course:** At the time she submits her application for reinstatement or restoration, Dr. Mikhli shall provide acceptable documentation of successful completion of a course or courses dealing with podiatric medicine coding and billing. 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 period(s) in which they are completed.

In addition, at the time Dr. Mikhli submits the documentation of successful

completion of the course or courses dealing with coding and billing, she shall also submit to the Board a written report describing the course, setting forth what she learned from the course, and identifying with specificity how she will apply what she has learned to her practice of podiatric medicine in the future.

4. **Personal Ethics Course:** At the time she submits her application for reinstatement or restoration, Dr. Mikhli 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 period(s) in which they are completed.

In addition, at the time Dr. Mikhli submits the documentation of successful completion of the course or courses dealing with personal ethics, she shall also submit to the Board a written report describing the course, setting forth what she learned from the course, and identifying with specificity how she will apply what she has learned to her practice of podiatric medicine in the future.

5. **Professional Ethics Course:** At the time she submits her application for reinstatement or restoration, Dr. Mikhli 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 period(s) in which they are completed.

In addition, at the time Dr. Mikhli submits the documentation of successful completion of the course or courses dealing with professional ethics, she shall also submit to the Board a written report describing the course, setting forth what she learned from the course, and identifying with specificity how she will apply what she has learned to her practice of podiatric medicine in the future.

6. **Practice Plan:** Dr. Mikhli shall submit to the Board and receive its approval for a plan of practice in Ohio. In addition to describing the type of practice, the practice plan shall specifically address the billing procedures, documentation and responsibilities in the practice. Dr. Mikhli shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

At the time Dr. Mikhli submits her practice plan, she 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. Mikhli and who is engaged in the same or similar practice specialty.

7. **Additional Evidence of Fitness To Resume Practice:** In the event that Dr. Mikhli has not been engaged in the active practice of podiatric 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 her fitness to resume practice.
- C. **PROBATION:** Upon reinstatement or restoration, Dr. Mikhli's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least three years:
1. **Obey the Law and Terms of Criminal Probation:** Dr. Mikhli shall obey all federal, state and local laws, and all rules governing the practice of podiatric medicine and surgery in Ohio, and all terms imposed by the United States District Court, Northern District of Ohio, Eastern Division, in *United States v. Alla Mikhli*, Case No. 1:06CR0104.
 2. **Declarations of Compliance:** Dr. Mikhli 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. Mikhli'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. Mikhli 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. Mikhli'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. **Monitoring Physician:** The monitoring physician approved pursuant to Paragraph B.6., above, shall monitor Dr. Mikhli and her medical practice, and

shall review Dr. Mikhli'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. Mikhli and her medical practice, and on the review of Dr. Mikhli's patient charts. Dr. Mikhli 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. Mikhli's quarterly declaration.

In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Mikhli must immediately so notify the Board in writing. In addition, Dr. Mikhli 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. Mikhli 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. **Absence from Ohio:** Dr. Mikhli shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed.
 6. **Violation of Terms of Probation:** If Dr. Mikhli violates probation in any respect, the Board, after giving her notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of her certificate.
- D. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Mikhli'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. Mikhli shall provide a copy of this Order to all employers or entities with which she is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where she has privileges or appointments.

Further, Dr. Mikhli shall provide a copy of this Order to all employers or entities with which she contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where she applies for or obtains privileges or appointments.

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. Mikhli shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which she currently holds any professional license. Dr. Mikhli 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 she applies for any professional license or reinstatement or restoration or restoration of any professional license. Further, Dr. Mikhli 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.

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

DR. BUCHAN SECONDED THE MOTION.

Dr. Kumar stated that he would now entertain discussion on the motion to amend.

Dr. Robbins stated that he takes a little different slant on this. He stated that, as Assistant Attorney General Wilcox said, Dr. Mikhli was charged with intentional defrauding over a four-year period, and she pled guilty. Dr. Robbins stated that, as he tells residents and people who ask him in Cincinnati, when you're dealt with codes and you're not sure, if you don't want to ask, down code. Just use the lowest code and you'll never get into trouble. If you want to use the higher code, then ask someone, get some counsel. Dr. Mikhli did not do that.

Dr. Robbins continued that he doesn't buy the solo practitioner argument at all. He thinks it is as much a part of the practice of medicine today as everything else within medicine. A physician has the responsibility and the obligation to know how they are coding for their services, and they must do it. In his mind, there is no excuse. Because of that, he, personally, favors the Proposed Order, as written.

Dr. Madia agreed with Dr. Robbins, stating that it is hard for him to believe somebody did a code for four years without knowing that she was doing something wrong. If you're in a private practice, it is your responsibility, as a physician, to be educated. Dr. Madia acknowledged that coding is difficult, he understands. It is difficult to keep up to date. But to go with the same code over and over and over for four years, it is hard for him to believe that it was just simply overlooking things.

