

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

CLERK OF COURTS

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FILED
COMMON PLEAS COURT
FRANKLIN CO. OHIO

JABIR KAMAL AKHTAR, M.D.,]
Appellant,]
vs.]
STATE MEDICAL BOARD OF OHIO,]
Appellee.]

CASE NO. 07CVF07-09860

JUDGE REECE
TERMINATION NO. 10
BY *ad 7-23-08*

FINAL APPEALABLE ORDER

DECISION AND ENTRY ON MERITS OF REVISED CODE 119.12 APPEAL,
AFFIRMING ORDER ISSUED JULY 12, 2007 BY STATE MEDICAL
BOARD OF OHIO, PERMANENTLY DENYING APPELLANT'S APPLICATION
FOR CERTIFICATE TO PRACTICE MEDICINE AND SURGERY IN OHIO

Rendered this 23rd day of ~~June~~ *July* 2008.

REECE, J.

This case is a Revised Code 119.12 appeal, by Jabir Kamal Akhtar, M.D. (Appellant), from an Order that the State Medical Board of Ohio issued on July 12, 2007, permanently denying Appellant's application for a certificate to practice medicine and surgery in Ohio. The record that the Medical Board has certified to the Court reflects the following facts.

From on or about October 16, 2002, to on or about June 30, 2005, Appellant held a training certificate issued by the State Medical Board of Ohio. On or about May 26, 2004, Appellant submitted to the Board an application for a certificate to practice medicine and surgery in Ohio.

On or about March 9, 2006, the State Medical Board of Ohio issued an Order to Appellant, in which the Board stated:

MAHMOUD R. ALI
JUL 23 2008
CLERK OF COURTS

*** The application of Jabir Kamal Akhtar, M.D., for a certificate to practice medicine and surgery in Ohio is GRANTED, provided that he otherwise meets all statutory and regulatory requirements, and subject to SUSPENSION for a definite term of 90 days. (Emphasis in original.)

Appellant received the Order in March 2006.

On March 22, 2006, the Medical Board requested that Appellant submit updated information pertaining to his application for licensure. Appellant did not respond to the Board's request and his license was not issued.

On September 15, 2006, an enforcement attorney for the Medical Board took an investigatory deposition of Appellant, pursuant to R.C. 4731.22(F).¹ At his deposition, Appellant testified that he received, read, and understood the Board's March 9, 2006 Order. (Depo. pp. 41-46.) He further testified:

Q. Doctor, earlier you indicated that you had interviews at Ashtabula [County Medical Center] and [Holzer Medical Center] Jackson.

A. Yes. (Depo. p. 89.)

Q. Are you telling me that the method by which the CEO of Jackson Memorial Hospital got possession of the Board's order regarding you was by going to the website and printing it off?

A. Well, I told him before I –

Q. I understand. But I'm asking you how did he get physical possession of a Board order? By printing it off the website after you told him about it?

¹ Revised Code 4731.22(F) provides:

(1) The board shall investigate evidence that appears to show that a person has violated any provision of this chapter or any rule adopted under it. ***

(3) In investigating a possible violation of this chapter or any rule adopted under this chapter, the board may *** order the taking of depositions***.

A. No. No. No. I mean, **before I went for interview I told their recruiter, because – their recruiter called me and I told them, “This is what I have. I have a Board order, I have this.”** And he says, “Well, we want you to come to interview and we can look at those things.” I said “Okay.” And they looked at it and at that point they decide not to offer me a position. (Depo. p. 92. Emphasis added.)

Q. How about Ashtabula?

A. Ashtabula, when I did interview, that day I believe he faxed over the copy to those guys.

Q. You’re indicating that your attorney faxed a copy of it over to Ashtabula?

A. Yes.

And anyplace I went for interview I told them ahead of time that I have an order, I had a misdemeanor, and they asked me “Is there any restrictions on your license?” And I told them “Yes, I have to take medical ethics classes.” And they said, “Well, come do an interview, if you’re offered a position, then we’ll go further.” (Depo. p. 93. Emphasis added.)

On December 14, 2006, the Medical Board mailed a notice-of-opportunity letter to Appellant, advising him that the Board proposed to take disciplinary action against him for several reasons, including the following:

- (1) From on or about October 16, 2002, to on or about June 30, 2005, you held a training certificate issued by the Board. On or about May 26, 2004, you caused to be submitted to the Board an Application for Certificate – Medicine or Osteopathic Medicine [Application] to practice medicine and surgery in the State of Ohio.

On or about March 9, 2006, the Board issued an Order [2006 Ohio Order] which provides for the future conditional grant of an Ohio certificate to practice medicine and surgery, provided you meet all statutory and regulatory requirements. The 2006 Ohio Order further provides that, upon future issuance, such certificate to practice medicine and surgery will be subject to suspension for a definite term of ninety days, with subsequent probationary terms,

conditions, and limitations for at least two years established. The 2006 Ohio Order was based on your 2001 plea of guilty to a misdemeanor count of Conspiracy to Commit Theft of Public Money of over \$20,000, the acts underlying which involved your having forged the name of a school official on a student loan application in order to fraudulently obtain money.

Your Application remains pending.

- (3) During an investigatory deposition conducted by Board staff on or about September 15, 2006, you testified that you always told potential employers prior to any interview that you had a Board Order and that you confirmed that you had restrictions on your Ohio license. In fact, you failed to advise representatives at Ashtabula County Medical Center [ACMS] located in Ashtabula, Ohio, or at Holzer Medical Center Jackson [HMCJ], located in Jackson, Ohio, that you were subject to a Board Order or that you had any licensure restrictions prior to such interviews.

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

Further, your acts, conduct, and/or omissions as alleged in [paragraph (1) and (3)] above, individually and/or collectively, constitute a "[f]ailure to cooperate in an investigation conducted by the board under division (F) of this section," as that clause is used in Section 4731.22(B)(34), Ohio Revised Code.

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

On February 28 and March 1, 2007, at Appellant's request, a Medical Board Hearing Examiner conducted a hearing on the Board's charges against Appellant. Twelve witnesses testified and numerous exhibits were admitted into evidence. For purposes of this appeal, the hearing testimony of Janet D. Vettel, David V. Morony, and Thomas R. Gooch is pertinent.

Testimony of Janet D. Vettel

Janet D. Vettel is a Physician Recruiter at Ashtabula County Medical Center (ACMC), in Ashtabula, Ohio. (Tr. p. 169.) Ms. Vettel met Appellant through a recruiting agency called Doctor's Choice. (Tr. pp. 169-170.) Appellant interviewed at ACMC on May 15, 2006. (Tr. p. 174.) Ms. Vettel testified by telephone at the Board hearing on February 28, 2007:

Q. ***** Prior to the May 15, 2006 interview, did Dr. Akhtar tell you he had a prior Board order with the State Medical Board of Ohio?**

A. (No response.)

Q. Ms. Vettel?

A. Yes.

Q. **Did you hear my question?**

A. **Yes. I answered no.**

Q. ***** Prior to the May 15, 2006 interview, did Dr. Akhtar tell you that he had a prior Board order by the State Medical Board of Ohio?**

A. **No.**

Q. ***** Prior to the May 15, 2006 interview, did he tell you he had a restricted license by the State Medical Board of Ohio?**

A. **No.** (Tr. pp. 178-179. Emphasis added.)

Q. *** And you testified in response to [the Assistant Attorney General's] questions that **you did not know of Dr. Akhtar's prior Board issues before his interview in May of 2006; is that correct?**

A. **Yes.**

Q. Do you recall when exactly you did find out that information?

A. The only information that I knew about, up until probably November when I had to sign an affidavit, was that there was a 90-day suspension.

Q. And you didn't – So prior to November, you're telling me you did not know of the March 2006 Board order, correct?

A. Not specifically, no – or yes.

Q. *** Let me see if I can make sure we all understand that. **You were unaware of the Board order prior to November, 2006; is that correct?**

A. **Yes.**

Q. Even though your file shows the Board order was faxed to the hospital on July 7th of 2006?

A. That doesn't mean I got it, yes. (Tr. pp. 181-182. Emphasis added.)

Q. *** [Y]our testimony was that **sometime in November of 2006 you became aware of the prior Board order; am I right?**

A. **That's correct.** (Tr. p. 185. Emphasis added.)

Q. **And your testimony, just so I'm clear, is that you did not know the details of the prior Board matter or the prior Board order before November of 2006, correct?**

A. **That's correct.** And the only thing I want to specify is that the only thing I knew was the issue with the 90-day suspension. That was all I ever knew up to that point until I signed that affidavit.

Q. Ms. Vettel, turning to Pages 80 and 81 of State's Exhibit 4, are you there, please?

A. No, hold on. Pages 80 and 81. Okay.

Q. Who is L. Shook?

A. Laura Shook is in our medical – She is the medical staff, well, coordinator gal that handles all of the medical staff's paperwork.

Q. And to you know when Laura printed this off, the Medical Board's website?

A. Well, I have to make the assumption it was on May 15th of '06. That's what it states.

Q. *** Are you aware if it was printed off prior to Dr. Akhtar's interview on May 15th, 2006?

A. Not that I'm aware of.

Q. **And did Dr. Akhtar provide this to you or anyone at Ashtabula prior to the May 15, 2006 interview?**

A. **Not to me he didn't.**

Q. Your understanding of what 80 and 81 are is that Laura Shook printed that off on her own, correct?

A. Yes.

Q. And turning to Page 56, the email from Jarrett to you where he mentions some legal issues back in 1996, **does that email say that Dr. Akhtar has a Board order from March of 2006?**

A. **No.**

Q. Would you think that because there is legal issues in 1996 that that would, in turn, mean that there's a Board order by the State Medical Board of Ohio in March of 2006?

A. I wouldn't interpret it as that. Actually, I wouldn't have any interpretation at all of what it meant. (Tr. pp. 189-192. Emphasis added.)

Q. ***** You were not informed of any Board order during that interview time in May of 2006, correct?**

A. **May 15th, no, I was not.** (Tr. p. 196. Emphasis added.)

Testimony of David V. Morony

David V. Morony is the Vice President of Clinic Facilities for ACMC in Ashtabula, Ohio. (Tr. p. 224.) In that position, he manages the out-patient physician practices. (Tr. p. 224.) Mr. Morony interviewed Appellant for a position as a family practice physician at ACMC's North Kingsville office. (Tr. p. 225.) Mr. Morony further testified at the Board hearing on February 28, 2007:

Q. **Prior to that interview, did Dr. Akhtar tell you he had a prior Board order by the State Medical Board of Ohio?**

A. **No, he did not.**

Q. **Prior to that interview, did Dr. Akhtar tell you he had a restricted license by the State Medical Board of Ohio?**

A. **No, he did not.**

Q. What did, if you recall, Dr. Akhtar tell you about his Ohio medical license?

A. Prior to his interview or during his interview?

Q. During his interview.

A. During his interview he did mention that there was a 90-day suspension on his license, and he should be receiving it in the beginning part of June. (Tr. pp. 225-226. Emphasis added.)

Q. Can you just briefly describe your role in the physician recruitment and hiring process?

A. Absolutely. We do have a consultant that we use that kind of does the dirty work, if you will. She does all the pre-screening and so forth. Once the candidate is pre-screened by Janet Vettel, who is our physician recruiter, she presents the CVs and the physician to me. She arranges for them to come out. Once they are physically here, that's when I kind of take over and meet with the doctors and show them around both the Ashtabula clinic and tell them about the hospital.

Q. Okay. So, in the case of Dr. Akhtar, it's fair to say that Janet Vettel pre-screened him and sent his CV on to you?

A. Well, in terms of pre-screening, what we mean by that is she received a CV, usually through a contingency placement firm, so she would have received the CV and arranged for him to visit.

Q. All right. Now, in any event, then Dr. Akhtar made it through that pre-screening, for look [sic] of a better term, and at some point was interviewed by you?

A. Correct.

Q. *** And so you testified that during this interview – and this took place, I believe, on or about May 15, 2006?

A. Correct. I met with Dr. – Yes, that was the first time I met Dr. Akhtar.

Q. **And you testified during this interview there was some conversation about prior legal issues that Dr. Akhtar had been involved in?**

A. **Correct.**

Q. **Was there a specific discussion about any Board order affecting Dr. Akhtar?**

A. **Board order? Not necessarily a Board order.** The way it was described to me was that because he had forged some documents years ago for his tuition, I believe it was, that he was going to receive a 90-day suspension to his license, and that that

suspension would be up sometime in the beginning part of June.
(Tr. pp. 227-229. Emphasis added.)

Q. *** I wanted to have you go back to Pages 80 and 81 of State's Exhibit 4, please.

A. Okay.

Q. And looking on Page 80, do you see a signature at the bottom right that says, "L. Shook"?

A. Yes, I do.

Q. Who is L. Shook?

A. L. Shook stands for Laura Shook. She is our medical staff office coordinator.

Q. Do you know when Laura downloaded Pages 80 and 81?

A. I do not. However, there's a stamp on this page that says received May 15th, 2006, so I would assume that's when she did, but I don't know that for certain.

Q. **Did Dr. Akhtar give you this information prior to him being interviewed?**

A. **No, he did not.** (Tr. p. 234. Emphasis added.)

Testimony of Thomas R. Gooch

Thomas R. Gooch is employed by Holzer Consolidated Health Systems (Holzer), of Gallipolis, Ohio, as the Director of Physician Recruitment. (Tr. pp. 121-122.) Appellant contacted Mr. Gooch about employment as a physician at Holzer's hospital in Jackson, Ohio. (Tr. p. 123.) On May 9, 2006, Appellant told Mr. Gooch that Appellant would be receiving his Ohio medical license in June 2006, and inquired about employment opportunities. (Tr. pp. 124-125.)

During a telephone conversation on May 10, 2006, Appellant told Mr. Gooch that Appellant would be receiving his Ohio medical license on June 9, 2006. (Tr. pp. 125-126.) Appellant told Mr. Gooch that Appellant had a misdemeanor conviction in 1996, and that the misdemeanor and staffing shortages at the Ohio State Medical Board had delayed his Ohio licensure. (Tr. pp. 126-128.) During a telephone conversation on May 17, 2006, Appellant told Mr. Gooch that Appellant possibly would be ready to practice medicine after his licensure on June 9, 2006. (Tr. pp. 128-130.) During a telephone conversation on May 18, 2006, Appellant arranged with Mr. Gooch to visit Holzer's hospital in Jackson, Ohio from June 5 through 7, 2006. (Tr. p. 130.)

Mr. Gooch further testified at the Board hearing on February 28, 2007:

Q. And prior to the May 10th, 2006 phone conversation, did Dr. Akhtar tell you he had a prior Board order by the State Medical Board of Ohio.

A. To the best of my recollection, he did not tell me he had a state Board order. He had mentioned there was an irregularity holding up his Ohio licensure.

Q. Prior to the May 17th phone conversation, did Dr. Akhtar tell you he had a prior Board order?

A. No, I don't believe there was any change in that status.

Q. Prior to the May 10, 2006 phone conversation, did Dr. Akhtar tell you he had a restricted license by the Medical Board of Ohio?

A. I don't remember those words being used.

Q. Prior to the May 17th, 2006 phone conversation did Dr. Akhtar tell you he had a restricted license by the Medical Board?

A. No, I don't remember those specific words.

Q. Dr. Akhtar previously stated in deposition he had a conversation with you where he informed you that he had a prior Board order, and you responded by saying, and I quote, "Well, we want you to

come to interview, and we can look at those things." Did you say anything like this when talking to Dr. Akhtar?

A. That was on what date, please?

Q. When did he say that to you?

A. Yeah.

Q. I don't know the time frame he said that to you.

A. **Before the visit, those specific words were not used.** I could see myself telling him in reference to some misdemeanor or irregularity that we would like to have him come visit anyway, but I don't believe those specific words were used.

Q. **And the fact that if a Board order was mentioned or license restriction was mentioned, would that be included somewhere in your notes?**

A. It likely would, as I would consider that a fairly pertinent detail.

Q. **When did you first discover that there was a Board order regarding Dr. Akhtar?**

A. **During his visit, very early in the site visit.**

Q. And how was that information gathered?

A. As I best remember, it was in a direct early conversation face to face between the doctor and I, and he told me the details, the whole story that he had a Board order that should expire, as I remember, on June 9, that should be the date that he could obtain Ohio licensure.

Q. And when did you obtain a copy of that Board order?

A. I did not see a copy of the Board order until later in the visit, I believe, that same day. I remember we were back in Gallipolis at my office, and the doctor and I were alone in my office and, actually, he went to the OSMB site and pulled up the Board order and I copied one off. (Tr. pp. 132-134. Emphasis added.)

In a Report and Recommendation issued on June 15, 2007, the Hearing Examiner recommended that the Medical Board permanently deny Appellant's

application for a certificate to practice medicine and surgery in Ohio. The Hearing Examiner made these specific findings of fact:

9. During the investigatory deposition of September 15, 2006, Dr. Akhtar testified, in part, that "anyplace I went for [an] interview I told them ahead of time that I have an order" and that he confirmed that he had restrictions on his Ohio certificate.

Prior to interviewing at Holzer, Dr. Akhtar did not inform the Holzer personnel involved in interviewing Dr. Akhtar that he was subject to a Board Order or confirm that he had restrictions on his Ohio certificate. Prior to interviewing at ACMC, did not inform the ACMA personnel involved in interviewing Dr. Akhtar that he was subject to a Board Order or confirm that he had restrictions on his Ohio certificate.

The Hearing Examiner rendered these specific conclusions of law:

10. Dr. Akhtar's false deposition testimony, as set forth in Finding of Fact 9, constitutes "[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board," as that language is used in Section 4731.22(B)(5), Ohio Revised Code. Dr. Akhtar's testimony on this point was intended to demonstrate that he had complied with the Board Order and was intended to deceive the Board.
11. For the reasons set forth in Conclusion of Law 10, Dr. Akhtar's false testimony, as set forth in Finding of Fact 9, constitutes a failure to furnish satisfactory proof of good moral character as required by Section 4731.08, Ohio Revised Code.
12. For the reasons set forth in Conclusion of Law 10, Dr. Akhtar's false testimony, as set forth in Finding of Fact 9, constitutes a "[f]ailure to cooperate in an investigation conducted by the board under division (F) of this section," as that language is used in Section 4731.22(B)(34), Ohio Revised Code.

Appellant filed written objections to the Report and Recommendation of the Hearing Examiner.

The Medical Board met to consider Appellant's case on July 11, 2007. Appellant and the Assistant Attorney General addressed the Board. At the conclusion of the Board's deliberations, the Board followed the Hearing Examiner's recommendation and entered an Order permanently denying Appellant's application for a certificate to practice medicine and surgery in Ohio. The Board mailed a copy of its Order to Appellant on July 12, 2007.

On July 26, 2007, Appellant appealed the Medical Board's Order to this Court, pursuant to R.C. 119.12.

In addressing the merits of this Revised Code 119.12 appeal, the Court observes that, in such an appeal, a trial court reviews a Medical Board order to determine whether it is supported by reliable, probative, and substantial evidence and is in accordance with law. *Lonergan v. State Med. Bd.*, Franklin App. No. 06AP-800, 2006-Ohio-6790, at ¶ 7; *Slingluff v. State Med. Bd.*, Franklin App. No. 05AP-918, 2006-Ohio-3614, at ¶ 7. Appellant contends that the Board's July 12, 2007 Order is not supported by the requisite evidence and that it is not in accordance with law. For the following reasons, the Court finds Appellant's contention to be without merit.

In *Our Place, Inc. v. Ohio Liquor Control Comm.* (1992), 63 Ohio St. 3d 570, 571, the Supreme Court of Ohio held:

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

Revised Code 4731.22(B)(5) and (34) provide:

§ 4731.22. Grounds for discipline ***

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

(5) Making a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or **in securing or attempting to secure any certificate to practice or certificate of registration issued by the board.**

As used in this division, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(34) Failure to cooperate in an investigation conducted by the board under division (F) of this section, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue[.] (Emphasis added.)

Revised Code 4731.08 provides:

§ 4731.08. Application for examination

Except as provided in sections 4731.29 and 4731.291 to 4731.294 of the Revised Code, *** each person who desires to practice medicine and surgery or osteopathic medicine and surgery in this state shall file with the secretary of the state medical board a written application for admission to the examination conducted by the board under section 4731.13 of the Revised Code. The applicant shall file the application under oath on a form prescribed by the board. **The applicant shall furnish evidence satisfactory to the board that the applicant is more than eighteen years of age and of good moral character.** (Emphasis added.)

At Appellant's investigatory deposition on September 15, 2006, he testified that, wherever he interviewed, he told the potential employer, before the interview, that he had a Board Order, and that he confirmed that he had restrictions on his Ohio certificate. As demonstrated by the hearing testimony of Ms. Vettel, Mr. Morony, and Mr. Gooch, however, Appellant did not inform the recruiting personnel at ACMC or Holzer, prior to interviewing, that he was subject to a Board Order, or confirm that he had restrictions on his Ohio certificate. The testimony of Ms. Vettel, Mr. Morony, and Mr. Gooch constitutes reliable, probative, and substantial evidence to support the Hearing Examiner's findings and conclusions that Appellant gave false deposition testimony in order to secure a certificate to practice medicine and surgery in Ohio, that he thereby failed to cooperate in the Board's investigation, and that he thereby failed to furnish evidence that he was of good moral character.

Appellant engaged in conduct that constitutes grounds for discipline pursuant to R.C. 4731.22(B)(5) and (34), and R.C. 4731.08. Pursuant to R.C. 4731.22(B), the Medical Board may sanction a physician for "one or more" of the enumerated reasons. *Landefeld v. State Med. Bd.* (June 15, 2000), Franklin App. No. 99AP-612, unreported

(emphasis added). Thus, in any given case, the trial court needs only to find reliable, probative, and substantial evidence supporting one ground for sanctions, in order to uphold the Medical Board's order. *Id.* Pursuant to R.C. 4731.22(B), the Medical Board was authorized to take disciplinary action against Appellant, including the sanction of refusing to issue a certificate to practice medicine and surgery in Ohio.

Upon consideration of the entire record on appeal, the Court finds that the Order that the State Medical Board of Ohio issued on July 12, 2007, permanently denying Appellant's application for a certificate to practice medicine and surgery in Ohio, is supported by reliable, probative, and substantial evidence and is in accordance with law. The Order is therefore **AFFIRMED**.



JUDGE GUY L. REECE II

Copies mailed to:

ROBERT C. ANGELL, ESQ. (0061151), Counsel for Appellant, 470 Olde Worthington Rd., Ste. 200, Westerville, OH 43082-9127

KYLE C. WILCOX, AAG (0063219), Counsel for Appellee, 30 E. Broad St., Fl. 26, Columbus, OH 43215-3400

BEFORE THE STATE MEDICAL BOARD OF OHIO
COLUMBUS, OHIO

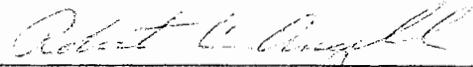
07 CV F 07 - 9860

IN RE: :
The Application of Jabir Kamal Akhtar, M.D. : Gretchen Petrucci, Esq.
For Certificate – Medicine or : Hearing Examiner
Osteopathic Medicine :

NOTICE OF APPEAL

Now comes the Respondent, Jabir Kamal Akhtar, M.D., by and through undersigned counsel, and gives notice of his appeal of the Order of the State Medical Board of Ohio dated July 11, 2007 permanently denying Dr. Akhtar's application for a certificate to practice medicine and surgery in the State of Ohio. The Order is not supported by reliable, probative, and substantial evidence, and is not in accordance with law.

Respectfully submitted,



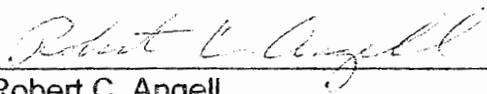
Robert C. Angell (0061151)
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CLERK OF COURTS-CV

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing *Notice of Appeal* was forwarded to Kyle C. Wilcox, Esq., Assistant Attorney General, Health and Human Services Section, 30 East Broad Street, 26th Floor, Columbus, Ohio 43215-3414, by first class U.S. mail this 24th day of July, 2007.



Robert C. Angell

2007 JUL 24 AM 11:48

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State Medical Board of Ohio

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

July 11, 2007

Jabir Kamal Akhtar, M.D.
1A Street 25, Sector F6-2
Islamabad, Pakistan

Dear Doctor Akhtar:

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

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

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

THE STATE MEDICAL BOARD OF OHIO

Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

REGISTERED MAIL NO. RR 323 469 815 US
RETURN RECEIPT REQUESTED

Cc: Robert C. Angell, Esq.
CERTIFIED MAIL NO. 91 7108 2133 3931 8317 3153
RETURN RECEIPT REQUESTED

Mailed 7-12-07

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 July 11, 2007, including motions approving and confirming the Findings of Fact, Conclusions and Proposed Order of the Hearing Examiner as the Findings and Order of the State Medical Board of Ohio; constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Jabir Kamal Akhtar, M.D., as it appears in the Journal of the State Medical Board of Ohio.

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



Lance A. Talmage, M.D.
Secretary

(SEAL)

July 11, 2007

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

JABIR KAMAL AKHTAR, M.D.

*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on July 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 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. **DENIAL OF CERTIFICATE:** The certificate of Jabir Kamal Akhtar, M.D., to practice medicine and surgery in the State of Ohio shall be permanently denied.
- B. **SUPERSEDE PREVIOUS BOARD ORDER:** This Order shall supersede the terms and conditions set forth in the March 8, 2006, Board Order.

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

(SEAL)



Lance A. Talmage, M.D.
Secretary

July 11, 2007
Date

2007 JUN 15 A 11:03

**REPORT AND RECOMMENDATION
IN THE MATTER OF JABIR KAMAL AKHTAR, M.D.**

The Matter of Jabir Kamal Akhtar, M.D., was heard by Gretchen L. Petrucci, Hearing Examiner for the State Medical Board of Ohio, on February 28 and March 1, 2007.

INTRODUCTION

I. Basis for Hearing

- A. By letter dated December 14, 2006, the State Medical Board of Ohio [Board] notified Jabir Kamal Akhtar, M.D., that it had proposed to take disciplinary action against his certificate to practice medicine and surgery in Ohio. The Board's proposed action was based on the following six allegations:
1. In response to the Board's March 22, 2006, request for updated information, Dr. Akhtar did not accurately disclose his place of residence from July 2005 to July 2006.
 2. In response to the Board's March 22, 2006, request for updated information, Dr. Akhtar did not disclose a period of travel to Pakistan from in or about late December 2005 to in or about early February 2006.
 3. During an investigatory deposition on September 15, 2006, Dr. Akhtar did not truthfully testify as to why he listed a California address on his resume.
 4. During an investigatory deposition on September 15, 2006, Dr. Akhtar did not truthfully testify as to his efforts to inform potential employers about the Board's March 8, 2006, Order in the *Matter of Jabir Kamal Akhtar, M.D.*, or the restrictions on his Ohio certificate.
 5. On or about May 10, 2006, Dr. Akhtar falsely reported to a physician recruiter that the delay in obtaining an Ohio certificate was due in part to "staffing shortages" at the Board.
 6. Dr. Akhtar failed to list his Ohio training certificate on a licensure application that he submitted to the Illinois Department of Professional Regulation, Division of Professional Regulation, in April 2005.

The Board alleged that these acts, conduct, and/or omissions individually and/or collectively constitute: (1) “[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board,” as that language is used in Section 4731.22(B)(5), Ohio Revised Code; and (2) a failure to furnish satisfactory proof of good moral character as required by Section 4731.08, Ohio Revised Code.

Additionally, the Board further alleged that the acts, conduct, and/or omissions in paragraphs 1-4 above individually and/or collectively constitute a “[f]ailure to cooperate in an investigation conducted by the board under division (F) of this section,” as that language is used in Section 4731.22(B)(34), Ohio Revised Code.

Finally, the Board notified Dr. Akhtar of his right to request a hearing concerning the Board’s August 2005 allegations. (State’s Exhibit 1A)

B. On December 22, 2006, Dr. Akhtar’s counsel requested a hearing. (State’s Exhibit 1C)

II. Appearances at the Hearing

A. On behalf of the State of Ohio: Marc E. Dann, Attorney General, by Damion M. Clifford, Assistant Attorney General.

B. On behalf of the Respondent: Robert C. Angell, Esq.

EVIDENCE EXAMINED

I. Testimony Heard

A. Presented by the State

Jabir K. Akhtar, M.D., upon cross-examination
Thomas R. Gooch
Ross A. Matlack
Rhonda L. Dailey
Janet D. Vettel
Kevin J. Miller
David V. Morony
Kay Rieve

B. Presented by the Respondent

Dr. Akhtar, upon direct examination
Amy Tucker, M.D.
Danielle Bickers
Annette Jones
David P. Katko, Esq.

II. Exhibits Examined

A. State's Exhibits

State's Exhibits 1A through 1O: Procedural Exhibits.

State's Exhibit 2: Certified copy of documents maintained by the Board concerning Dr. Akhtar's application for an Ohio certificate, redacted in part. [Note: With agreement of both counsel, the Hearing Examiner redacted additional social security numbers on several pages of this exhibit post-hearing.]

State's Exhibit 3: Transcript of the September 15, 2006, investigatory deposition of Dr. Akhtar.

State's Exhibit 4: Documents maintained by the Ashtabula County Medical Center related to Dr. Akhtar's application for employment, redacted in part.

State's Exhibit 5: Affidavit and documents maintained by Holzer Consolidated Health Systems related to Dr. Akhtar's application for employment.

State's Exhibit 6: Notarized statement and documents maintained by Nevada Health Centers, Inc., related to Dr. Akhtar's application for employment.

State's Exhibit 7: Affidavit and certified copies of documents maintained by Navajo Health Foundation related to Dr. Akhtar's application for employment.

State's Exhibit 8: October 19, 2006, letter from Robert C. Angell, Esq., to David P. Katko, Esq., and enclosure with highlighting.

State's Exhibit 9: Certified copy of documents maintained by the Illinois Department of Financial and Professional Regulation related to Dr. Akhtar's 2005 application for licensure, redacted in part.

B. Respondent's Exhibits

Respondent's Exhibit A: March 22, 2006, letter from the Licensure Department of the Board to Dr. Akhtar.

Respondent's Exhibit B: Portion of Dr. Akhtar's wireless telephone calling record for April 3 and 4, 2006.

Respondent's Exhibit C: June 22, 2006, letter from the Licensure Department of the Board to Dr. Akhtar.

Respondent's Exhibit D: June 27, 2006, letter from Mr. Angell to the Board, with enclosure.

Respondent's Exhibit E: November 30, 2005, letter from Mr. Angell to the Board.

Respondent's Exhibit F: July 3, 2006, e-mail from Kay Rieve to Mr. Angell.

Respondent's Exhibit G: July 28, 2006, e-mail from Mr. Angell to Ms. Rieve.

Respondent's Exhibit I: September 14, 2006, notice of change of address filed by Dr. Akhtar with the Board.

Respondent's Exhibit J: Copy of Dr. Akhtar's FirstMerit VISA debit card and a deposit slip for the corresponding account, redacted in part.

Respondent's Exhibit K: Copies of Dr. Akhtar's FirstMerit checking account statements from June 4, 2005, through September 6, 2006, redacted in part. [Note: With agreement of counsel, the Hearing Examiner redacted the account number on each page of this exhibit post-hearing.]

Respondent's Exhibit L: Copy of Dr. Akhtar's August 30, 2006, agreement with Guardian Self-Storage.

Respondent's Exhibit N: June 21, 2006, letter from Kevin J. Miller to Mr. Angell.

Respondent's Exhibit O: October 5, 2006, letter from David V. Morony to Dr. Akhtar.

Respondent's Exhibit R: Dr. Akhtar's October 10, 2006, responses to the Board's first set of interrogatories and enclosures, redacted in part.

*Respondent's Exhibits H, M, P, and Q were marked, but not offered or admitted.
Respondent's Exhibits S and T were offered, but not admitted.

SUMMARY OF THE EVIDENCE

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

Background

1. Jabir Kamal Akhtar, M.D., was born in Pakistan. In 1987, when he was 16 years old, Dr. Akhtar moved to California and has since become an American citizen. Between 1989 and 1994, he attended San Joaquin Delta College and the University of California for his undergraduate education. In September 1994, Dr. Akhtar entered the Saba University School of Medicine in the Netherland Antilles, but withdrew in April 1995 due to financial reasons. Then, in the fall of 1995, Dr. Akhtar entered Escuela Autonoma de Ciencias Medicas de Centro America in Costa Rica. He dropped out because the classes were taught in Spanish and Dr. Akhtar does not speak Spanish. In April 1996, he enrolled at Grace University School of Medicine, which was located in Belize at the time. (State's Exhibit [St. Ex.] 2 at 46, 203, 210, 215, 217; Hearing Transcript Volume I [Tr. I] at 99-100; Hearing Transcript Volume II [Tr. II] at 293-295; Respondent's Exhibit [Resp. Ex.] D at 7)
2. Dr. Akhtar obtained his medical degree in 1999 from Grace University School of Medicine. From 1999 to 2002, Dr. Akhtar worked in California as a research associate and as a "nursing/doctor assistant." In July 2002, Dr. Akhtar entered a family medicine residency program at Akron General Medical Center, in Akron, Ohio. He applied for an Ohio training certificate in April 2002, which was issued in October 2002. Dr. Akhtar completed the residency program in June 2005. (St. Ex. 2 at 9, 12, 14, 16-17, 19-21, 23-24, 203, 231-232; St. Ex. 4 at 157) Dr. Akhtar's training certificate expired in June 2005. (Ohio E-License Center, June 4, 2007 <<https://license.ohio.gov/Lookup/SearchDetail.asp?ContactIdnt=2996637&DivisionIdnt=78&Type=L>>)
3. Dr. Akhtar applied for a permanent Ohio certificate in May 2004, while completing his residency. Upon considering this application, the Board issued a Notice of Opportunity for Hearing on July 13, 2005, proposing to take disciplinary action on the grounds that: (a) Dr. Akhtar had failed to provide full and accurate information on his 2002 application and on his 2004 application related to a 1992 misdemeanor diversion in California; and (b) Dr. Akhtar had pled guilty in 2001 to one misdemeanor count of violating 18 United States Code Section 371, Conspiracy to Defraud the United States. A hearing was later requested and held. (Tr. I at 21; St. Ex. 4 at 153)
4. The Board issued an Order on March 8, 2006, finding that disciplinary action was appropriate because Dr. Akhtar had pled guilty of a misdemeanor involving moral turpitude in 2001. However, the Board found the evidence insufficient to conclude that inappropriate answers on Dr. Akhtar's 2002 and his 2004 applications amounted to fraud, misrepresentation or deception, or that his inappropriate answers constituted a failure to furnish satisfactory proof of good moral character. The Board granted Dr. Akhtar a certificate to practice medicine and surgery in Ohio, "provided that he otherwise meets all statutory and regulatory requirements, and subject to SUSPENSION for a definite term of 90 days." The Board further imposed probationary terms, conditions and limitations for a period of at least two years, upon reinstatement or restoration of his certificate. A detailed summary of the Board's decision and the basis therefor is set forth in the Board's March 8,

2006, Order and the Report and Recommendation in the *Matter of Jabir Kamal Akhtar, M.D. [Akhtar I]*. (St. Ex. 4 at 64-66, 153-169)

5. Subsequently, the Board sent Dr. Akhtar several items: (a) the Board's March 8, 2006, Order; (b) a March 21, 2006, letter from Danielle Bickers regarding post-Order compliance requirements; and (c) a March 22, 2006, letter from the Licensure Department of the Board regarding the need for updated application information.
6. Ms. Bickers, the Compliance Supervisor at the Board, indicated in her March 21, 2006, letter that the Board's Order became effective March 9, 2006. The letter also addressed the mechanics associated with the Board's probationary requirements and stated that Dr. Akhtar would have to appear personally before the Board in September 2006 and submit certain documentation beginning in September 2006. Ms. Bickers explained that, when she composed her letter, she had mistakenly thought that Dr. Akhtar's certificate had been granted effective March 9, 2006. She noted that she should have verified that Dr. Akhtar's license had been granted before she sent her letter.¹ (St. Ex. 4 at 63; Tr. II at 359, 362-365)
7. The March 22, 2006, letter from the Licensure Department was designated a "notice," as a follow-up to his application for Ohio licensure. The letter stated that the following must be updated:

Update your Resume of Activities on the enclosed copy of your application.
Be sure to include complete addresses for all non-working time.