Dr. Buchan stated that he doesn't disagree with the Findings of Fact. He noted that Dr. Mikhli made the same mistake over and over again. To make the mistake once is ignorance or poor mentoring. When you do one thing all of the time, it becomes the new norm. This is an individual practitioner who did not have a great diverse practice. She saw a specific set of people, mostly geriatric and mostly routine foot care. She saw the same thing, every day, 20 to 30 times. She had a nursing home practice, doing the same thing every day of the week. Once the error is made, it's easy to imagine pushing a button. He suggested that she would probably still be using the same code today had the FBI not asked for those records.

Dr. Buchan added that Michael William Foreman, D.P.M., one of Dr. Mikhli's professors at the Ohio College of Podiatric Medicine and director of the Mt. Sinai podiatric residency program in which Dr. Mikhli took part, spoke on her behalf. Dr. Buchan stated that Dr. Foreman is a most respected individual in this state. He stated that people in his profession all know Dr. Foreman. Dr. Buchan stated that it meant a lot to him that Dr. Foreman testified to her skill set, character and integrity.

Dr. Buchan continued that he doesn't suggest that what Dr. Mikhli did was not wrong; it was. She's paid a price for that. Dr. Buchan stated that he is in favor of the proposed amendment because he thinks that Dr. Mikhli is rehabilitatable. She needs to practice, and she could be a good practitioner with proper guidance. Dr. Buchan stated that he doesn't think that she ever had proper guidance.

Dr. Varyani stated that he's in total agreement with Dr. Robbins about the coding part, but it has happened, it's done, and in this case he really feels that the state shouldn't lose a good practitioner. It seems that she's a good practitioner, and she's sorry for it. Dr. Varyani spoke in support of the proposed amendment.

Dr. Egner stated that her only comment was that Dr. Mikhli used the same code over a four-year period. She stated that, if you think you're using the appropriate code, then you would use it four years. You'd use it for your career. You wouldn't change it over a four-year period of time until they came in and said that you're using the wrong code. Dr. Egner stated that she doesn't think that the length of time Dr. Mikhli used the code makes her look at Dr. Mikhli and find her more guilty. She thinks that's a sign of her using codes she didn't understand. Dr. Egner stated that she feels that way because of the lack of money involved. She thinks it was more ignorance than it was malicious.

Dr. Steinbergh stated that she developed the alternative order because she felt that leniency was in order for the reasons discussed. She stated that she took a look back over the years the Board has discussed Medicare/Medicaid fraud and Bureau of Workers Compensation fraud, and she asked Ms. Thompson to pull some of the cases in which the Board has been lenient in the past. She stated that the Board has been lenient in cases she felt were more egregious. This is not something that is defensible. The Board knows it's wrong. Dr. Mikhli admitted that it's wrong. This was a real bad coding area, and she's not defending Dr. Mikhli at all, but she does feel that, at this particular point in her career, it's time to allow Dr. Mikhli to get back into practice. By proposing the amendment, it is consistent with previous orders, the most recent of which was in July 2006, where a podiatrist did the very same thing, and made about the same amount of money and also accepted responsibility.

Dr. Steinbergh stated that the proposed alternative allows that the Board considered what Dr. Mikhli did. She agreed with Mr. Plinke that Medicare has offered her the opportunity to come back; it didn't say that she could never bill Medicare again. She's serving her term with the court, and the Board ought to just move forward and let her go back at some point.

Mr. Browning stated that he understands the interest in being reasonable and balanced, but he can't help but say that people defrauding the government is a huge problem. In Medicare and Medicaid it's a multi billion-dollar problem. If someone walked in and robbed a bank and took \$120,000, he or she wouldn't get five months in jail and house arrest. Mr. Browning stated that he may be wrong, but his hunch is that that person would be in jail for years.

Mr. Browning stated that he's willing to be reasonable. He thinks that what other Board members are saying about her ability to come back and the reasons she made mistakes, etc., are legitimate; but he also thinks that the problem is a huge problem. The courts are trying to send a message about their intolerance for that, and he thinks the Board should send the same message. The Board shouldn't expect people convicted of felonies to come in here and have a year out and everything would be fine. Mr. Browning stated that he would like a longer suspension period than a year. He added that he feels a year is an arbitrary number; he realizes that it's at least a year's suspension, and that's helpful. In the end, he's in agreement with the proposed amendment, assuming no one wants a longer suspension. He would be open to that conversation.

Dr. Steinbergh suggested an 18-month suspension.

Dr. Amato stated that he will abstain from voting on all issues today, but he feels he must speak up in this case. He stated that those around this table who are in OB/GYN practices use limited codes. There aren't a lot of them. Anytime he looks in the coding book, occasionally, when he's had to do a procedure that he might not do that often, he's glad he does employ people to make sure it's done correctly. Dr. Amato stated that he has a little concern in this case if the Board suspends Dr. Mikhli's license for much longer than a year because this is a practitioner who is also doing some degree of surgery. If the Board stops her for much longer than a year, would the Board also impose some retraining aspects, as her surgical skills could get rusty? If the Board suspends Dr. Mikhli's license much beyond a year, would the Board be hindering this practitioner's ability to get back into practice at the same level of care that she was giving prior to the suspension? He noted that she's involved in a somewhat surgical aspect of medicine, and if you don't do something for a while, you get rusty.