List any states/provinces in which you hold or have held a license to practice
medicine and surgery. * * *

Complete the Additional Information section of the application. * * *

(St. Ex. 2 at 4; Resp. Ex. A)

8. Kay Rieve, an Administrative Officer and Supervisor for the Licensure, Continuing Medical Education and Renewal Departments of the Board, testified that the March 22, 2006, request was a routine request after a licensure matter has proceeded through the hearing process. (Tr. I at 257, 274)

Dr. Akhtar's Initial Response to the March 2006 Mailings

9. Dr. Akhtar had questions regarding the documents he had received from the Board. In early April 2006, he called Ms. Bickers regarding what he needed to do. Dr. Akhtar testified that, during that conversation, he had told Ms. Bickers that he had received her

¹The enforcement attorney involved in the instant proceeding did not believe he had ever seen Ms. Bickers' March 2006 letter. (Tr. II at 390)

letter and the Licensure Department's March 22, 2006, letter, and had explained to her that he was unemployed. Then, Dr. Akhtar testified that he had asked Ms. Bickers what he needed to do and she had explained the requirements of the March 2006 Board Order. Ms. Bickers testified that she did not recall that conversation with Dr. Akhtar. (Tr. I at 57-58, 105-107; Tr. II at 351, 353; St. Ex. 4 at 63; St. Ex. 2 at 4; Resp. Ex. B)

10. At that time, Dr. Akhtar was under the impression that his Ohio certificate had been granted by the Board and immediately suspended for a 90-day period. He testified that it was not until June 2006 that he learned his Ohio certificate has not yet been granted. After that, he provided written responses to the March 22, 2006, Board request. (Tr. I at 107; Tr. II at 301)

Activities Section of the Application Form

11. One section of the 2004 application that Dr. Akhtar was required to update was the Resume of Activities section. The instructions for the Resume of Activities section in the 2004 application stated:

List all activities in chronological order beginning with medical school graduation to the PRESENT time, using **MONTH** and **YEAR**. For any non-working time, you **MUST** state on the resume exactly what your activities were, such as "vacation" or "seeking employment", as well as your permanent address. If in private practice, indicate the hospitals where you hold or have held privileges and include complete dates and addresses. If you worked for a physician staffing group or did locum tenens, you must list all facilities where you worked and include complete dates and addresses. **DO NOT SUBSTITUTE ANY OTHER RESUME FOR THIS FORM.** Be sure to indicate the percentage of working time spent in clinical and administrative duties. If you require more space, please attach separate sheets.

(St. Ex. 2 at 9, emphasis in original)

12. In 2006, the application form included a Chronology of Activities section, which is similar to the Resume of Activities section. It appears that the Chronology of Activities section replaced the Resume of Activities section on the 2004 application form. The instructions for the Chronology of Activities section of the 2006 application form stated: "Please provide a chronological listing of all medical and non-medical activities beginning with your graduation from medical school to the present date, leaving no time period unaccounted for in your resume. Use an additional page to account for non-professional activities and any other gaps in time between professional experiences, including military duty." (St. Ex. 2 at 14, 16, 19, 23)
13. Ms. Rieve testified that the purpose of the Chronology of Activities section is for the applicant to provide an all-inclusive list of activities from the time of graduation from medical school, including gaps in time, vacation, moving, any other jobs, and any types of

training. She further explained that, for non-medical activities such as vacations, an applicant should list items that last a month or longer. Furthermore, Ms. Rieve noted that some of the applicants have trouble completing the Chronology of Activities section of the application form and, as a result, the instructions have since been changed to try to be more clear. (Tr. I at 265-268, 270, 272)

Dr. Akhtar's Written Responses

14. On June 13, 2006, Dr. Akhtar provided an updated list of states/provinces in which he held a license and an updated Chronology of Activities. Dr. Akhtar did not specifically identify his address on the Chronology of Activities; instead, he indicated that he had no change of address during his entire nonworking time from July 2005 to June 2006. (St. Ex. 2 at 10-14)
15. On June 22, 2006, the Licensure Department sent Dr. Akhtar another notice asking him to update the: (a) Chronology of Activities section of the application, including complete addresses for all nonworking times; and (b) Additional Information section of the application. The Licensure Department informed Dr. Akhtar that he had not properly completed the Chronology of Activities in his June 13, 2006, response. (St. Ex. 2 at 5; Resp. Ex. C; Tr. I at 244)
16. On June 27, 2006, Dr. Akhtar provided an updated response to the Additional Information section of the licensure application. On July 3, 2006, Dr. Akhtar provided a second updated Chronology of Activities, which separately identified two non-working times and his addresses during those time periods. Then, later that same day, Dr. Akhtar provided a third updated Chronology of Activities, which identified the same two non-working times and addresses. (St. Ex. 2 at 18-24, 40-195; Resp. Ex. D)

The chronology information in the two July responses is virtually the same; it is just provided in different formats. Also, the two July responses are largely the same as the June response. For ease of comparison, the pertinent parts of those three chronologies are set forth at the end of this Report and Recommendation. (See Attachment A)

Allegation One – Failure to Accurately Disclose Place of Residence from July 2005 to July 2006

17. In both of Dr. Akhtar's July 3, 2006, responses, he stated that, from July 2005 to July 2006, he was unemployed and that his address was: 442J Danbury Lane, Copley, Ohio 44321.
18. Dr. Akhtar acknowledged that, in response to the Board's requests, he provided essentially the same Chronology of Activities information. He also acknowledged that the Board felt the information was not adequate. Dr. Akhtar noted that he called the Licensure

Department on a number of occasions to try to determine what the Board wanted.
Dr. Akhtar stated:

A. [By Dr. Akhtar] * * * So I called Kay Rieve several times, many times, as a matter of fact, to ask her exactly what she needs. If she needs – There’s no mention of saying that, you know, if I’m on vacation somewhere, whether I’m on an extended visit somewhere, there is no mention, whatsoever. All it says is professional and non-professional activities. My non-professional activities, I’m [unemployed].

Q. If we look at Page 23 [of State’s Exhibit 2] on No. 10 it says, “Leaving no time period unaccounted for in your resume.”

A. [By Dr. Akhtar] I left no time. From 2005 to now, I am unemployed. Exactly what do you want me to write other than unemployment?

* * *

Q. If you knew that you were in California, why did you not put those California times on the chronology of activities?

A. [By Dr. Akhtar] Because at that time all I understood was that they were talking about professional and non-professional. Professional, you work; non-professional, you are unemployed. I wasn’t in any kind of charity event or one of those things where I was raising money, which is a non-professional activity, so for me it was unemployment. I thought all they were asking for is my permanent address where my belongings are. * * *

(Tr. I at 28-29, 31-32)

19. Dr. Akhtar testified that, from July 2005 through July 2006, his permanent address was in Copley, Ohio. He stated that he resided in an apartment at 442J Danbury Lane in Copley during his residency and, then, at the end of July 2005, he moved into another apartment within the same apartment complex. That apartment was located at 482E Crestmont Circle in Copley. At the time Dr. Akhtar moved into the Crestmont Circle apartment, he placed a forwarding order with the U.S. Postal Service so that his mail would automatically be delivered to the Crestmont Circle address. (Tr. I at 64-65)
20. Dr. Akhtar did not stay in Copley but, instead, traveled. He did not identify any of those visits/stays in his responses to the Board information requests. Below is a summary of

Dr. Akhtar's testimony regarding his travels from July 2005 to August 2006:

Time Period	Dr. Akhtar's Location
July 1-10, 2005	442J Danbury Lane, Copley, Ohio
July 11-28 or 31, 2005	146 Arabian Way, Scotts Valley, California
August 1-20, 2005	482E Crestmont Circle, Copley, Ohio
August 21-September 28, 2005	146 Arabian Way, Scotts Valley, California
September 29-October 15, 2005	482E Crestmont Circle, Copley, Ohio
October 16-November 2, 2005	146 Arabian Way, Scotts Valley, California
November 2-mid December 2005	482E Crestmont Circle, Copley, Ohio
Mid December-December 26, 2005	146 Arabian Way, Scotts Valley, California
December 26, 2005-February 2, 2006	Pakistan
February 2-5, 2006	146 Arabian Way, Scotts Valley, California
February 6-20, 2006	482E Crestmont Circle, Copley, Ohio
February 20-March 6, 2006	146 Arabian Way, Scotts Valley, California
March 6-18, 2006	482E Crestmont Circle, Copley, Ohio
March 18-April 2006	146 Arabian Way, Scotts Valley, California
An unspecified period of time in April 2006	Montana
An unspecified period of time in May 2006	482E Crestmont Circle, Copley, Ohio
An unspecified period of time in May 2006	Arizona and Nevada
An unspecified period of time in May 2006	146 Arabian Way, Scotts Valley, California
Early June-June 11, 2006	482E Crestmont Circle, Copley, Ohio; Jackson, Ohio; and Ashtabula, Ohio
June 12-August 19, 2006	146 Arabian Way, Scotts Valley, California

Some of Dr. Akhtar's family resides in California. His brother resides at 146 Arabian Way, Scotts Valley, California. (Tr. I at 30, 39-52, 100; Tr. II at 293)

21. Other evidence regarding Dr. Akhtar's place of residence from July 2005 to the July 2006 is as follows:

- The bills for Dr. Akhtar's VISA were sent to 146 Arabian Way, Scotts Valley, California, beginning in October 2005. (St. Ex. 8)

Dr. Akhtar stated that the VISA bills were sent directly to his family in California because he did not have the money to pay them. His family was paying his VISA bills and, in order to timely pay the bills, he had the bills sent directly to California. (Tr. I at 64, 112-113)

- Dr. Akhtar maintained a bank account in Ohio between June 2005 and September 2006, with Copley, Ohio, addresses. (Tr. I at 64, 108-111; Resp. Exs. J, K)
- Resumes and letters that Dr. Akhtar sent to potential employers in April and May 2006, reflected his address as 146 Arabian Way, Scotts Valley, California. (St. Ex. 4 at 36, 89-90; St. Ex. 5 at 5-6; Tr. I at 66-67, 69-70; St. Ex. 5 at 3-4; St. Ex. 7)

Dr. Akhtar testified that he was staying in California at the time he composed the resumes and passed them on to different recruiters. He stated that, however, he had not changed his permanent address. (Tr. I at 73-74)

- The National Practitioner Data Bank listed Dr. Akhtar's home address in May 2006 as 146 Arabian Way, Scotts Valley, California. (St. Ex. 4 at 82-84)
- An automobile rental agreement executed in May 2006 listed Dr. Akhtar's address as 480 Crestmont, Copley, Ohio. Another automobile rental agreement executed in June 2006 listed Dr. Akhtar's address as in Livermore, California, an address at which Dr. Akhtar resided in 2002. (St. Ex. 4 at 46; St. Ex. 7 at 5; Tr. I at 26-27)
- Dr. Akhtar's June 13 and July 3, 2006, responses to the Board were faxed from California locations. Also, Dr. Akhtar faxed additional information for a potential employer from California locations. (St. Ex. 2 at 10-14, 18-24; St. Ex. 4 at 63-66, 150-170; Tr. I at 176-177)

Dr. Akhtar stated that he was in California visiting his family when he completed the responses for the Board and sent information to a potential employer. As a result, he used fax machines in California to send the information. (Tr. I at 24, 26-27)

- In late July 2006, Dr. Akhtar's counsel explained to Ms. Rieve that: (a) Dr. Akhtar's permanent address is 442J Danbury Lane, Copley, Ohio 44321,

and (b) Dr. Akhtar is on an extended visit with his family in California and, while there, his mail is being forwarded to 482E Crestmont Court, Copley, Ohio 44321. (Resp. Ex. G)

- Since August 2006, Dr. Akhtar's furniture has been stored in Akron. His address on the storage agreement is listed as 146 Arabian Way, Scotts Valley, California. Dr. Akhtar explained that he listed that address because the storage costs are billed to his credit card and the billing address on that card is the Arabian Way address. (Tr. I at 111-114; Resp. Ex. L)
- On September 1, 2006, Dr. Akhtar moved into an apartment at 1223 Weathervane Lane, Apartment 2A, Akron, Ohio 44313, with Amy Tucker, M.D., whom he met during his residency at Akron General Medical Center. He and Dr. Tucker were to share in the costs of the apartment but, because of illness in Dr. Akhtar's family, he did not live at the Weathervane apartment for more than a month and a half. Dr. Tucker testified that Dr. Akhtar went to California to see his family and, when his father became very ill shortly thereafter, Dr. Akhtar stayed and eventually took his father overseas. Because Dr. Akhtar did not remain at the Weathervane apartment very long, Dr. Tucker stated that she only "charged him for the month that he was there every day." Dr. Tucker noted that Dr. Akhtar's car and some of his clothing are still at that apartment. (Tr. I at 160-162; Tr. II at 341; Resp. Ex. I)

Allegation Two – Failure to Disclose Period of Travel to Pakistan from in or about late December 2005 to in or about early February 2006

22. Dr. Akhtar did not list his trip to Pakistan on any of his responses to the Board's requests for updated information. Ms. Rieve testified that Dr. Akhtar's trip to Pakistan from late December 2005 to February 2006 should have been separately identified on his 2006 updated Chronology of Activities because it was more than one month in length. (Tr. I at 272)
23. Dr. Akhtar testified that he did not understand that the Chronology of Activities section should include lengthy periods of travel. He believed that the Chronology of Activities section was asking for information about his employment/unemployment and permanent address. (Tr. I at 28-29, 31-32)

Regardless, Dr. Akhtar noted that he had disclosed his trip to Pakistan to the Board previously. On November 22, 2005, Dr. Akhtar's counsel spoke with Annette Jones, a Disciplinary Information Assistant with the Board. Dr. Akhtar's counsel explained that Dr. Akhtar would be out of the country for a period of time and would like the Board to delay consideration of *Akhtar I*. His counsel then sent a letter dated November 30, 2005, to Ms. Jones, notifying the Board in writing that Dr. Akhtar would be in Pakistan from December 25, 2005 through January 2006. Because of his trip to Pakistan, Dr. Akhtar specifically requested that the Board consider the Report and Recommendation in *Akhtar I*

in February 2006.² (Tr. II at 370-372; Resp. Ex. E) The Board, upon reviewing that request, deferred consideration of the *Akhtar I* matter.

Searching for Employment in 2006

24. Based on his understanding of the Board's decision in *Akhtar I*, Dr. Akhtar began searching for employment in the spring of 2006. He worked with placement agencies and also directly submitted his curriculum vitae to several different locations across the country. In particular, Dr. Akhtar applied for positions with: (a) Holzer Consolidated Health Systems at its Holzer Medical Center in Jackson, Ohio; (b) Ashtabula County Medical Center in Ashtabula, Ohio; (c) Nevada Health Centers Inc. at its West Wendover clinic in West Wendover, Nevada; and (d) Navajo Health Foundation at its Sage Memorial Hospital in Ganada, Arizona.³ Dr. Akhtar provided all four entities with the same resume, which referenced his address as: 146 Arabian Way, Scotts Valley, California. (St. Ex. 4 at 89-90; St. Exs. 5-7) At the time that Dr. Akhtar was applying for these positions, he believed that his Ohio certificate had been granted, but was suspended. (Tr. I at 47-48, 117)
25. Dr. Akhtar applied directly with Holzer Consolidated Health Systems in May 2006 for a physician position in Jackson, Ohio. His initial contacts were with Thomas R. Gooch, the Director of Physician Recruitment. Dr. Akhtar interviewed for the position in on June 7, 2006. He met with Mr. Gooch and interviewed with Ross A. Matlack, the President of Holzer Medical Center [Holzer], and Rhonda L. Dailey, the Vice President of Patient Care Services at Holzer. (St. Ex. 5 at 2; Tr. I at 122-123)
26. A placement service, called Doctors Choice Recruitment Agency, submitted Dr. Akhtar's resume on April 10, 2006, to Janet Vettel, a Physician Recruiter for the Ashtabula County Medical Center [ACMC]. (St. Ex. 4 at 24, 56-58; Tr. I at 170) Dr. Akhtar first interviewed for the position with ACMC on May 15, 2006. He met with Ms. Vettel, and interviewed with Kevin J. Miller, the President and Chief Executive Officer of ACMC, and David V. Morony, the Chief Operating Officer of ACMC. Later, Dr. Akhtar returned in June 2006 in order to interview with Dr. James Chilcott. In June 2006, ACMC offered Dr. Akhtar a full-time family practitioner position. However, because Dr. Akhtar's Ohio certificate was not issued, ACMC rescinded the offer in October 2006. (Tr. I at 115-117, 174, 195; St. Ex. 4 at 2-3, 92-124; Resp. Exs. N, O)
27. As of the time of the evidentiary hearing in this matter, Dr. Akhtar held no medical licenses and remained unemployed. (Tr. II at 340, 343-344)

²The enforcement attorney involved in the instant proceeding did not believe he had ever seen the November 2005 letter. (Tr. II at 378)

³The record also reflects that Dr. Akhtar applied for a position with Glendive Medical Center in Glendive, Montana. His actions in pursuing employment at that location are not at issue in this matter. (Tr. I at 48; Resp. Ex. R at 5)

Allegation Three – Inaccurate Testimony during the Investigatory Deposition of September 15, 2006, regarding Who Instructed Dr. Akhtar to use a California Address on his Resume

28. With regard to the California address on the curriculum vitae that Dr. Akhtar circulated in the spring of 2006, the following exchange took place during the September 15, 2006, investigatory deposition:

Q: Doctor, earlier, you indicated that you had interviews at Ashtabula and Jackson.