Dr. Amato stated that he agrees with the Medicare/Medicaid fraud issue, adding that it's rampant. He added that, in his heart, he cannot accept \$30,000 a year as deliberate, rampant Medicare/Medicaid fraud. If it was \$125,000 a quarter, that would be intended Medicare/Medicaid fraud.

Dr. Robbins stated that he thinks that most of the cases the Board has seen have been for much more than that. Dr. Robbins stated that it would seem to him, thinking of \$30,000 a year, that the way to defraud is just doing it that way. That will keep you under the radar screen. That's why it went on for four years. If

this was \$120,000 a year, he doubts very seriously whether it would have gone on for four years. If it was \$500,000 a year, it probably wouldn't go on for four months. But if you are intentionally defrauding, as Dr. Mikhli pled, that's exactly how you intentionally defraud. Over a long period of time, nipping, nipping, nipping, and then taking a look at it. It's not a major up-code, but it is an up-code. It's not, "I did a level 2 and I'm going to charge a level 5 on everybody." That's going to raise all the eyebrows. It's the up-coding that's a small amount that, maybe in the bureaucracy of things, will never get picked up.

Dr. Buchan stated that he does respect that; however, the presentation he sees today is not from a person who is deliberately trying to scam the system.

Dr. Robbins stated that he doesn't disagree, but he thinks it's important to say again that the Board is not here to retry the case. Dr. Mikhli pled guilty to intentionally defrauding, and that weighs heavily for him.

Dr. Varyani stated that he understands that coding is very difficult but, if you can practice medicine, podiatry, and you're good enough to do procedures, take care of patients and sometimes save their lives, and if those same people come to me and say, "oh my God, I have a big problem with the coding," he really has a problem with that statement. Dr. Varyani stated that he's a private practitioner and, by law, they sent a notice five years ago, stating it will not be excusable that you did not know. Physicians were given the rules three times. They are supposed to recheck themselves at least twice a year. He stated that he's not going for that excuse. He doesn't like the idea of someone saying, "I did not know." You have to know, otherwise, don't be in the business. It's very simple.

Dr. Robbins agreed, stating, if you do not know, do not bill.

Dr. Varyani agreed with Dr. Robbins. Find out the proper code before you bill. It's very simple.

Dr. Kumar asked whether there is any further discussion on Dr. Steinbergh's amendment. No one offered further discussion, and Dr. Kumar asked for a vote on Dr. Steinbergh's motion to amend.

Mr. Albert and Dr. Talmage left the room during the previous discussion.

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

ROLL CALL:	Dr. Egner	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- abstain
	Dr. Robbins	- nay
	Dr. Steinbergh	- aye

The motion carried.

DR. BUCHAN MOVED TO APPROVE AND CONFIRM MS. PETRUCCI'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF ALLA MIKHLI, D.P.M. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

ROLL CALL:	Dr. Egner	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- abstain
	Dr. Robbins	- nay
	Dr. Steinbergh	- aye

The motion carried.



State Medical Board of Ohio

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

October 11, 2006

Alla Mikhli, D.P.M.
2388 Beachwood Blvd.
Beachwood, Ohio 44122

Dear Doctor Mikhli:

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

- (1) On or about March 7, 2006, you were charged, by way of Information, with one count of Health Care Fraud, in violation of 18 U.S.C. Section 1347, and on or about March 13, 2006, you entered into a Plea Agreement in the United States District Court, Northern District of Ohio, Eastern Division, wherein you agreed to plead guilty to the sole count in the Information. On or about June 13, 2006, the court issued its Judgment in a Criminal Case wherein it accepted your plea, adjudicated you guilty of the offense as charged and sentenced you to five months incarceration. Copies of the Information, Plea Agreement and Judgment in a Criminal Case are attached hereto and incorporated herein.

Your plea of guilty and/or the judicial finding of guilt as alleged in paragraph (1) above constitutes “[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony,” as that clause is used in Section 4731.22(B)(9), Ohio Revised Code.

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

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

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

Mailed 10-17-06

Alla Mikhli, D.P.M.

Page 2

consideration of this matter, determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice podiatric medicine and surgery or to reprimand you or place you on probation.

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, provides that "[w]hen the board refuses to grant a certificate to an applicant, revokes an individual's certificate to practice, refuses to register an applicant, or refuses to reinstate an individual's certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate."