A: [By Dr. Akhtar] Yes.

Q: Was Jackson, was that at a hospital?

A: Jackson. Jackson is a town. It was the Jackson Memorial Hospital, I believe.

Q: Did you fill out any documents during those interviews or beforehand?

A: No, just I sent them my resumes and I pretty much told them I'm in California, so they said, "Okay, just put down your California" – because for them to get reimbursed for the ticket, because they were going to fly me here, so ... Documents that I filled out? I don't think so. I mean, other than ---.

Q: I don't understand why they said that you have to say California. What does that mean?

A: Well, I told them "I'm in California." So they said, "Okay, we'll fly you from California so" – you know. Because you have to tell them. They said, "Why do you want to come back to Ohio?"

(St. Ex. 3 at 89-90)

29. Mr. Gooch, Mr. Matlack, and Ms. Dailey each testified that they did not tell Dr. Akhtar to list California as his address on his curriculum vitae so that he could be reimbursed for airplane flights for his interview for the Holzer position. (Tr. I at 134, 142, 150)

Likewise, Ms. Vettel, Mr. Miller and Mr. Morony each testified that they did not tell Dr. Akhtar to list California as his address on his curriculum vitae so that he could be reimbursed for airplane flights for his interview for the APMC position. (Tr. I at 179, 181, 208-209, 226)

30. Dr. Akhtar testified that there has been a misunderstanding about his statements during the investigatory deposition. Specifically, Dr. Akhtar testified during the hearing as follows: "At the time I was in California, I was going back to California, and in order for me to receive the reimbursement for [the] flight, it had to come back to California because that's

what my address was on top, you know.” He further testified that, during the deposition, he was referring to a “headhunter” that he worked with. In other words, a headhunter instructed him to use the California address; neither Mr. Gooch nor Janet Vettel told him to put the California address on his resume. (Tr. I at 74-79)

Allegation Four – Inaccurate Testimony during the Investigatory Deposition of September 15, 2006, regarding whether Dr. Akhtar informed Potential Employers about the Restrictions on his Ohio Certificate

31. With regard to informing potential employers about the restrictions on his Ohio certificate, the following exchange took place during the September 15, 2006, investigatory deposition:

Q. So you didn’t – are you telling me that you didn’t complete or fill out any documents that were given or sent to Jackson Memorial Hospital?

A. [By Dr. Akhtar] Well, my resumes, other than that, nothing.

Q. Nothing else?

A. I don’t think so. Well, correct – I stand corrected. I told them about the Medical Board and the order that was – the Board told me to give that to every employer, so they knew about my misdemeanor and, you know, at that time the CEO of the hospital actually went – I’m not – I shouldn’t say the CEO because there’s two hospitals and one of the CEOs, that was at Jackson Memorial, because he himself is a lawyer, he went to the Board website and looked at all the documents that I’m supposed to provide to the, you know, when I apply for a job and basically the order. So he looked at the order.

Q. Are you telling me that the method by which the CEO of Jackson Memorial Hospital got possession of the Board’s order regarding you was by going to the website and printing it off?

A. Well, I told him before I –

Q. I understand. But I’m asking you how did he get physical possession of a Board order? By printing it off the website after you told him about it?

A. No. No. No. I mean, before I went for [the] interview I told their recruiter, because – their recruiter called me and I told them, “This is what I have. I have a Board order, I have this.” And he says, “Well, we want you to come to interview and we can look at those things.” I said “Okay.” And they looked at it and at that point they decide[d] not to offer me a position.

Q. My question to you is did you hand them a copy of the order?

A. I told them about the order –

Q. That’s not my question.

A. Did I hand them, physically hand them?

Q. Yes.

A. I printed the copy and I gave it to them while I was interviewing with them.

Q. You printed out the copy.

A. Well, the recruiter that – we were in his office and, you know, he said “How do you get?” And I went to the website and I told them where the thing is and he printed it, well, we both printed it because I was the one who – and I handed him the copy.

Q. By “him” you mean the recruiter.

A. The recruiter.

Q. How about Ashtabula [County Medical Center]?

A. Ashtabula, when I did [the] interview, that day I believe he faxed over the copy to those guys.

Q. You’re indicating that your attorney faxed a copy of it over to Ashtabula?

A. Yes. And anyplace I went for [an] interview I told them ahead of time that I have an order, I had a misdemeanor, and they asked me “Is there any restrictions on your license?” And I told them “Yes, I have to take medical ethics classes.” And they said, “Well, come do an interview, if you’re offered a position, then we’ll go further.”

(St. Ex. 3 at 91-93)

32. With respect to disclosure of the Board Order to the Holzer personnel, Mr. Gooch did not believe that, prior to the date they began arranging for an interview, Dr. Akhtar had informed him that the Board Order existed or that his Ohio certificate was restricted. However, Mr. Gooch stated that Dr. Akhtar did inform Mr. Gooch on May 10, 2006, that he had a misdemeanor conviction. (Tr. I at 126-127, 136-137; St. Ex. 5 at 4)

Mr. Gooch also stated that, prior to Dr. Akhtar’s interview, he was not informed of the Board Order and did not tell Dr. Akhtar “Well, we want you to come to interview, and we can look at those things.” However, Mr. Gooch further testified, “I could see myself

telling him in reference to some misdemeanor or irregularity that we would like to have him come visit anyway, but I don't believe those specific words were used." Mr. Gooch stated that, very early in the interview on June 7, 2006, Dr. Akhtar informed him of the Board Order and the details associated therewith. Mr. Gooch recalled that later that day, he and Dr. Akhtar returned to his office, Dr. Akhtar "went to the OSMB website and pulled up the Board order and I copied one off." (Tr. I at 132-134; Tr. II at 329)

33. Mr. Matlack and Ms. Dailey testified that they were not aware prior to the interview with Dr. Akhtar in June 2006, that a Board Order existed. However, they each testified that, during the interview, Dr. Akhtar mentioned the situation with his Ohio certificate, and described the situation and his past legal problems. Neither received a copy of the Board Order, but Mr. Matlack returned to his office after the interview and read the file from the Board's website. (Tr. I at 141-145, 149-153)
34. Dr. Akhtar testified that he informed Mr. Gooch about the misdemeanor and the Board matter and that he was instructed to bring the matter up with the Holzer chief executive officer. Dr. Akhtar explained that, during the interview, he informed Mr. Matlack and, that same day, Dr. Akhtar printed off a copy of the Board Order from the Board's website for them. (Tr. I at 118; Tr. II at 304)

Dr. Akhtar acknowledged that he did not personally provide a copy of the Board Order to Holzer prior to his interview in June 2006. (Tr. II at 321)

35. With respect to disclosure of the Board Order to the ACMC personnel, the evidence is as follows. In submitting Dr. Akhtar's resume to ACMC, the placement agency informed Ms. Vettel as follows:

Attached is the CV for Jabir K. Akhtar, MD. He's a Recent graduate from Akron, OH in Family Practice (05). His Ohio license will be active in June and he is available to start then. He wants to interview this month. He's very interested in the area and practice (Primarily Outpatient based medicine). He said he has never had any malpractice or substance abuse issues..but his licensure took a long time to process because of some legal issues back in 1996 (He assured me that it was nothing Medical related etc. and would be happy to discuss in depth).

(St. Ex. 4 at 56, punctuation as in original).

36. Ms. Vettel and Mr. Morony testified that Dr. Akhtar did not inform them of the Board Order or license restrictions prior to the interview at ACMC on May 15, 2006. Mr. Morony did not recall that a Board Order was mentioned during the May 15, 2006, interview. However, Mr. Morony stated that, during the interview, Dr. Akhtar mentioned that "he had forged some documents years ago for his tuition" and "there was 90-day suspension on his license, and he should be receiving it in the beginning part of June." (Tr. I at 178-179, 225, 226, 228-229, 234)

Similarly, Mr. Miller testified that Dr. Akhtar did not inform him of the Board Order or license restrictions prior to the interview on May 15, 2006. Specifically, Mr. Miller stated that:

The only discussion that we had that I recall during the interview was that Dr. Akhtar was expecting his license relatively soon. He gave me a date at that point that he expected to have his Ohio license by, and it was a matter of a few days or a week or two. That was one issue.

We did discuss another issue that he did bring up to me that there had been some difficulties in the past – I’m not sure that’s the term he used – some difficulties in the past due to the fact he forged a university’s official name on a loan document for a student loan. He did bring that forward to me.

(Tr. I at 208) Mr. Miller stated that he learned of the Board Order in roughly November 2006. (Tr. I at 211-212)

37. Dr. Akhtar testified that, prior to the interview with ACMC, he had informed the recruitment agency of the restrictions on his Ohio certificate and the agency then informed ACMC of only the misdemeanor. Dr. Akhtar acknowledged that the e-mails from the recruitment agency to ACMC did not mention the Board Order or the license restrictions. Dr. Akhtar did not personally provide the Board Order to ACMC prior to his May 15, 2006, interview. (Tr. II at 318-321)

Dr. Akhtar testified that, during the interview with ACMC, one of the physicians inquired about Dr. Akhtar’s prior misdemeanor conviction. Dr. Akhtar stated that this physician had a “letter” on the subject. Dr. Akhtar also stated that, at that time, “I told them exactly what happened as far as my misdemeanor and what is expected of me.” Dr. Akhtar further testified that he explained the misdemeanor and told ACMC the Board Order would be faxed to them that same day. Dr. Akhtar testified that his lawyer faxed the Board Order on May 15, 2006. A copy of that fax transmission is not included in ACMC’s files relative to Dr. Akhtar. However, ACMC’s files included a copy of the formal action page from the E-license center database was printed on May 15, 2006. (St. Ex. 4; Tr. I at 83, 116-117; Tr. II at 304-306, 324-325)

After the first interview with ACMC, Dr. Akhtar sent, on May 17, 2005, a copy of the Report and Recommendation in *Akhtar I* to Mr. Morony. In the cover memo that accompanied that document, Dr. Akhtar wrote: “I will have [a] license on June 9th and it is unrestricted. I only have to take ethics classes for [the] Board. Also my lawyer is trying to reduce [the] probation to less than a year.” (St. Ex. 4 at 150-170) On July 7, 2006, Dr. Akhtar sent the Board Order to ACMC. (St. Ex. 4 at 63-66)

Allegation Five – False Statement to a Physician Recruiter

38. Mr. Gooch testified that, based upon his notes, Dr. Akhtar had told him on May 10, 2006, that the delay in getting an Ohio certificate was due to his 1996 misdemeanor and staffing shortages at the Board. He also believed Dr. Akhtar's statement about staffing shortages was based on speculation, rather than Dr. Akhtar's personal knowledge. (Tr. I at 126-128, 138; St. Ex. 5 at 4)
39. Dr. Akhtar acknowledged that he had told Mr. Gooch that the delay in receiving his Ohio certificate was due, in part, to staffing shortages at the Board. (Tr. I at 84)
40. Ms. Rieve testified that the reason Dr. Akhtar's license application was not granted in 2006 was not due to staffing shortages and that there were no staffing shortages in the Licensure Department at that time. David P. Katko, an Enforcement Attorney with the Board, testified that, over his lengthy period of employment with the Board, there have been only slight fluctuations in staffing of enforcement attorneys. (Tr. I at 248; Tr. II at 381-382)

Allegation Six – Failure to List Ohio Training Certificate on his April 2005 Illinois Medical License Application

41. In April 2005, Dr. Akhtar submitted an application for an Illinois medical license with the Illinois Department of Professional Regulation, Division of Professional Regulation [Illinois Board]. At that time, Dr. Akhtar was nearing the end of his residency and held an Ohio training certificate.
42. Part IV of the Illinois application required, in part, that the applicant provide licensure information. The instructions for Part IV of that application state:

If you have ever been licensed to practice the profession for which you are now making application, or held a related license, complete the information requested below. If you have ever held a temporary, trainee or apprenticeship license, or a permit, it must be listed here also. In addition, the INSTRUCTION SHEET enclosed with this Application package may instruct you to have Certification(s) of Licensure in other state(s) prepared and submitted in support of your application (contact other states(s) regarding possible fee). You must also list all other licenses held in Illinois, however, certification of licensure from Illinois is not required. Failure to disclose all licenses held may result in denial of your application or other appropriate action.

Dr. Akhtar left Part IV of the application form blank. The Illinois Board asked for missing information on six occasions after Dr. Akhtar submitted the application. (St. Ex. 9 at 4, 6-11)

43. Dr. Akhtar acknowledged the omission, stating, "I missed it." He also acknowledged that he had the Ohio training certificate at the time he filled out the Illinois license application.

He pointed out that, because he had listed his residency on the previous page of the application and because the Illinois Board would verify his credentials through the Federation Credentials Verification Service, the Illinois Board would, nevertheless, have been informed that he had an Ohio training certificate. (Tr. I at 85-90)

44. Dr. Akhtar testified that he did not have any intention of deceiving anyone when he missed that portion of the Illinois application. Dr. Akhtar did not complete the application process in Illinois. (Tr. II at 308, 310, 342-343; St. Ex. 2 at 46)

FINDINGS OF FACT

1. Jabir Kamal Akhtar, M.D., held an Ohio training certificate, which was issued in October 2002 and expired in June 2005.
2. In May 2004, Dr. Akhtar applied for permanent licensure. In July 2005, the Board issued a Notice of Opportunity for Hearing with respect to Dr. Akhtar's application for permanent licensure. On March 8, 2006, the Board issued an Order in the *Matter of Jabir Kamal Akhtar, M.D.*, finding that disciplinary action was appropriate because he had pled guilty in 2001 to a misdemeanor involving moral turpitude. Also, the Board found the evidence insufficient to conclude that inappropriate answers on Dr. Akhtar's 2002 and his 2004 Ohio certificate applications amounted to fraud, misrepresentation or deception, or that his inappropriate answers constituted a failure to furnish satisfactory proof of good moral character. As a result, the Board granted Dr. Akhtar a certificate to practice medicine and surgery in Ohio, provided that he otherwise meets all statutory and regulatory requirements, and subject to suspension for a definite term of 90 days. The Board further imposed probationary terms, conditions and limitations for a period of at least two years, upon reinstatement or restoration of his certificate.

Dr. Akhtar's permanent licensure application remains pending at the Board.

3. The Board's Licensure Department sent a letter to Dr. Akhtar on March 22, 2006. The letter was designated a "notice" and stated that Dr. Akhtar must update the following portions of the 2004 application: (a) Resume of Activities section of the application and include complete addresses for all nonworking time; (b) list of states/provinces in which he held or has held a license to practice medicine and surgery; and (c) Additional Information section of the application.

Dr. Akhtar responded to this notice on June 13, 2006. Dr. Akhtar sent, via facsimile transmission to the Board, an updated list of states/provinces in which he held a license and an updated Chronology of Activities, which did not list his address for the period July 2005 to June 2006. This transmission was sent from a telephone number in California.

4. On June 22, 2006, the Licensure Department sent Dr. Akhtar another notice directing him to update the: (a) Chronology of Activities section of the application, including complete

addresses for all nonworking times; and (b) Additional Information section of the application.

In response to this notice, Dr. Akhtar provided updated Additional Information on June 27, 2006. In the afternoon of July 3, 2006, Dr. Akhtar sent, via facsimile transmission to the Board, a second updated Chronology of Activities. This transmission was sent from a telephone number in California. In the evening of July 3, 2006, Dr. Akhtar sent, via facsimile transmission to the Board, a third updated Chronology of Activities. This transmission was also sent from a telephone number in California.