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Lance A. Talmage, M.D.
Secretary

LAT/blt
Enclosures

CERTIFIED MAIL # 7004 2510 0006 9801 8470
RETURN RECEIPT REQUESTED

Duplicate mailing:

Alla Mikhli, # 30571-160
FMC Lexington
Federal Medical Center
P.O. Box 14500
Lexington, KY 40512

CERTIFIED MAIL # 7004 2510 0006 9801 8463
RETURN RECEIPT REQUESTED

cc: Kent R. Minshall, Jr., Esq.
Minshall Law Offices
2189 Professor Avenue
Cleveland, Ohio 44113

CERTIFIED MAIL # 7004 2510 0006 9801 8456
RETURN RECEIPT REQUESTED

RECEIVED - 7 11 2:51

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA.)

Plaintiff,)

v.)

ALLA MIKILII,)

Defendant.)

INFORMATION

1:06CRO104

CASE NO.

JUDGE:

JUDGE GAUGHAN

Title 18 United States Code
Section 1347

COUNT 1

The United States Attorney charges:

1. The Centers for Medicare and Medicaid Services (CMS), formerly The Health Care Financing Administration (HCFA), is a federal agency within the U.S. Department of Health and Human Services. It administers the national health care program, Medicare, through private insurance carriers.

2. Medicaid provides medical coverage for the poor pursuant to the Social

Security Act (42 U.S.C. §1396 et seq.). Federal funds account for about 60 percent of the

I hereby certify that this instrument, document no. 1-1, filed on 3/7/06, is a true and correct copy of the electronically filed original.

Attest: Geri M. Smith, Clerk
U.S. District Court
Northern District of Ohio

funding for the Ohio Medicaid program. The Medicaid program is administered by the State of Ohio through the Ohio Department of Job and Family Services (ODJFS).

3. "Health care benefit program" is defined in Title 18, United States Code, Section 24(b) as "any public or private plan or contract, affecting commerce, under which any medical benefit, item, or service is provided to any individual, and includes any individual or entity who is providing a medical benefit, item, or service for which payment may be made under the plan or contract." Medicare and Ohio Medicaid are such health care benefit programs.

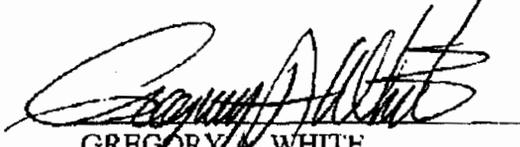
4. The defendant is a doctor of podiatry licensed to practice in the State of Ohio. She maintains a practice at 5 Severance Circle, Cleveland Heights, Ohio 44118, within this district. At all relevant times, the defendant has been a participating provider with Medicare and Ohio Medicaid. The podiatry services for which defendant has claimed reimbursement from Medicare and Ohio Medicaid are health care benefits, items and services within the meaning of 18 U.S.C. § 1347.

5. From on or about March 2001 through in or about January 2005, in the Northern District of Ohio, Eastern Division, and elsewhere, the defendant, ALLA MIKHLI, knowingly and willfully executed, and attempted to execute, a scheme and artifice to defraud a health care benefit program, and to obtain, by means of the false and fraudulent pretenses, representations and promises described herein, money and property owned by, and under the custody and control of, a health care benefit program, in connection with the delivery of or payment for health care benefits, items and services.

3

6. It was a part of the scheme to defraud that the defendant claimed payment from Medicare and Ohio Medicaid for surgical incision and drainage procedures, when in fact she performed lesser procedures or routine foot care that was reimbursable, if at all, at lesser rates.

All in violation of Title 18, United States Code, Section 1347.



GREGORY A. WHITE
UNITED STATES ATTORNEY

United States District Court

_____ NORTHERN _____ DISTRICT OF _____ OHIO, EASTERN DIVISION _____

UNITED STATES OF AMERICA

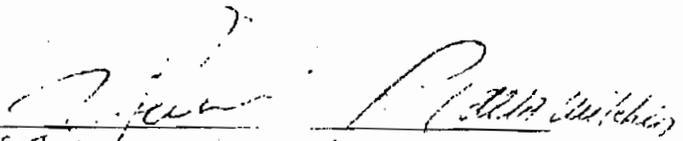
v.

ALLA MIKHLI

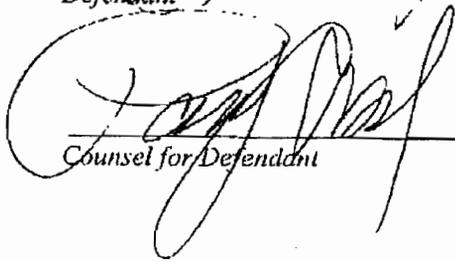
WAIVER OF INDICTMENT

1:06CR0104
CASE NUMBER:
JUDGE GAUGHAN

I, **ALLA MIKHLI**, the above named defendant, who is accused of Health Care Fraud, Title 18 U.S.C. § 1347 being advised of the nature of the charge(s), the proposed information, and of my rights, hereby waive in open court on _____ *Date* _____ prosecution by indictment and consent that the proceeding may be by information rather than by indictment.



Defendant



Counsel for Defendant

Before _____
Judicial Officer

FILED
06 MAR 13 PM 1:42
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	Case No. <i>1:06CR104</i>
)	
Plaintiff,)	
)	Judge <i>Gaughan</i>
v.)	
)	
ALLA MIKHLI,)	<u>PLEA AGREEMENT</u>
)	
Defendant.)	

Pursuant to Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure, and in consideration of the mutual promises set forth below, the United States Attorney's Office for the Northern District of Ohio (hereinafter "USAO"), by and through its undersigned attorney, and the defendant, ALLA MIKHLI, (hereinafter "Defendant"), agree as follows:

I hereby certify that this instrument, document no. 8, filed on 3/13/06, is a true and correct copy of the electronically filed original.
Attest: Geri M. Smith, Clerk
U.S. District Court
Northern District of Ohio

PLEA AGREEMENT.WPD

By: Penny Johnson
Deputy Clerk

Defendant's Initials: AM

Plea Agreement of ALLA MIKHLI - page 2 of 11

**MAXIMUM PENALTIES AND OTHER
CONSEQUENCES OF PLEADING GUILTY**

1. **Waiver of Constitutional Trial Rights.** Defendant understands that Defendant has the right to plead not guilty and go to trial. At trial, Defendant would be presumed innocent, have the right to trial by jury or the Court, with the consent of the United States, the right to the assistance of counsel, the right to confront and cross-examine adverse witnesses and subpoena witnesses to testify for the defense, and the right against compelled self-incrimination. Defendant understands that Defendant has the right to an attorney at every stage of the proceeding and, if necessary, one will be appointed to represent Defendant. Defendant understands that, if Defendant pleads guilty and that plea is accepted by the Court, there will not be a further trial of any kind, so that by pleading guilty Defendant waives the right to a trial.

2. **Maximum Sentence.** The statutory maximum sentence for the count to which Defendant agrees to plead guilty is as follows:

<u>Count</u>	<u>Statute</u>	<u>Maximum sentence per count</u>
1	18 U.S.C. § 1347 (Health Care Fraud)	Imprisonment: 10 years Fine: \$250,000 Supervised release: 3 years

Plea Agreement of ALLA MIKHLI - page 3 of 11

3. **Alternative Maximum Fine.** The maximum fine that the Court may impose is the greater of the statutory maximum stated above or twice the gross pecuniary loss or gain from the offense of conviction.

4. **Sentencing Guidelines.** Defendant understand that federal sentencing law requires the Court to impose a sentence which is reasonable and that the Court must consider the advisory U.S. Sentencing Guidelines in effect at the time of sentencing in determining a reasonable sentence.

5. **Special Assessment.** Defendant will be required to pay a mandatory special assessment of \$100, due immediately upon sentencing.

6. **Costs.** The Court may order Defendant to pay the costs of prosecution and sentence, including but not limited to imprisonment, community confinement, home detention, probation, and supervised release.

7. **Restitution.** The Court may order Defendant to pay restitution as a condition of the sentence, probation, and/or supervised release. The parties agree that the amount of restitution in this case is \$120,000.

8. **Violation of Probation/Supervised Release.** If Defendant violates any term or condition of probation or supervised release, such violation could result in a period of incarceration or other additional penalty as imposed by the Court. In some

Plea Agreement of ALLA MIKHLI - page 4 of 11

circumstances, the combined term of imprisonment under the initial sentence and additional period of incarceration could exceed the maximum statutory term.

ELEMENTS OF THE OFFENSES

9. The elements of the offenses to which Defendant will plead guilty are:

18 U.S.C. § 1347: Health Care Fraud	
One:	The Defendant executed or attempted to execute a scheme or artifice to: 1) defraud any health care benefit program; or 2) obtain by means of false or fraudulent pretenses, representations, or promises any of the money or property owned by or under the custody or control of any health care benefit program;
Two:	The Defendant knowingly and willfully participated in the scheme or artifice;
Three:	The scheme or artifice was executed in connection with the delivery or payment for health care benefits, items or services.

AGREEMENTS AND STIPULATIONS OF THE PARTIES

GUILTY PLEAS / OTHER CHARGES

10. **Agreement to Plead Guilty.** Defendant agrees to plead guilty to count one of the Information in this case.

FACTUAL BASIS

The parties stipulate to the following facts, which satisfy all of the elements of the offenses to which Defendant agrees to plead guilty:

Plea Agreement of ALLA MIKHLI - page 5 of 11

11. At all relevant times, Defendant has been a podiatrist licensed by the State of Ohio. She maintains a practice as a doctor of podiatry licensed to practice in the State of Ohio. She maintains a practice at 5 Severance Circle, Cleveland Heights, Ohio 44118, within this district. Defendant has been a participating provider with Medicare and Ohio Medicaid, which are health care benefit programs within the meaning of federal law. The podiatry services for which defendant has claimed reimbursement from Medicare and Ohio Medicaid are health care benefits, items and services within the meaning of federal law.