5. Although Dr. Akhtar traveled extensively and spent approximately 54 percent of his time between July 2005 and July 2006 at 146 Arabian Way, Scotts Valley, California, his place of residence was not at 146 Arabian Way, Scotts Valley, California. Dr. Akhtar's place of residence between July 2005 and July 2006 was as follows:
 - In July 2005, Dr. Akhtar resided at 442J Danbury Lane in Copley, Ohio.
 - From August 2005 to July 2006, he resided at 482E Crestmont Circle in Copley, Ohio, as evidenced by Dr. Akhtar's testimony that he moved into that apartment and maintained his furniture, vehicle and many personal belongings at that address. Also, he maintained a bank account in Akron, Ohio during that same time period.
6. Dr. Akhtar listed his address as follows on the various forms he provided to the Board:
 - May 2004 application: 442J Danbury Lane, Copley, Ohio 44321.
 - June 2006 response: no change of address from July 2005 to "now", which was June 2006.
 - Both July 3, 2006, responses: 442J Danbury Lane, Copley, Ohio 44321 from July 2005 to "now" or "present", which was July 2006.
7. Dr. Akhtar did not list his trip to Pakistan from late December 2005 to early February 2006 on any of his updated Chronology of Activities, in response to the Board's 2006 requests for updated information.
8. During the investigatory deposition of September 15, 2006, Dr. Akhtar testified as follows, in response to the question of whether he filled out any documents during interviews with Holzer Medical Center [Holzer] and Ashtabula County Medical Center [ACMC] or beforehand: "No, just I sent them my resumes and I pretty much told them I'm in California, so they said, "Okay, just put down your California" – because for them to get reimbursed for the ticket, because they were going to fly me here, so ... Documents that I filled out? I don't think so. I mean, other than ---."

No Holzer personnel involved in interviewing Dr. Akhtar told him to list California as his address on his curriculum vitae so that he could be reimbursed for airplane flights for his interview for the Holzer position. No ACMC personnel involved in interviewing

Dr. Akhtar told him to list California as his address on his curriculum vitae so that he could be reimbursed for airplane flights for his interview for the APMC position.

9. During the investigatory deposition of September 15, 2006, Dr. Akhtar testified, in part, that “anyplace I went for [an] interview I told them ahead of time that I have an order” and that he confirmed that he had restrictions on his Ohio certificate.

Prior to interviewing at Holzer, Dr. Akhtar did not inform the Holzer personnel involved in interviewing Dr. Akhtar that he was subject to a Board Order or confirm that he had restrictions on his Ohio certificate. Prior to interviewing at APMC, did not inform the APMC personnel involved in interviewing Dr. Akhtar that he was subject to a Board Order or confirm that he had restrictions on his Ohio certificate.

10. On or about May 10, 2006, Dr. Akhtar reported to the Holzer physician recruiter that the delay in obtaining his Ohio certificate was due in part to “staffing shortages” at the Board. The evidence supports a finding that he was stating an opinion or speculation in order to favorably explain one reason for the licensure delay.
11. In April 2005, Dr. Akhtar submitted an application for a medical license to the Illinois Department of Professional Regulation, Division of Professional Regulation. The Record of Licensure Information section of that application required a listing of all professionally related licenses held, including any “temporary, trainee or apprenticeship” licenses. He certified, by signing that application, that the application and all supporting documents were true, correct, and complete. Dr. Akhtar failed to list his Ohio training certificate on the Illinois medical license application that he submitted in April 2005.

CONCLUSIONS OF LAW

1. Dr. Akhtar’s inaccurate address disclosures in his June and July 2006 responses to the Board, as set forth in Findings of Fact 5 and 6, do not constitute “[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board,” as that language is used in Section 4731.22(B)(5), Ohio Revised Code. The evidence indicates that the wrong address was listed out of carelessness and haste. Nevertheless, because the Board did not previously have before it all of the information that was presented during the hearing, the Board was substantially justified in pursuing this allegation.
2. For the reasons set forth in Conclusion of Law 1, Dr. Akhtar’s inaccurate address disclosures in his June and July 2006 responses to the Board, as set forth in Findings of Fact 5 and 6, do not constitute a failure to furnish the satisfactory proof of good moral character required by Section 4731.08, Ohio Revised Code. Nevertheless, because the

Board did not previously have before it all of the information that was presented during the hearing, the Board was substantially justified in pursuing this allegation.

3. For the reasons set forth in Conclusion of Law 1, Dr. Akhtar's inaccurate address disclosures in his June and July 2006 responses to the Board, as set forth in Findings of Fact 5 and 6, do not constitute a "[f]ailure to cooperate in an investigation conducted by the board under division (F) of this section," as that language is used in Section 4731.22(B)(34), Ohio Revised Code. Nevertheless, because the Board did not previously have before it all of the information that was presented during the hearing, the Board was substantially justified in pursuing this allegation.
4. Dr. Akhtar's failure to list his December 2005 to February 2006 trip to Pakistan on his Chronology of Activities updates, as set forth in Finding of Fact 7, does not constitute "[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board," as that language is used in Section 4731.22(B)(5), Ohio Revised Code. The evidence indicates that Dr. Akhtar did not understand that the Board seeks information on that section of the application form related to periods of travel of certain durations. Moreover, the application instructions are less than clear on that point. The evidence is insufficient to indicate that Dr. Akhtar's omission on this point was intended to be false, fraudulent, deceptive, or misleading. Nevertheless, because the Board did not previously have before it all of the information that was presented during the hearing, the Board was substantially justified in pursuing this allegation.
5. For the reasons set forth in Conclusion of Law 4, Dr. Akhtar's failure to list his December 2005 to February 2006 trip to Pakistan on his Chronology of Activities updates, as set forth in Finding of Fact 7, does not constitute a failure to furnish the satisfactory proof of good moral character required by Section 4731.08, Ohio Revised Code. Nevertheless, because the Board did not previously have before it all of the information that was presented during the hearing, the Board was substantially justified in pursuing this allegation.
6. For the reasons set forth in Conclusion of Law 4, Dr. Akhtar's failure to list his December 2005 to February 2006 trip to Pakistan on his Chronology of Activities updates, as set forth in Finding of Fact 7, does not constitute a "[f]ailure to cooperate in an investigation conducted by the board under division (F) of this section," as that language is used in Section 4731.22(B)(34), Ohio Revised Code. Nevertheless, because the Board did not previously have before it all of the information that was presented during the hearing, the Board was substantially justified in pursuing this allegation.
7. Dr. Akhtar's deposition testimony in response to the question of whether he filled out any documents during interviews with Holzer and APMC or beforehand, as set forth in Finding of Fact 8, does not constitute "[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of

medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board,” as that language is used in Section 4731.22(B)(5), Ohio Revised Code. The evidence is insufficient to establish that Dr. Akhtar testified, during the investigatory deposition of September 15, 2006, that Holzer or ACMC personnel told him to list California as his address. Rather, that testimony is ambiguous and, therefore, the evidence is insufficient to indicate that Dr. Akhtar’s testimony on this point was false, fraudulent, deceptive, or misleading. Nevertheless, because the Board did not previously have before it all of the information that was presented during the hearing, the Board was substantially justified in pursuing this allegation.

8. For the reasons set forth in Conclusion of Law 7, Dr. Akhtar’s deposition testimony in response to the question of whether he filled out any documents during interviews with Holzer and ACMC or beforehand, as set forth in Finding of Fact 8, does not constitute a failure to furnish the satisfactory proof of good moral character required by Section 4731.08, Ohio Revised Code. Nevertheless, because the Board did not previously have before it all of the information that was presented during the hearing, the Board was substantially justified in pursuing this allegation.
9. For the reasons set forth in Conclusion of Law 7, Dr. Akhtar’s deposition testimony in response to the question of whether he filled out any documents during interviews with Holzer and ACMC or beforehand, as set forth in Finding of Fact 8, does not constitute a “[f]ailure to cooperate in an investigation conducted by the board under division (F) of this section,” as that language is used in Section 4731.22(B)(34), Ohio Revised Code. Nevertheless, because the Board did not previously have before it all of the information that was presented during the hearing, the Board was substantially justified in pursuing this allegation.
10. Dr. Akhtar’s false deposition testimony, as set forth in Finding of Fact 9, constitutes “[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board,” as that language is used in Section 4731.22(B)(5), Ohio Revised Code. Dr. Akhtar’s testimony on this point was intended to demonstrate that he had complied with the Board Order and was intended to deceive the Board.
11. For the reasons set forth in Conclusion of Law 10, Dr. Akhtar’s false testimony, as set forth in Finding of Fact 9, constitutes a failure to furnish satisfactory proof of good moral character as required by Section 4731.08, Ohio Revised Code.
12. For the reasons set forth in Conclusion of Law 10, Dr. Akhtar’s false testimony, as set forth in Finding of Fact 9, constitutes a “[f]ailure to cooperate in an investigation

conducted by the board under division (F) of this section,” as that language is used in Section 4731.22(B)(34), Ohio Revised Code.

13. Dr. Akhtar’s report to the Holzer physician recruiter that the delay in obtaining his Ohio certificate was due in part to “staffing shortages” at the Board, as set forth in Finding of Fact 10, does not constitute “[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board,” as that language is used in Section 4731.22(B)(5), Ohio Revised Code. The evidence is insufficient to establish that that statement was anything other than Dr. Akhtar’s personal opinion or speculation. Nevertheless, because the Board did not previously have before it all of the information that was presented during the hearing, the Board was substantially justified in pursuing this allegation.
14. For the reasons set forth in Conclusion of Law 13, Dr. Akhtar’s report to the Holzer physician recruiter that the delay in obtaining his Ohio certificate was due in part to “staffing shortages” at the Board, as set forth in Finding of Fact 10, does not constitute a failure to furnish the satisfactory proof of good moral character required by Section 4731.08, Ohio Revised Code. Nevertheless, because the Board did not previously have before it all of the information that was presented during the hearing, the Board was substantially justified in pursuing this allegation.
15. Dr. Akhtar’s failure to list his Ohio training certificate on a licensure application that he submitted to the Illinois Department of Professional Regulation, Division of Professional Regulation, in April 2005, as set forth in Finding of Fact 11, does not constitute “[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board,” as that language is used in Section 4731.22(B)(5), Ohio Revised Code. The evidence is insufficient to establish that the omission was intended to be false, fraudulent, deceptive, or misleading. Nevertheless, because the Board did not previously have before it all of the information that was presented during the hearing, the Board was substantially justified in pursuing this allegation.
16. For the reasons set forth in Conclusion of Law 15, Dr. Akhtar’s failure to list his Ohio training certificate on a licensure application that he submitted to the Illinois Department of Professional Regulation, Division of Professional Regulation, in April 2005, as set forth in Finding of Fact 11, does not constitute a failure to furnish the satisfactory proof of good moral character required by Section 4731.08, Ohio Revised Code. Nevertheless, because the Board did not previously have before it all of the information that was presented during the hearing, the Board was substantially justified in pursuing this allegation.

* * * * *

Dr. Akhtar does not seem to be the most detail-oriented and/or accuracy-oriented person. One would anticipate that, particularly after the Board's ruling in *Akhtar I*, Dr. Akhtar would have carefully handled the Board's requirements and requests. The State's allegations in this matter involve failures to take certain actions and inappropriate, purposeful behavior on Dr. Akhtar's part. The State argues that, among other things, Dr. Akhtar's actions were intentionally false, fraudulent, deceptive, or misleading. Dr. Akhtar argues that, among other things, he misunderstood or made accidental mistakes that were harmless. The Hearing Examiner agrees in part with each party.

Allegation 1 (Place of Residence): The State argues that Dr. Akhtar's place of residence after he completed his residency in June 2005 was not Copley, Ohio, but Scotts Valley, California. Therefore, the State claims that Dr. Akhtar falsely reported his address on all three chronologies that he submitted in response to the March 22, 2006, Board request. Dr. Akhtar certainly had an unusual amount of travel between July 2005 and July 2006, particularly since he was unemployed. However, the amount of time that he spent in California and his usage of the California address on some documents do not convince the Hearing Examiner that his place of residence actually became Scotts Valley, California. Rather, the Hearing Examiner finds that Dr. Akhtar's place of residence remained in Ohio, but that Dr. Akhtar did not reflect the *then-correct* Ohio address on his June and July 2006 responses.

Next, the question is whether the incorrect address information constitutes a violation of Sections 4731.22(B)(5), 4731.22(B)(34), or 4731.08, Ohio Revised Code. The Hearing Examiner does not believe that reflecting the incorrect Copley, Ohio, apartment was an intentional false, fraudulent, deceptive, or misleading statement. Nor was the incorrect address a failure to furnish proof of good moral character or a failure to cooperate in a Board investigation. The Hearing Examiner believes that Dr. Akhtar hastily completed the Chronology of Activities form on June 13, 2006, after discovering that he had yet to be granted an Ohio certificate.⁴ Furthermore, the Hearing Examiner believes that Dr. Akhtar was anxious for certificate approval in July and tried to again complete the form to the satisfaction of the Licensure Department. He was annoyed, frustrated, and less than careful.

Allegation 2 (Travel to Pakistan Disclosure): Dr. Akhtar did not list his December 2005 trip to Pakistan on his Chronology of Activities updates. The Hearing Examiner is not convinced that that omission constitutes a violation of Sections 4731.22(B)(5), 4731.22(B)(34), or 4731.08, Ohio Revised Code. Not only were the then-current instructions for the Chronology of Activities section of the application not clear about including travel time, but the heading under which each activity is to be listed states "Practice/Employment." This heading suggests professional

⁴Dr. Akhtar did not immediately respond to the Licensure Department's March 22, 2006, notice. The wording of the Board's Order, Ms. Bickers' letter and the Licensure Department's notice could easily have led Dr. Akhtar (and his counsel) into believing that Dr. Akhtar had received his Ohio certificate, effective March 9, 2006, and that it was immediately suspended for a 90-day period. In this context and after Dr. Akhtar's conversation with Ms. Bickers, it is reasonable to conclude that he believed that he did not have to further respond to the Licensure Department's notice. Dr. Akhtar's delay in updating the application information is *not* an issue in this proceeding.

activities, even if non-medical. This heading does not suggest that vacations and travels should be listed. Moreover, the record reflects that other applicants had trouble with this portion of the application during the same time period and the Board has since modified the form to make it clearer. Additionally, the evidence does not support a conclusion that Dr. Akhtar was trying to deceive or mislead the Board in relation to his trip to Pakistan. Before he left for Pakistan, he had disclosed his trip to the Board. Also, the Hearing Examiner cannot conclude that Dr. Akhtar's omission on this topic violated Sections 4731.22(B)(34) and 4731.08, Ohio Revised Code.

Allegation 3 (Testimony about California Address on Resumes): The evidence reflects that the Holzer and APMC personnel did not instruct Dr. Akhtar to include a California address on his resume. However, the Hearing Examiner is not convinced that Dr. Akhtar's deposition testimony actually stated that the Holzer and/or APMC personnel instructed Dr. Akhtar to include a California address. Yes, the questioning involved his activities in applying for positions at Holzer and APMC, but Dr. Akhtar's answer is ambiguous and subject to varying interpretations. For that reason, the Hearing Examiner cannot conclude that Dr. Akhtar testified falsely on this topic, and cannot conclude that the testimony violated Sections 4731.22(B)(34) and 4731.08, Ohio Revised Code.

Allegation 4 (Testimony about Informing Potential Employers of the Board Order or Restrictions): Dr. Akhtar testified in the deposition that, in advance of his interviews, he *informed* potential employers of the March 8, 2006, Board Order and confirmed the restrictions on his Ohio certificate. There is no evidence that Dr. Akhtar actually did that in advance of his interviews at Holzer or APMC. He did explain to the Holzer and APMC personnel, to some extent, about his federal misdemeanor conviction, but that is not the same as informing potential employers about the Board Order or confirming certificate restrictions, and it is not the same as providing the Board Order.⁵ Simply put, Dr. Akhtar's deposition testimony is not accurate. The Hearing Examiner concludes that Dr. Akhtar's deposition testimony on this point was intended to demonstrate that he had complied with the Board Order and was intended to deceive the Board. Accordingly, the Hearing Examiner concludes that Dr. Akhtar violated Sections 4731.22(B)(5), 4731.22(B)(34), and 4731.08, Ohio Revised Code. In light of this conclusion and Dr. Akhtar's dishonesty in the past, the Hearing Examiner proposes, below, that Dr. Akhtar's application for an Ohio certificate be denied.

Allegation 5 (Statement about Staff Shortages): Dr. Akhtar admitted that he told the Holzer physician recruiter that the delay in obtaining his Ohio certificate was due in part to "staffing shortages" at the Board. The Holzer physician recruiter considered Dr. Akhtar's statement to be personal speculation. The evidence did not establish that the statement was intended to be false,

⁵The March 8, 2006, Board Order required more than just an explanation to potential employers. A copy of the Board Order was to be provided by Dr. Akhtar to potential employers. Dr. Akhtar appears to have technically fulfilled the requirement as to Holzer and APMC, but he did not meet the spirit of that language. The requirement is targeted toward informing potential employers of the history and licensure status of Dr. Akhtar at the time he applies. Dr. Akhtar waited to provide a copy of the Board Order to Holzer and APMC until after he had begun interviewing and explained the situation in his own words. In any event, the State has *not* alleged that Dr. Akhtar violated this portion of the Board Order.

fraudulent, deceptive, or misleading. Rather, the evidence indicates that he was stating an opinion or speculation in order to favorably explain one reason for the licensure delay. Additionally, the Hearing Examiner does not believe this statement constitutes a failure to furnish the satisfactory proof of good moral character required by Section 4731.08, Ohio Revised Code.

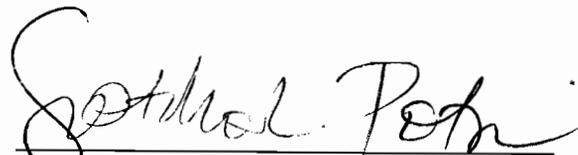
Allegation 6 (Omission on Illinois Application): The evidence clearly reflects that Dr. Akhtar omitted his Ohio training certificate on the Illinois licensure application in April 2005. Dr. Akhtar testified that he just missed that part of the application. The record also reflects that several other items were missing from his application. The Illinois Board asked for missing information on six occasions after Dr. Akhtar submitted the application. The Hearing Examiner concludes that the evidence does not demonstrate that the omission was intended to be false, fraudulent, deceptive, or misleading, particularly since Dr. Akhtar accurately reflected his Ohio residency program on the prior page. Additionally, the Hearing Examiner does not believe this omission constitutes a failure to furnish the satisfactory proof of good moral character required by Section 4731.08, Ohio Revised Code.

PROPOSED ORDER

It is hereby ORDERED that:

- A. **DENIAL OF CERTIFICATE**: The certificate of Jabir Kamal Akhtar, M.D., to practice medicine and surgery in the State of Ohio shall be permanently denied.
- B. **SUPERSEDE PREVIOUS BOARD ORDER**: This Order shall supersede the terms and conditions set forth in the March 8, 2006, Board Order.

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



Gretchen L. Petrucci
Hearing Examiner

**Attachment A to the Report and Recommendation of June 15, 2007
In the Matter of Jabir Kamal Akhtar, M.D.**

Comparison of the Pertinent Portions of Dr. Akhtar's Chronology of Activities¹ Submitted in Response to the Board's Requests

6/12/06 Response

7/3/06 Afternoon Response

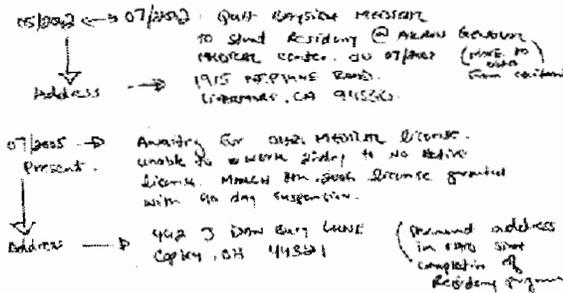
7/3/06 Evening Response

3. From: Month 11, Year 2001 To: Month 05, Year 2003	Practice/Employment Name <u>BAYSIDE MEDICAL</u> Practice/Employment Address <u>5720 Stoneridge Mall Road #240</u> City <u>Pleasanton</u> State <u>CA</u> ZIP Code <u>94588</u> Country <u>U.S.A.</u> Position and Department <u>Medical Director/Assistant</u> % Administrative <u>10</u> Employment <input checked="" type="checkbox"/> Staff Privileges <input type="checkbox"/> Affiliation <input type="checkbox"/> Other
4. From: Month 07, Year 2002 To: Month 06, Year 2005	Practice/Employment Name <u>AKRON GENERAL MEDICAL CENTER</u> Practice/Employment Address <u>400 WOODRUSH AVENUE</u> City <u>AKRON, OH</u> State <u>OH</u> ZIP Code <u>44307</u> Country <u>U.S.A.</u> Position and Department <u>Full Time Resident</u> % Administrative <u>1</u> Employment <input type="checkbox"/> Staff Privileges <input type="checkbox"/> Affiliation <input type="checkbox"/> Other <u>Full time Resident (Resident Privileges @ Hospital)</u>
5. From: Month 07, Year 2005 To: Month None, Year None	Practice/Employment Name <u>Awaiting for OHIO license</u> Practice/Employment Address <u>unable to work searching to</u> City <u>AKRON, OH</u> State <u>OH</u> ZIP Code <u>44307</u> Position and Department <u>State OH Board license granted with initial 90 day</u> ZIP Code <u>suspension no change of address</u> Employment <input type="checkbox"/> Staff Privileges <input type="checkbox"/> Affiliation <input type="checkbox"/> Other <u>See above</u>

3. From: Month 11, Year 2001 To: Month 05, Year 2003	Practice/Employment Name <u>BAYSIDE MEDICAL</u> Practice/Employment Address <u>5720 Stoneridge Mall Road #240</u> City <u>Pleasanton</u> State <u>CA</u> ZIP Code <u>94588</u> Country <u>U.S.A.</u> Position and Department <u>Medical Director/Assistant</u> % Administrative <u>10</u> Employment <input checked="" type="checkbox"/> Staff Privileges <input type="checkbox"/> Affiliation <input type="checkbox"/> Other
4. From: Month 07, Year 2002 To: Month 06, Year 2005	Practice/Employment Name <u>AKRON General Medical Center</u> Practice/Employment Address <u>400 WOODRUSH AVENUE</u> City <u>AKRON, OH</u> State <u>OH</u> ZIP Code <u>44307</u> Country <u>U.S.A.</u> Position and Department <u>Full Time Resident</u> % Administrative <u>1</u> Employment <input type="checkbox"/> Staff Privileges <input type="checkbox"/> Affiliation <input type="checkbox"/> Other <u>Full time Resident (Resident Privileges @ Hospital)</u>
5. From: Month 07, Year 2005 To: Month None, Year None	Practice/Employment Name <u>Awaiting for OHIO license</u> Practice/Employment Address <u>unable to work searching to</u> City <u>AKRON, OH</u> State <u>OH</u> ZIP Code <u>44307</u> Position and Department <u>State OH Board license granted with initial 90 day</u> ZIP Code <u>suspension no change of address</u> Employment <input type="checkbox"/> Staff Privileges <input type="checkbox"/> Affiliation <input type="checkbox"/> Other <u>See above</u>

3. From: Month 11, Year 2001 To: Month 05, Year 2003	Practice/Employment Name <u>BAYSIDE MEDICAL</u> Practice/Employment Address <u>5720 Stoneridge Mall Rd #240</u> City <u>Pleasanton</u> State <u>CA</u> ZIP Code <u>94588</u> Country <u>U.S.A.</u> Position and Department <u>Medical Director/Assistant</u> % Administrative <u>10</u> Employment <input checked="" type="checkbox"/> Staff Privileges <input type="checkbox"/> Affiliation <input type="checkbox"/> Other
4. From: Month 05, Year 2002 To: Month 06, Year 2005	Practice/Employment Name <u>MOVE to OHIO from California to start Residency</u> Practice/Employment Address <u>AIS NEPTUNE BLVD</u> City <u>LIVERMORE, CA</u> State <u>CA</u> ZIP Code <u>94550</u> Country <u>U.S.A.</u> Position and Department <u>Resident</u> % Administrative <u>0</u> Employment <input type="checkbox"/> Staff Privileges <input type="checkbox"/> Affiliation <input checked="" type="checkbox"/> Other <u>OHIO</u> <u>MOVE to OHIO from California to start Residency @ Akron General</u>
5. From: Month 07, Year 2005 To: Month 06, Year 2005	Practice/Employment Name <u>AKRON General Medical Center</u> Practice/Employment Address <u>400 WOODRUSH AVENUE</u> City <u>AKRON, OH</u> State <u>OH</u> ZIP Code <u>44307</u> Country <u>U.S.A.</u> Position and Department <u>Full Time Resident</u> % Administrative <u>1</u> Employment <input type="checkbox"/> Staff Privileges <input type="checkbox"/> Affiliation <input checked="" type="checkbox"/> Other <u>Full time Resident (Resident Privileges @ Hospital)</u>
6. From: Month 07, Year 2005 To: Present Month	Practice/Employment Name <u>Unemployed</u> Practice/Employment Address <u>442 J DANCIGUY LANE</u> City <u>COPYEY, OH</u> State <u>OH</u> ZIP Code <u>44321</u> Country <u>U.S.A.</u> Position and Department <u>Unemployed</u> % Administrative <u>0</u> Employment <input type="checkbox"/> Staff Privileges <input type="checkbox"/> Affiliation <input checked="" type="checkbox"/> Other <u>OHIO</u> <u>OHIO license granted with 90 day suspension</u>

NON-WORKING TIME



¹The Chronology of Activities instructions state: "Please provide a chronological listing of all medical and non-medical activities beginning with your graduation from medical school to the present date, leaving no time period unaccounted for in your resume. Use an additional page to account for non-professional activities and any other gaps in time between professional experiences, including military duty." (St. Ex. 2 at 12, 19-21, 23-24)



State Medical Board of Ohio

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EXCERPT FROM THE DRAFT MINUTES OF JULY 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: Jabir Kamal Akhtar, M.D.; Robert Gross, D.O.; and Hans Hoffman Truong, 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. 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. Steinbergh - aye
Dr. Kumar - aye

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

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

Dr. Talmage left the meeting at this time.

JABIR KAMAL AKHTAR, M.D.

.....

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. PETRUCCI'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF JABIR KAMAL AKHTAR, M.D. DR. VARYANI SECONDED THE MOTION.

.....

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

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

The motion carried.



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December 14, 2006

Jabir Kamal Akhtar, M.D.
1243 Weathervane Lane, Apt. 2A
Akron, OH 44313

Dear Doctor Akhtar:

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

- (1) From on or about October 16, 2002, to on or about June 30, 2005, you held a training certificate issued by the Board. On or about May 26, 2004, you caused to be submitted to the Board an Application for Certificate – Medicine or Osteopathic Medicine [Application] to practice medicine and surgery in the State of Ohio.

On or about March 9, 2006, the Board issued an Order [2006 Ohio Order] which provides for the future conditional grant of an Ohio certificate to practice medicine and surgery, provided you meet all statutory and regulatory requirements. The 2006 Ohio Order further provides that, upon future issuance, such certificate to practice medicine and surgery will be subject to suspension for a definite term of ninety days, with subsequent probationary terms, conditions, and limitations for at least two years established. The 2006 Ohio Order was based on your 2001 plea of guilty to a misdemeanor count of Conspiracy to Commit Theft of Public Money of over \$20,000, the acts underlying which involved your having forged the name of a school official on a student loan application in order to fraudulently obtain money.

Your Application remains pending.

- (2) On or about March 22, 2006, the Board issued to you a letter requiring you to update the resume portion of your Application to include addresses for all non-working time periods, to advise the Board as to whether you have any license to practice medicine and surgery in another jurisdiction, and to complete a form for Additional Information questions as part of the application process. On or about

Mailed 12-14-06

June 13, 2006, after the Board faxed a copy of the March 22, 2006 letter to your attorney, you faxed, from a phone number in California, a resume without addresses and failed to submit answers to the Additional Information questions. On or about June 22, 2006, the Board issued to you a letter requiring you to include addresses for all non-working time periods and to complete the Additional Information questions form as part of the application process. On or about July 3, 2006, you faxed, from a phone number in California, the updated addresses and completed Additional Information questions which included representations that you resided at 442 Danbury Lane, Apt. J, Copley, Ohio, during the period July 2005 to “the present.”

In fact, you resided at 146 Arabian Way, Scotts Valley, California, for the majority of the time period in or about July 2005 to in or about July 2006. Further, you failed to disclose to the Board that you were in Pakistan from in or about late December 2005 to in or about early February 2006.

- (3) During an investigatory deposition conducted by Board staff on or about September 15, 2006, you testified that you always told potential employers prior to any interview that you had a Board Order and that you confirmed that you had restrictions on your Ohio license. In fact, you failed to advise representatives at Ashtabula County Medical Center [ACMC] located in Ashtabula, Ohio, or at Holzer Medical Center Jackson [HMCJ], located in Jackson, Ohio, that you were subject to a Board Order or that you had any licensure restrictions prior to such interviews.

Further, you testified that you were advised by representatives of ACMC and/or HMCJ to list California as your address in your resumes “for them to get reimbursed for the [airline flight] ticket” for you to fly into Ohio for your interviews. In fact, no representative at either ACMC or HMCJ advised you to use a California address in your resume.

- (4) On or about May 10, 2006, during the course of a telephone conversation with a physician recruiter, you falsely stated words to the effect that the delay in obtaining your Ohio medical license was due in part to “staffing shortages” at the Board.
- (5) On or about April 21, 2005, you caused to be submitted to the Illinois Department of Professional Regulation, Division of Professional Regulation, an Application for Licensure and/or Examination [Illinois Application]. You certified by signing the Illinois Application under penalties of perjury that the application and all supporting documents were “true, correct, and complete.”

The Record of Licensure Information Section of the Illinois Application required you to list any professionally related license held by you, including any

temporary, training or apprenticeship license, under penalty of potential licensure denial for failure to disclose all licenses held. You failed to list the training certificate from Ohio that you held from 2002 up to the date of the submission of your Illinois Application.

Your acts, conduct, and/or omissions as alleged in paragraphs (2) through (5) above, individually and/or collectively, constitute “[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board,” as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (2) and (3) above, individually and/or collectively, constitute a “[f]ailure to cooperate in an investigation conducted by the board under division (F) of this section,” as that clause is used in Section 4731.22(B)(34), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (2) through (5) above, individually and/or collectively, constitute a failure to furnish satisfactory proof of good moral character as required by Section 4731.08, Ohio Revised Code.

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

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

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

CERTIFIED MAIL # 7004 2510 9802 9117
RETURN RECEIPT REQUESTED

cc: Robert C. Angell, Esq.
470 Olde Worthington Rd., Suite 200
Westerville, OH 43082

CERTIFIED MAIL # 7004 2510 0006 9802 9124
RETURN RECEIPT REQUESTED



State Medical Board of Ohio

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March 8, 2006

Jabir Kamal Akhtar, M.D.
482 Crestmont Circle, Apt. E
Copley, OH 44321

Dear Doctor Akhtar:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of R. Gregory Porter, Esq., Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on March 8, 2006, including motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

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

A handwritten signature in cursive script that reads "Lance A. Talmage M.D.".

Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

CERTIFIED MAIL NO. 7003 0500 0002 4329 7787
RETURN RECEIPT REQUESTED

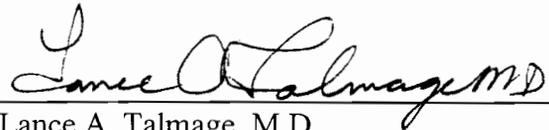
Cc: Robert C. Angell, Esq.
CERTIFIED MAIL NO. 7003 0500 0002 4329 7794
RETURN RECEIPT REQUESTED

Mailed 3-9-06

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of R. Gregory Porter, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on March 8, 2006, including motions approving and confirming the Findings of Fact, Conclusions and Proposed Order of the Hearing Examiner as the Findings and Order of the State Medical Board of Ohio; constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Jabir Kamal Akhtar, M.D., as it appears in the Journal of the State Medical Board of Ohio.

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



Lance A. Talmage, M.D.
Secretary

(SEAL)

March 8, 2006

Date

3. **Personal Appearances**: Dr. Akhtar 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. Akhtar 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. **Professional Ethics Course**: Before the end of the first year of probation, or as otherwise approved by the Board, Dr. Akhtar 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. Akhtar submits the documentation of successful completion of the course or courses dealing with professional ethics, he shall also submit to the Board a written report describing the course, setting forth what he learned from the course, and identifying with specificity how he will apply what he has learned to his practice of medicine in the future.

5. **Personal Ethics Course**: Before the end of the first year of probation, or as otherwise approved by the Board, Dr. Akhtar 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. Akhtar submits the documentation of successful completion of the course or courses dealing with personal ethics, he shall also submit to the Board a written report describing the course, setting forth what he learned from the course, and identifying with specificity how he will apply what he has learned to his practice of medicine in the future.

- C. **TERMINATION OF PROBATION**: Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Akhtar's certificate will be fully restored.
- D. **REQUIRED REPORTING TO EMPLOYERS AND HOSPITALS**: Within thirty days of the effective date of this Order, or as otherwise determined by the

Board, Dr. Akhtar shall provide a copy of this Order to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Akhtar shall provide a copy of this Order to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments. This requirement shall continue until Dr. Akhtar receives from the Board written notification of his successful completion of probation pursuant to Paragraph C, above.

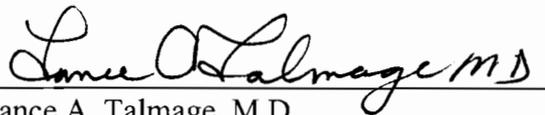
E. REQUIRED REPORTING TO OTHER STATE LICENSING

AUTHORITIES: Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Akhtar shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license.

Dr. Akhtar shall also provide a copy of this Order by certified mail, return receipt requested, at the time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement or restoration or restoration of any professional license. Further, Dr. Akhtar shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt, unless otherwise determined by the Board. This requirement shall continue until Dr. Akhtar receives from the Board written notification of his successful completion of probation pursuant to Paragraph C, above.

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.
Secretary

March 8, 2006
Date

2006 JAN 19 A 9 57

**REPORT AND RECOMMENDATION
IN THE MATTER OF JABIR KAMAL AKHTAR, M.D.**

The Matter of Jabir Kamal Akhtar, M.D., was heard by R. Gregory Porter, Esq., Hearing Examiner for the State Medical Board of Ohio, on October 5, 2005.

INTRODUCTION

I. Basis for Hearing

- A. By letter dated July 13, 2005, the State Medical Board of Ohio [Board] notified Jabir Kamal Akhtar, M.D., that it had proposed to take disciplinary action against or refuse to register or reinstate his certificate to practice medicine and surgery in Ohio. The Board alleged that Dr. Akhtar had failed to provide full and accurate disclosure of information on a 2002 application for an Ohio training certificate and on a 2004 application for an Ohio medical license. Moreover, the Board alleged that, in 2001, Dr. Akhtar had pled guilty in federal court to one misdemeanor count of violating 18 United States Code Section 641, Conspiracy to Commit Theft of Public Money of over \$20,000 with more than minimal planning.