12. From on or about March 2001 through in or about January 2005, in the Northern District of Ohio, Eastern Division, and elsewhere, Defendant knowingly and willfully claimed payment from Medicare and Ohio Medicaid for surgical podiatry services known as incision and drainage procedures, and represented falsely that she had performed those procedures, when in fact she performed lesser procedures or routine foot care that was reimbursable, if at all, at lesser rates. As a result, Medicare and Ohio Medicaid suffered a loss of \$120,000.

WAIVER OF APPEAL AND POST-CONVICTION ATTACK

13. Defendant acknowledges having been advised by counsel of Defendant's rights, in limited circumstances, to appeal the conviction or sentence in this case, including the appeal right conferred by 18 U.S.C. § 3742, and to challenge the conviction

Plea Agreement of ALLA MIKHLI - page 6 of 11

or sentence collaterally through a post-conviction proceeding, including a proceeding under 28 U.S.C. § 2255. Defendant expressly waives those rights, except as reserved below. Defendant reserves the right to appeal: (a) any punishment in excess of the statutory maximum; (b) any sentence to the extent it exceeds the maximum of the sentencing range determined under the advisory Sentencing Guidelines in accordance with the sentencing stipulations and computations in this agreement, using the Criminal History Category found applicable by the Court. Nothing in this paragraph shall act as a bar to the Defendant perfecting any legal remedies Defendant may otherwise have on appeal or collateral attack respecting claims of ineffective assistance of counsel or prosecutorial misconduct.

SENTENCING STIPULATIONS AND AGREEMENTS

14. **Recommendation to Use the Sentencing Guideline Computation.** The parties agree to recommend that the Court impose a sentence within the range determined pursuant to the advisory Sentencing Guidelines in accordance with the computations and stipulations set forth below. The government will not request a sentence higher than the advisory Sentencing Guidelines range and the defendant will not request a sentence lower than the advisory Sentencing Guidelines range.

15. **Stipulated Guideline Computation.** The parties agree that the following calculation represents the correct computation of the applicable offense level in this case.

Plea Agreement of ALLA MIKHLI - page 7 of 11

The parties agree that no other Sentencing Guideline adjustments apply.

Count One	Guideline § 2B1.1	
Base offense level	6	§ 2B1.1(a)(2)
Loss Amount Not More Than \$120,000	8	§ 2B1.1(b)(1)(F)
Subtotal	14	

16. **Acceptance of Responsibility.** The USAO has no reason to believe at this time that Defendant has not clearly and affirmatively accepted personal responsibility for Defendant's criminal conduct. Defendant understands, however, that the Court will determine acceptance of responsibility based on Defendant's overall conduct as of the date of sentencing.

17. **Criminal History Category.** The parties have no agreement as to the Criminal History Category applicable in this case. Defendant understands that the Criminal History Category will be determined by the Court after the completion of a Pre-Sentence Investigation by the U.S. Probation Office.

OTHER PROVISIONS

18. **Agreement Silent as to Matters Not Expressly Addressed.** This agreement is silent as to all aspects of the determination of sentence not expressly addressed herein, and the parties are free to advise the Court of facts and to make

Plea Agreement of ALLA MIKHLI - page 8 of 11

recommendations to the Court with respect to all aspects of sentencing not agreed to herein.

19. **Sentencing Recommendations Not Binding on the Court.** Defendant understands that the recommendations of the parties will not be binding upon the Court, that the Court alone will decide the applicable sentencing range under the advisory Sentencing Guidelines, whether there is any basis to depart from that range or impose a sentence outside of the Guidelines, and what sentence to impose. Defendant further understands that once the Court has accepted Defendant's guilty plea, Defendant will not have the right to withdraw such a plea if the Court does not accept any sentencing recommendations made on Defendant's behalf or if Defendant is otherwise dissatisfied with the sentence.

20. **Consequences of Breaching the Plea Agreement.** Defendant understands that if Defendant breaches any promise in this agreement or if Defendant's guilty plea or conviction in this case are at any time rejected, vacated, or set aside, the USAO will be released from all of its obligations under this agreement and may institute or maintain any charges and make any recommendations with respect to sentencing that would otherwise be prohibited under the terms of the agreement. Defendant understands, however, that a breach of the agreement by Defendant will not entitle Defendant to withdraw, vacate, or set aside Defendant's guilty plea or conviction.

Plea Agreement of ALLA MIKHLI - page 9 of 11

21. **Agreement not Binding on other Jurisdictions and Agencies.** Defendant understands that this plea agreement is binding only on the United States Attorney's Office for the Northern District of Ohio (USAO). It does not bind any other United States Attorney, any other federal agency, or any state or local government.