Furthermore, the Board alleged that the above constitutes:

- “‘fraud, misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the board,’ as that clause is used in Section 4731.22(A), Ohio Revised Code”;
- “‘[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board,’ as that clause is used in Section 4731.22(B)(5), Ohio Revised Code”;
- “‘[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude,’ as that clause is used in Section 4731.22(B)(13), Ohio Revised Code”; and/or
- “a failure to furnish satisfactory proof of good moral character as required by Sections 4731.29 and 4731.08, Ohio Revised Code.”

(State’s Exhibit 1A)

- B. By letter received by the Board on August 1, 2005, Dr. Akhtar requested a hearing. (State's Exhibit 1B)

II. Appearances

- A. On behalf of the State of Ohio: Jim Petro, Attorney General, by Thomas E. Madden, Assistant Attorney General.
- B. On behalf of the Respondent: Robert C. Angell, Esq.

EVIDENCE EXAMINED

I. Testimony Heard

- A. Presented by the State

Jabir Kamal Akhtar, M.D., as upon cross-examination

- B. Presented by the Respondent

- 1. Jabir Kamal Akhtar, M.D.
- 2. Rahul Puri, M.D.
- 3. Ali Saleh, M.D.

II. Exhibits Examined

- A. Presented by the State

- 1. State's Exhibits 1A through 1L: Procedural exhibits.
- 2. State's Exhibits 2A and 2B: Certified copies of documents maintained by the Board concerning Dr. Akhtar's applications for a training certificate and an Ohio medical license, respectively.
- 3. State's Exhibit 3: Certified copy of a Criminal Case Docket regarding Dr. Akhtar maintained by the Marin County (California) Municipal Court.
- 4. State's Exhibits 4 and 5: Excerpts from the California Penal Code.
- 5. State's Exhibit 6: Certified copy of documents filed in the United States District Court for the Eastern District of Michigan, Northern Division, in *United States v. Akhtar*, Case No. 99-BC-20033-02, maintained by the United States

National Archives and Records Administration. [Note that this document has been sealed to maintain the confidentiality of Social Security numbers.]

6. State's Exhibit 6A: Paginated copy of State's Exhibit 6. [Note: This document was renumbered as State's Exhibit 6A post hearing. Further note: Social Security numbers were redacted from this document post hearing.]
 7. State's Exhibit 7: Certified copy of the Criminal Docket in *United States v. Akhtar*.
 8. State's Exhibit 8: Copy of Dr. Akhtar's April 21, 1996, Application and Promissory Note for Federal Stafford Loans.
 9. State's Exhibits 9 and 10: Excerpts from the United States Code.
 10. State's Exhibit 11: Pages 1 through 3, 50, and 51, of the transcript of a June 16, 2004, Board investigatory deposition of Dr. Akhtar.
- B. Presented by the Respondent
1. Respondent's Exhibit A: Copy of a January 19, 2005, letter to Board staff from David A. Koelzer, Esq., of the Federal Defender Office in Flint, Michigan.
 2. Respondent's Exhibit B: Copy of the Criminal Docket in *United States v. Akhtar*. [Duplicate of State's Exhibit 7.]
 3. Respondent's Exhibits C through E: Copies of letters of support written on behalf of Dr. Akhtar by medical colleagues.
- C. Admitted by the Hearing Examiner Post Hearing

Board Exhibit A: Copy of a First Superseding Information filed in *United States v. Akhtar* on January 22, 2001. [Note: The second page of this document was missing from State's Exhibit 6A.¹]

PROFFERED MATERIAL

The following document was neither admitted to the record nor considered, but is being sealed and held as proffered material for the State:

State's Exhibit 11A: Transcript of a June 16, 2004, Board investigatory deposition of Dr. Akhtar. [Note: This exhibit was renumbered as State's Exhibit 11A post hearing.]

¹ It was, however, included in (non-paginated) State's Exhibit 6.

SUMMARY OF THE EVIDENCE

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

Background Information

1. Jabir Kamal Akhtar, M.D., obtained his medical degree in 1999 from Grace University in Cades Bay, Nevis. From August 1999 through May 2002, Dr. Akhtar worked in California as a research associate and as a “nursing/doctor assistant[.]” In July 2002, Dr. Akhtar entered a family medicine residency program at Akron General Medical Center [Akron General] in Akron, Ohio. Dr. Akhtar completed that residency in June 2005. (State’s Exhibit [St. Ex.] 2B at 5, 29-30 [Quote at 5])

Dr. Akhtar testified that he is not currently practicing because he is awaiting an Ohio medical license. (Hearing Transcript [Tr.] at 23, 75-76)

Issue 1: Allegations that Dr. Akhtar Failed to Divulge Material Information on his 2002 Application for Training Certificate [Training Application] and his 2004 Application for Certificate—Medicine or Osteopathic Medicine [License Application]

Dr. Akhtar’s 1992 Criminal Action in California

2. On March 26, 1992, when Dr. Akhtar was 20 years old, he was arrested in Corte Madera, California, by the Twin Cities Police Department. Dr. Akhtar was initially charged with a felony under California Penal Code Section 484g, relating to credit card theft. On April 10, 1992, Dr. Akhtar was arraigned on that charge in the Marin County (California) Municipal Court. Subsequently, Dr. Akhtar attended hearings on April 10 and 23, May 8, and June 9, 1992. During the June 9, 1992, hearing, Dr. Akhtar was granted diversion based upon a reduced misdemeanor charge of California Penal Code Section 459, relating to burglary; ordered to complete 40 hours of community service; and ordered to pay a \$100 diversion fee. Approximately one year later, on June 29, 1993, the court found that Dr. Akhtar’s diversion had been completed and dismissed the case. (St. Ex. 2B at 2; St. Exs. 3, 4, and 5; Tr. at 27-32)
3. Dr. Akhtar testified that the 1992 criminal charge had arisen from an incident that occurred in a shopping mall. Dr. Akhtar testified that he had been in the mall with one of his friends. Dr. Akhtar further testified that, after his friend had purchased some items with a credit card, security personnel “asked him to come back because it was not his credit card[] * * * and I’m standing there, I didn’t know what to do, so I came with him.” Security personnel at the store detained both Dr. Akhtar and his friend until the police came and escorted them both to jail. (Tr. at 34-35, 81-82 [Quote at 81])

At hearing, Dr. Akhtar denied that he had used the stolen credit card. (Tr. at 82)

Dr. Akhtar's 2002 Training Application

4. On April 15, 2002, Dr. Akhtar caused to be submitted to the Board a Training Application. (St. Ex. 2A) By signing the Training Application, Dr. Akhtar certified that the information provided therein was true. (St. Ex. 2A at 18) In the "Additional Information" section of the Training Application, Dr. Akhtar answered "NO" to questions 10 and 16 which asked the following:

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

* * *

"16. Have you ever forfeited collateral, bail, or bond for breach or violation of any law, police regulation, or ordinance other than a minor traffic violation; been summoned into court as a defendant or had any lawsuit filed against you (other than a malpractice suit)?"

(St. Ex. 2A at 8-9)

Subsequently, by letter dated October 16, 2002, Board staff advised Dr. Akhtar that a training certificate had been issued to him. (St. Ex. 2A at 17)

5. On his Training Application, Dr. Akhtar did not disclose his 1992 misdemeanor diversion in California.² (St. Ex. 2A at 9)

Dr. Akhtar's 2004 License Application

6. On May 26, 2004, Dr. Akhtar caused to be submitted to the Board a License Application. (St. Ex. 2B) By signing the License Application, Dr. Akhtar certified that the information provided therein was true. (St. Ex. 2B at 24) In the "Additional Information" section of the License Application, Dr. Akhtar answered "NO" to questions 10 and 16 which asked the following:

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

² Note that Dr. Akhtar answered "YES" to question 15 on his Training Application which asked, "Have you ever been convicted or found guilty of a violation of any law, regardless of the legal jurisdiction in which the act was committed, other than a minor traffic violation?" (St. Ex. 2A at 9) In his written explanation concerning that answer, Dr. Akhtar stated, "I received misdemeanor May 30, 2001 at Saginaw, Michigan due to violation of student loan. This loan should [have] been repaid in full amount which I was unaware at the time. Since then I have been making regular payment for past two years." (St. Ex. 2A at 12) This conviction and the issues related to it are discussed in Issue 2, below.

* * *

“16. Have you ever forfeited collateral, bail, or bond for breach or violation of any law, police regulation, or ordinance other than a minor traffic violation; been summoned into court as a defendant or had any lawsuit filed against you (other than a malpractice suit)?”

(St. Ex. 2B at 11)

7. On his License Application, Dr. Akhtar did not disclose his 1992 misdemeanor diversion in California.³ (St. Ex. 2B at 11-12)

Dr. Akhtar’s Testimony Concerning his Training Application and License Application

8. At hearing, Dr. Akhtar acknowledged that he had had a duty to answer all of the questions truthfully on both the Training Application and the License Application. (Tr. at 20-21, 24-25)

Dr. Akhtar testified that, during the times he had filled out his applications, he had neither forgotten about the 1992 California action nor had he intended to mislead the Board by not disclosing it. Dr. Akhtar stated that he had believed that, upon his completion of diversion and the court’s dismissal of the case, the action would no longer be on his record and would be “completely cleared[.]” Dr. Akhtar further testified that he had not been aware that he would continue to have to report that action on applications for employment or licensure. Finally, Dr. Akhtar testified that he has since learned through contact with Board staff that he had been wrong, and understands that he should have disclosed the California action. (Tr. at 25, 83-87)

Issue 2: Dr. Akhtar’s 2001 Federal Misdemeanor Conviction and the Underlying Conduct

Events Giving Rise to Dr. Akhtar’s Federal Misdemeanor Conviction

Dr. Akhtar’s 1995 Student Loan

9. From September 1994 through April 1995, Dr. Akhtar attended medical school at Saba University School of Medicine in Saba, Netherlands Antilles. However, Dr. Akhtar

³ Note that Dr. Akhtar answered “YES” to question 15 on his License Application which asked, “Have you ever pled guilty to, been found guilty of a violation of any law, or been granted intervention or treatment in lieu of conviction regardless of the legal jurisdiction in which the act was committed, other than a minor traffic violation?” (St. Ex. 2B at 11) In his written explanation, which contained the heading, “Question #15 and #16,” Dr. Akhtar stated, “I was Indictment [sic] to Eastern District Court of Michigan for not using student loan for purpose of education. My case # [is] CR 99-CR-20033-PC-04. I was given probation which I have successfully completed. Enclosed is the copy of my case and terms of probation.” (St. Ex. 2B at 12) Moreover, Dr. Akhtar submitted additional documentation from the court. (St. Ex. 2B at 13-20) This conviction and the issues related to it are discussed in Issue 2, below.

testified that, due to financial difficulties, he and several other Saba University medical students transferred to Escuela Autonoma de Ciencias Medicas de Centro America [Autonoma] in Costa Rica. One of the other students with whom Dr. Akhtar transferred told Dr. Akhtar that the classes at Autonoma were taught in English. (Tr. at 46-49)

Dr. Akhtar testified that financial aid was available to attend Autonoma. Dr. Akhtar applied for and received a student loan in the amount of \$18,500. He had applied for this loan in order to pay for his expenses while studying at Autonoma. (Tr. at 48)

10. Dr. Akhtar testified that he moved to Costa Rica in July 1995 and began attending Autonoma in the fall semester of that year. Unfortunately, although Dr. Akhtar had been told that classes at Autonoma were taught in English, he learned as soon as classes began that they were actually taught in Spanish. Dr. Akhtar does not speak Spanish. (Tr. at 49)

Dr. Akhtar testified that he had attended classes during the first week, and took a class to learn Spanish. However, after a week, Dr. Akhtar decided that “it was no use,” so he stopped going to classes. Dr. Akhtar testified that, by that time, it was too late to go back to SABA University. (Tr. at 49-50)

Dr. Akhtar testified that, although he had stopped attending classes, he remained in Costa Rica for several months. Dr. Akhtar stated that he had remained in Costa Rica because he had signed a lease, and that he had tried to do everything he could to learn Spanish to attend medical school at Autonoma. However, Dr. Akhtar returned to his parents’ home in California in or before November 1995. (Tr. at 50-51)

11. Dr. Akhtar testified that he did not immediately return the \$18,500 that he had received as a student loan to attend Autonoma. Dr. Akhtar stated that he had spent half the money “going there,” taking Spanish language classes,⁴ purchasing books for medical school, traveling back and forth from Costa Rica, and paying for rent on his apartment in Costa Rica. (Tr. at 51-53)

Dr. Akhtar’s 1996 Student Loan Application

12. Dr. Akhtar testified that, after having returned home from Costa Rica, he began applying to medical schools. One of the medical schools to which Dr. Akhtar applied was Grace University [Grace]. Dr. Akhtar testified that he had been accepted by Grace in or around February 1996. Dr. Akhtar began attending classes at Grace in April 1996. (St. Ex. 2B at 30; Tr. at 54-55)
13. On April 21, 1996, Dr. Akhtar signed and submitted an Application and Promissory Note for Federal Stafford Loans [Loan Application] for the loan period from June 1996 through May 1997. The loan amount requested was \$18,500. On the Loan Application, Dr. Akhtar

⁴ Dr. Akhtar testified that he had taken Spanish at an institute that was not affiliated with Autonoma. (Tr. at 53)

completed the section entitled “School Section”⁵ to indicate that he would be attending Autonoma, rather than Grace. (St. Ex. 8)

At hearing, Dr. Akhtar acknowledged that, at the time he had filled out the Loan Application, he had been aware that Grace had accepted him. Dr. Akhtar further acknowledged that he had forged the signature of the Dean of the medical school at Autonoma in box 30 of the Loan Application. (St. Ex. 8; Tr. at 55-59, 108)

Dr. Akhtar testified that financial aid had not been available to attend medical school at Grace. (Tr. at 93)

14. Dr. Akhtar testified that, when the loan check arrived at his home, his “family looked at the check, and they were really upset.” Dr. Akhtar further testified that he had been notified that he had to return the check because he was not attending Autonoma. Finally, Dr. Akhtar testified that he sent the check back to the lender, and the lender returned the promissory note back to him indicating that it had been paid in full. (Tr. at 59-61 [Quote at 60])

The Loan Application bears a “Paid” stamp dated July 8, 1996. (St. Ex. 8)

15. Dr. Akhtar was asked at hearing why he had stated on the loan application that he would attend Autonoma when he knew that he would be attending another medical school. Dr. Akhtar replied that he had believed that he could take that loan and use it to go to medical school at Grace. (Tr. at 59-60)

When asked if he had related a different explanation during a June 16, 2004, Board investigative deposition [deposition], Dr. Akhtar replied that he had not. (Tr. at 60-61)

During the deposition, Dr. Akhtar had been asked whether, at the time he signed his student loan application, he had intended to use the money to attend Grace medical school. Dr. Akhtar replied,

Initially when I filled this application out to go to Autonoma, when the money came, I was at Grace University. I was accepted to Grace University. Now I don't remember the exact timing of both. I was having trouble with that, but part of this money was definitely used for Grace education. But when they sent a letter saying you have to return the complete amount back, the money was returned immediately

If you say that the money was used towards Grace education, yes, it was, but my intention at the time when I filled this application was, whether you believe me or not, was seriously to go back to Autonoma and go to school over there.

⁵ Dr. Akhtar testified that, although the School Section instructions indicate that that section is to be completed by “an authorized school official,” it had been routine for overseas students to fill out all parts of that section except box 30, which was reserved for the signature of an authorized school official. (Tr. At 57-58)

(St. Ex. 11 at 50-51)

At hearing, Dr. Akhtar was asked why he would continue to attend Autonoma after he had been accepted by Grace. Dr. Akhtar replied that he had stated during the deposition that he could not recall which came first. Moreover, Dr. Akhtar testified that, at the time he had filled out the Loan Application, he had just “wanted to go to medical school[.]” (Tr. at 70) Dr. Akhtar further testified,

And if it was going to be in Spanish, it was going to be in Spanish, but—hang on, and when the money came, I had been accepted to Grace, and at that time, I thought I could use the money for Grace. And that was—but as far as the exact timing, this is back in 1996, sir, and to be honest, I do not remember, you know, which came first or which came second.

But when obviously the school that came in English, and I could speak English in the class, I figure I might as well use this money to go to school in English. Why go back to Autonoma?