22. **Defendant is Satisfied with Assistance of Counsel.** Defendant makes the following statements: I acknowledge receiving the assistance of counsel from Defendant's attorney concerning this plea agreement. I have fully discussed with my attorney all of my Constitutional trial and appeal rights, the nature of the charges, the elements of the offenses the United States would have to prove at trial, the evidence the United States would present at such trial, the Sentencing Guidelines, and the potential consequences of pleading guilty in this case. I have had sufficient time and opportunity to discuss all aspects of the case in detail with my attorney and have told my attorney everything I know about the charges, any defense that I may have to those charges, and all personal and financial circumstances in possible mitigation of sentence. My attorney has done everything I have asked my attorney to do and I am satisfied with the legal services and advice provided to me by my attorney and believe that my attorney has given me competent and effective representation.

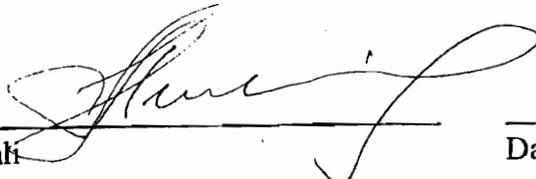
23. **Agreement Is Complete and Voluntarily Entered.** Defendant and Defendant's undersigned attorney state that this agreement constitutes the entire agreement between Defendant and the USAO and that no other promises or inducements

Plea Agreement of ALLA MIKHLI - page 10 of 11

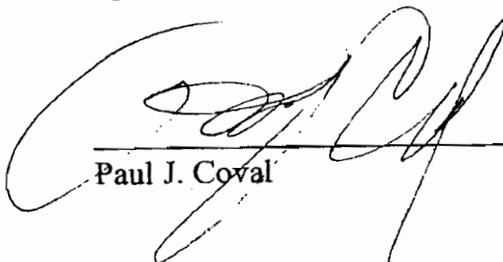
have been made, directly or indirectly, by any agent or representative of the United States government concerning any plea to be entered in this case. In particular, no promises or agreements have been made with respect to any actual or prospective civil or administrative proceedings or actions involving Defendant, except as expressly stated herein. In addition, Defendant states that no person has, directly or indirectly, threatened or coerced Defendant to do or refrain from doing anything in connection with any aspect of this case, including entering a plea of guilty.

SIGNATURES

Defendant: I have read this entire plea agreement and have discussed it with my attorney. I have initialed each page of the agreement to signify that I have read, understood, and approved the provisions on that page. I am entering this agreement voluntarily and of my own free will. No threats have been made to me, nor am I under the influence of anything that could impede my ability to understand this agreement.

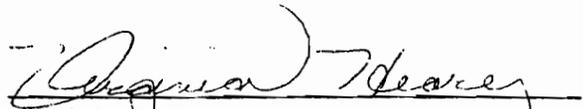

Alla Mikhli _____ Date 3/13/06

Defense Counsel: I have read this plea agreement and concur in Defendant pleading in accordance with terms of the agreement. I have explained this plea agreement to Defendant, and to the best of my knowledge and belief, Defendant understands the agreement.


Paul J. Coval _____ Date 3-13-06

Plea Agreement of ALLA MIKHLI - page 11 of 11

United States Attorney's Office: I accept and agree to this plea agreement on behalf of the United States Attorney for the Northern District of Ohio.



Virginia D. Hearey
Assistant U. S. Attorney (# 0025773)
United States Court House
801 West Superior Avenue, Suite 400
Cleveland, Ohio 44113-1852
(216) 622-3785; (216) 522-2403 (facsimile)
E-mail: Virginia.Hearey@usdoj.gov

March, 3, 2006
Date

APPROVED:



UNITED STATES DISTRICT JUDGE

3-13-06
Date

United States District Court Northern District of Ohio

UNITED STATES OF AMERICA
v.

Alla Mikhli

JUDGMENT IN A CRIMINAL CASE

Case Number: 1:06CR104-001

USM Number: 30571-160

Paul J. Coval
Defendant's Attorney

FILED
06 JUN 13 PM 2:32
CLERK OF COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

THE DEFENDANT:

- pleaded guilty to count(s): 1 of the Information.
- pleaded nolo contendere to counts(s) ___ which was accepted by the court.
- was found guilty on count(s) ___ after a plea of not guilty.

The defendant is adjudicated guilty of these offense(s):

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 USC 1347	Health Care Fraud	01/2005	1

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on counts(s) ___ and is discharged as to such count(s).
- Count(s) ___ (is)(are) dismissed on the motion of the United States.

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and the United States Attorney of material changes in the defendant's economic circumstances.

June 12, 2006

Date of Imposition of Judgment


Signature of Judicial Officer

PATRICIA A. GAUGHAN United States District Judge
Name & Title of Judicial Officer

6-13-06

Date

I hereby certify that this instrument, document no. 12, filed on 6/13/06 is a true and correct copy of the electronically filed original.

Attest: Geri M. Smith, Clerk
U.S. District Court
Northern District of Ohio

By: 
Deputy Clerk

AO 245B (Rev. 6/05) Sheet 2 - Imprisonment

CASE NUMBER: 1:06CR104-001
DEFENDANT: Alla Mikhli

Judgment - Page 2 of 6

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of 5 MONTHS.

The court makes the following recommendations to the Bureau of Prisons:

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district.

at ___ on ___.

as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

before 2:00 p.m. on July 24, 2006.

as notified by the United States Marshal but no sooner than

as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____

Deputy U.S. Marshal

AO 245B (Rev. 6/05) Sheet 3 - Supervised Release

CASE NUMBER: 1:06CR104-001
DEFENDANT: Alla Mikhli

Judgment - Page 3 of 6

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 3 YEARS.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state, or local crime.

The defendant shall not illegally possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the Court.

- The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- The defendant shall not possess a firearm, destructive device, or any other dangerous weapon. (Check, if applicable.)
- The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependants and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

AO 245B (Rev. 6/05) Sheet 3 - Supervised Release

CASE NUMBER: 1:06CR104-001
DEFENDANT: Alla Mikhli

Judgment - Page 4 of 6

SPECIAL CONDITIONS OF SUPERVISED RELEASE

Home Confinement with Electronic Monitoring

The defendant shall participate in a Home Confinement Program with electronic monitoring for a period of **5 months**, to commence upon release from imprisonment. The defendant required to remain at residence unless given written permission to be elsewhere. The defendant may leave her residence to work, to receive medical treatment and to attend religious services. The defendant shall wear an electronic monitoring device, follow electronic monitoring procedures as specified by the probation officer. The defendant may participate in the Earned Leave Program. Further, the defendant will be required to pay for the daily cost of electronic monitoring services. A percentage of this payment may be waived, based on the probation officer's evaluation of the defendant's financial condition.

AO 245B (Rev. 6/05) Sheet 5 - Criminal Monetary Penalties

CASE NUMBER: 1:06CR104-001
 DEFENDANT: Alla Mikhli

Judgment - Page 5 of 6

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the Schedule of Payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
Totals:	\$ 100.00	\$	\$ 120,000.00

- The determination of restitution is deferred until __. An amended Judgment in a Criminal Case (AO 245C) will be entered after such determination.
- The defendant must make restitution (including community restitution) to the following payees in the amounts listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment unless specified otherwise in the priority order of percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>*Total Loss</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
The Centers for Medicare and Medicaid Services c/o Advance Med 3940 Gantz Road, Suite F Grove City, Ohio 43123		\$120,000.00	
<u>TOTAL:</u>		\$120,000.00	

- Restitution amount ordered pursuant to plea agreement \$_____
- The defendant must pay interest on restitution and a fine of more than \$2500, unless the restitution or fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. §3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. §3612(g).
- The court determined that the defendant does not have the ability to pay interest and it is ordered that:
 - The interest requirement is waived for the fine restitution.
 - The interest requirement for the fine restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994 but before April 23, 1996.

AO 245B (Rev. 12/03) Sheet 6 - Criminal Monetary Penalties

CASE NUMBER: 1:06CR104-001
DEFENDANT: Alla Mikhli

Judgment - Page 6 of 6

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A Lump sum payment of \$ due immediately, balance due
 not later than or
 in accordance with C, D, E, or F below; or
- B Payment to begin immediately (may be combined with C D, or F below); or
- C Payment in equal installments of \$ over a period of , to commence days after the date of this judgment; or
- D Payment in equal installments of \$ over a period of , to commence days after release from imprisonment to a term of supervision; or
- E Payment during the term of supervised release will commence within (e.g., 30 or 60 days) after release from imprisonment. The Court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or

F Special instructions regarding the payment of criminal monetary penalties:

- A special assessment of \$ 100.00 is due in full immediately as to count 1.
PAYMENT IS TO BE MADE PAYABLE AND SENT TO THE CLERK, U.S. DISTRICT COURT

RESTITUTION SHALL BE PAID THROUGH THE CLERK OF THE U.S. DISTRICT COURT WITHIN A ONE YEAR PERIOD OF TIME.

- After the defendant is release from imprisonment, and within 30 days of the commencement of the term of supervised release, the probation officer shall recommend a revised payment schedule to the Court to satisfy any unpaid balance of the restitution. The Court will enter an order establishing a schedule of payments.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the Clerk of the Court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

- Joint and Several (Defendant name, Case Number, Total Amount, Joint and Several Amount and corresponding payee):
- The defendant shall pay the cost of prosecution.
- The defendant shall pay the following court cost(s):
- The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment; (2) restitution principal; (3) restitution interest; (4) fine principal; (5) community restitution; (6) fine interest; (7) penalties; and (8) costs, including cost of prosecution and court costs.