(Tr. at 70-71)

Dr. Akhtar testified that he had been “overwhelmed” by the questions during the deposition. Dr. Akhtar further testified that he had been led to believe that he did not need to review his old documents prior to the deposition because he was merely going to be asked to “clear up some of the stuff.” Moreover, Dr. Akhtar testified that he had asked whether he would need an attorney, and had been told that most people do not bring legal counsel to such discussions. Finally, Dr. Akhtar testified that he had not been aware that his responses could be used against him in an action such as the current action. (Tr. at 60-61, 96-97)

Dr. Akhtar’s 2001 Federal Misdemeanor Conviction

16. On January 22, 2001, a First Superseding Information [Information] was filed in the United States District Court for the Eastern District of Michigan, Northern Division, charging Dr. Akhtar with one misdemeanor count of violating 18 United States Code [U.S.C.] Section 371, Conspiracy to Defraud the United States. The Information charged that Dr. Akhtar had conspired with others to take money from the United States “by applying falsely for federally guaranteed student loans so they could convert the loan proceeds to their own use[.]” a violation of 18 U.S.C. Section 641. (Board Exhibit A)

On the same day, Dr. Akhtar appeared in court and pled guilty to the offense as charged in the Information. Dr. Akhtar admitted under oath in open court to having forged the name of a school official on a student loan application in order to fraudulently obtain money, and that he had done so in a conspiracy with others. The court accepted Dr. Akhtar’s plea, found him guilty, and ordered a presentence report. (St. Ex. 6 at 2-29, 105-112)

17. Prior to appearing in court, Dr. Akhtar, Dr. Akhtar's counsel, and the Assistant United States Attorney [Assistant U.S. Attorney] who represented the government had entered into a written Rule 11 Plea Agreement [Plea Agreement]. A sentencing guideline worksheet prepared by the Assistant U.S. Attorney was attached to the Plea Agreement. On the sentencing guideline worksheet, Dr. Akhtar's "base offense level" was described as "[c]onspiracy to commit theft of public money." In addition, "specific offense characteristics" of "more than \$20,000 (\$37,000)" and "more than minimal planning" were described. (St. Ex. 6 at 113-119 [Quotes at 113, 116])

During the plea hearing, Dr. Akhtar's counsel advised the court that the worksheet was the position of the government and was not the position of Dr. Akhtar, although the court responded that the worksheet had been attached to the Plea Agreement. Nevertheless, neither the Plea Agreement nor the sentencing guideline worksheet was binding on the court, and the court ultimately adopted a sentencing guideline calculation included in the presentence report.⁶ (St. Ex. 6 at 16-17, 23, 25-26, 34-41)

18. On June 5, 2001, Dr. Akhtar was placed on probation for three years, subject to terms and conditions that included six months of electronic monitoring⁷; fined \$5,000; ordered to pay an assessment of \$25; and ordered to pay restitution in the amount of \$37,000 to the United Student Aid Group Guarantee Services. (St. Ex. 6 at 34-41)

On March 24, 2004, the court found that Dr. Akhtar had complied with the rules of probation, and discharged Dr. Akhtar from supervision. (St. Ex. 6 at 41)

19. Dr. Akhtar testified that he had paid his \$5,000 fine immediately, and that he is paying the \$37,000 restitution through direct debit of \$400 per month. Moreover, Dr. Akhtar testified that he had complied with all of the requirements of his probation, and that his probation had been terminated early. (Tr. at 94-95)

Additional Information

20. Dr. Akhtar testified that he had never intended to hide anything from the Board. He added that, if he had wished to hide a conviction, the federal conviction would have been the one to try to hide. However, Dr. Akhtar noted that he had reported the federal conviction on both of his applications because he had known that it had not been dismissed. (Tr. at 25, 85-88)
21. Dr. Akhtar acknowledged that he had made some mistakes including "not being around the right people." Dr. Akhtar testified,

During clinicals and residency, I learned how important it is for a physician to have ethics, and integrity. Not to mention the knowledge and everything else

⁶ The presentence report was not included in State's Exhibit 6 or 6A.

⁷ By entry dated June 4, 2002, the court modified the order of electronic monitoring to home confinement. (St. Ex. 6 at 32)

that comes with it, to help your patient and guide them in the right direction, not just for helping the patient, but for your inner, own satisfaction.

(Tr. at 97-98) Finally, Dr. Akhtar testified,

I want to practice medicine, I want to help people, and that is what I'm good at, and that's what I trained for, and this is what I want to do, in the last three months or so, I really, really miss my patients and I really miss the practice, and I'm just looking forward to going back.

(Tr. at 98-99)

22. Rahul Puri, M.D., testified on behalf of Dr. Akhtar. Dr. Puri testified that he is a second year resident at Akron General. Dr. Puri testified that he knows Dr. Akhtar and that Dr. Akhtar had been one year ahead of him in the residency program. Dr. Puri further testified that Dr. Akhtar had served as his supervisor at some point and that Dr. Puri had followed Dr. Akhtar during patient visits at the hospital. (Tr. at 112-114)

Dr. Puri testified that he believes that Dr. Akhtar had been a good resident and a good teacher. Dr. Puri further testified that the attending physicians had been happy with Dr. Akhtar's decision-making, and that, having inherited some of Dr. Akhtar's patients, Dr. Puri believes that Dr. Akhtar made good decisions as well. Moreover, Dr. Puri testified that Dr. Akhtar was well-liked by patients and that patients continue to ask about Dr. Akhtar. Finally, Dr. Puri testified that he would not hesitate to work with Dr. Akhtar again. (Tr. at 114-120)

23. Ali Saleh, M.D., testified on behalf of Dr. Akhtar. Dr. Saleh testified that he currently practices internal medicine at Parma Community General Hospital in Parma, Ohio. Dr. Saleh stated that he is employed by a group of physicians known as Hospitalist Management Group. Dr. Saleh further testified that he is familiar with Dr. Akhtar and had worked with Dr. Akhtar while they were both residents at Akron General. Dr. Saleh noted that he was two years ahead of Dr. Akhtar in residency. Finally, Dr. Saleh testified that he has maintained contact with Dr. Akhtar since Dr. Saleh left the residency program. (Tr. at 123-125)

Dr. Saleh testified that, when Dr. Akhtar was an intern in family medicine, Dr. Saleh had tried to recruit him to switch to internal medicine. Dr. Saleh stated that he had been impressed by Dr. Akhtar's work ethics and the fact that Dr. Akhtar attended a lot of conferences. Dr. Saleh further testified that Dr. Akhtar had appeared to be very comfortable with "floor medicine," and that internal medicine residents spent most of their residency time in the hospital. Moreover, Dr. Saleh testified that he had been impressed with Dr. Akhtar's clinical work and with his discipline. Furthermore, Dr. Saleh testified that, "if [a] particular intern makes your life easy, as a senior resident you see that." In addition, Dr. Saleh testified that, after Dr. Akhtar had seen a patient, Dr. Akhtar distinguished himself by making an effort to give the senior residents "a big picture" and

gave his opinion concerning how the patient should be treated. Finally, Dr. Saleh testified that he would “absolutely” consider hiring Dr. Akhtar for his practice. (Tr. at 126-130 [Quotes at 127 and 130])

24. Dr. Akhtar presented letters of support written on his behalf by medical colleagues. All of these letters describe Dr. Akhtar as having been an excellent and dedicated resident who worked well with his peers and with his patients. (Respondent’s Exhibit C through E) [Note that the State did not have an opportunity to cross-examine the authors of these letters.]

FINDINGS OF FACT

1. On April 15, 2002, Jabir Kamal Akhtar, M.D., caused to be submitted to the Board an Application for Training Certificate [Training Application]. By signing the Training Application, Dr. Akhtar certified that the information provided therein was true. In the “Additional Information” section of the Training Application Dr. Akhtar answered “NO” to questions 10 and 16, which asked the following:

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

* * *

“16. Have you ever forfeited collateral, bail, or bond for breach or violation of any law, police regulation, or ordinance other than a minor traffic violation; been summoned into court as a defendant or had any lawsuit filed against you (other than a malpractice suit)?”

Subsequently, on May 26, 2004, Dr. Akhtar caused to be submitted to the Board an Application for Certificate—Medicine or Osteopathic Medicine [License Application]. Dr. Akhtar’s License Application is currently pending. By signing the License Application, Dr. Akhtar certified that the information provided therein was true. In the “Additional Information” section of the License Application Dr. Akhtar answered “NO” to questions 10 and 16, which asked the following:

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

* * *

“16. Have you ever forfeited collateral, bail, or bond for breach or violation of any law, police regulation, or ordinance other than a minor traffic

violation; been summoned into court as a defendant or had any lawsuit filed against you (other than a malpractice suit)?”

In fact, on March 26, 1992, Dr. Akhtar was arrested in Corte Madera, California, by the Twin Cities Police Department. Dr. Akhtar was initially charged with a felony under California Penal Code Section 484g, relating to credit card theft. On April 10, 1992, Dr. Akhtar was arraigned on that charge in the Marin County (California) Municipal Court. Subsequently, Dr. Akhtar attended hearings on April 10 and 23, May 8, and June 9, 1992. During the June 9, 1992, hearing, Dr. Akhtar was granted diversion based upon a reduced misdemeanor charge of California Penal Code Section 459, relating to burglary, ordered to complete 40 hours of community service, and ordered to pay a \$100 diversion fee. Approximately one year later, on June 29, 1993, the court found that Dr. Akhtar’s diversion had been completed and dismissed the case.

Note, however, that Dr. Akhtar answered “YES” to question 15 on his Training Application which asked, “Have you ever been convicted or found guilty of a violation of any law, regardless of the legal jurisdiction in which the act was committed, other than a minor traffic violation?” In a written explanation, Dr. Akhtar stated, among other things, that on May 30, 2001, in Saginaw, Michigan, he had received a misdemeanor conviction due to a student loan violation.

Further note that Dr. Akhtar answered “YES” to question 15 on his License Application which asked, “Have you ever pled guilty to, been found guilty of a violation of any law, or been granted intervention or treatment in lieu of conviction regardless of the legal jurisdiction in which the act was committed, other than a minor traffic violation?” In his written explanation, which contained the heading, “Question #15 and #16,” Dr. Akhtar stated, “I was Indictment [sic] to Eastern District Court of Michigan for not using student loan for purpose of education. My case # [is] CR 99-CR-20033-PC-04. I was given probation which I have successfully completed. Enclosed is the copy of my case and terms of probation.” In addition, Dr. Akhtar submitted documentation from the court.

At hearing, Dr. Akhtar testified that that he had believed that, upon his completion of diversion and the court’s dismissal of the case, the 1992 California action would no longer be on his record and would be “completely cleared[.]” Dr. Akhtar further testified that he had not been aware that he would continue to have to report that action on applications for employment or licensure. Dr. Akhtar’s testimony in this regard is found to be persuasive.

2. On January 22, 2001, in the United States District Court for the Eastern District of Michigan, Northern Division, Dr. Akhtar entered a plea of guilty to one misdemeanor count of violating 18 United States Code [U.S.C.] Section 371, Conspiracy to Defraud the United States. The Information upon which the plea was based charged that Dr. Akhtar had conspired with others to take money from the United States “by applying falsely for

federally guaranteed student loans so they could convert the loan proceeds to their own use[.]" a violation of 18 U.S.C. Section 641.⁸

On the same day, Dr. Akhtar appeared in court and pled guilty to the offense as charged in the Information. Dr. Akhtar admitted under oath in open court to having forged the name of a school official on a student loan application in order to fraudulently obtain money, and that he had done so in a conspiracy with others. The court accepted Dr. Akhtar's plea, found him guilty, and ordered a presentence report.

On June 5, 2001, Dr. Akhtar was placed on probation for three years, subject to terms and conditions that included six months of electronic monitoring⁹; fined \$5,000; ordered to pay an assessment of \$25; and ordered to pay restitution in the amount of \$37,000 to the United Student Aid Group Guarantee Services.

On March 24, 2004, the court found that Dr. Akhtar had complied with the rules of probation, and discharged Dr. Akhtar from supervision.

CONCLUSIONS OF LAW

1. The conduct of Jabir Kamal Akhtar, M.D., as set forth in Findings 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 misdemeanor involving moral turpitude," as that clause is used in Section 4731.22(B)(13), Ohio Revised Code.
2. As set forth in Findings of Fact 1, Dr. Akhtar inappropriately answered "NO" to questions 10 and 16 of his applications for a training certificate and for permanent licensure. The evidence indicates Dr. Akhtar's 1992 California criminal action had resulted in diversion for Dr. Akhtar followed by dismissal of the criminal charge. Based upon the dismissal of the charge, Dr. Akhtar believed that he had not been required to disclose that action on applications for licensure. Dr. Akhtar's belief was incorrect; nevertheless, it is adequate to show that he did not intend to deceive the Board. Accordingly, the evidence is insufficient to support a conclusion that the conduct of Dr. Akhtar, as set forth in Findings of Fact 1 through 4, constitutes "fraud, misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the board," as that clause is used in Section 4731.22(A), Ohio Revised Code.
3. For the reasons stated in Conclusions of Law 2, above, the evidence is insufficient to support a conclusion that the conduct of Dr. Akhtar, as set forth in Findings of Fact 1,

⁸ Note that paragraph 5 of the Board's July 13, 2005, Notice of Opportunity for Hearing alleged, among other things, that Dr. Akhtar had pled guilty "to one misdemeanor count of a violation of United States Code, Title 18, Section 641, Conspiracy to Commit Theft of Public Money of Over \$20,000 with more than minimal planning." Although Dr. Akhtar actually pled guilty to a different violation, the Hearing Examiner finds that sufficient notice was given to the Respondent concerning this finding.

⁹ By entry dated June 4, 2002, the court modified the order of electronic monitoring to home confinement.

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

4. The evidence is insufficient to support a conclusion that the conduct of Dr. Akhtar, as set forth in Findings of Fact 1, constitutes a failure to furnish satisfactory proof of good moral character as required by Sections 4731.29 and 4731.08, Ohio Revised Code.

* * * * *

The evidence shows that Dr. Akhtar engaged in dishonesty in applying for a student loan in 1996. His misconduct resulted in a misdemeanor conviction in federal court in 2001. This conduct was serious and merits discipline—denial, or even permanent denial, of Dr. Akhtar’s application would be justified. Nevertheless, other factors argue against this result. First, the underlying conduct occurred approximately nine years ago, and Dr. Akhtar successfully completed the court-ordered probationary requirements and continues to pay restitution. In addition, although he had engaged in criminal conduct to obtain a student loan in 1996, there is no evidence that he intended to use the money for anything other than attending medical school. Moreover, character witnesses, as well as letters of support, indicate that Dr. Akhtar did very well in his residency and is of good moral character. Accordingly, the Board may wish to grant Dr. Akhtar’s application subject to suspension as a punitive measure, followed by probationary monitoring.

PROPOSED ORDER

It is hereby ORDERED that:

- A. **APPLICATION GRANTED; SUSPENSION:** The application of Jabir Kamal Akhtar, M.D., for a certificate to practice medicine and surgery in Ohio is GRANTED, provided that he otherwise meets all statutory and regulatory requirements, and subject to SUSPENSION for a definite term of 90 days.
- B. **PROBATION:** Upon reinstatement or restoration, Dr. Akhtar’s certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least two years:
 1. **Obey the Law:** Dr. Akhtar shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.
 2. **Declarations of Compliance:** Dr. Akhtar 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. Akhtar'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. Akhtar 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. Akhtar 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. **Professional Ethics Course:** Before the end of the first year of probation, or as otherwise approved by the Board, Dr. Akhtar 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. Akhtar submits the documentation of successful completion of the course or courses dealing with professional ethics, he shall also submit to the Board a written report describing the course, setting forth what he learned from the course, and identifying with specificity how he will apply what he has learned to his practice of medicine in the future.

5. **Personal Ethics Course:** Before the end of the first year of probation, or as otherwise approved by the Board, Dr. Akhtar 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. Akhtar submits the documentation of successful completion of the course or courses dealing with personal ethics, he shall also submit to the Board a written report describing the course, setting forth what he learned from the course, and identifying with specificity how he will apply what he has learned to his practice of medicine in the future.

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

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

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



R. Gregory Porter, Esq.
Hearing Examiner



State Medical Board of Ohio

77 S. High Street, 17th Floor • Columbus, Ohio 43266-0311 • 614/461-5534 • Website: www.state.oh.us/med

EXCERPT FROM THE DRAFT MINUTES OF MARCH 8, 2006

REPORTS AND RECOMMENDATIONS

Dr. Robbins announced that the Board would now consider the findings and orders appearing on the Board's agenda. He asked whether each member of the Board had received, read, and considered the hearing records, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Jabir Kamal Akhtar, M.D.; David Ta-Wei Huang, M.D.; Handel Jay Roberts, M.D.; and Marc H. Schwachter, 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. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Steinbergh	- aye
	Dr. Robbins	- aye

Dr. Robbins 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. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Steinbergh	- aye

Dr. Robbins - aye

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

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

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

JABIR KAMAL AKHTAR, M.D.

.....

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER’S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF JABIR KAMAL AKHTAR, M.D. DR. DAVIDSON SECONDED THE MOTION.

.....

A vote was taken on Dr. Steinbergh’s motion to approve and confirm:

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

July 13, 2005

Jabir Kamal Akhtar, M.D.
442 Danbury Lane, Apt. J
Copley, OH 44321

Dear Doctor Akhtar:

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

- (1) On or about April 15, 2002, you caused to be submitted an Application for Training Certificate [Training Application] to the Board. By signing the Training Application, you certified that the information provided therein was true.
- (2) In the "Additional Information" section of your Training Application you answered "NO" to questions numbered 10 and 16 which, respectively, ask the following:

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

Have you ever forfeited collateral, bail, or bond for breach or violation of any law, police regulation, or ordinance other than a minor traffic violation; been summoned into court as a defendant or had any lawsuit filed against you (other than a malpractice suit)?

- (a) In fact, on or about March 26, 1992, you were arrested by the Twin Cities Police Department in Corte Madera, California. You were originally charged with a felony under California Penal Code §484g, relating to credit card theft, and attended hearings on April 10, 1992, April 23, 1992, May 8, 1992, and June 9, 1992, in the Municipal Court, Criminal Division, County of Marin located in Corte Madera, California. On or

Mailed 7-14-05

about June 9, 1992, you were granted diversion on a reduced misdemeanor charge of California Penal Code §459, relating to burglary, ordered to complete 40 hours of community service and ordered to pay a \$100 diversion fee.

- (3) On or about May 26, 2004, you caused to be submitted to the Board an Application for Certificate – Medicine or Osteopathic Medicine [License Application]. Your License Application is currently pending. By signing the License Application, you certified that the information provided therein was true.
- (4) In the “Additional Information” section of your License Application you answered “NO” to questions numbered 10 and 16 which, respectively, ask the following:

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

Have you ever forfeited collateral, bail, or bond for breach or violation of any law, police regulation, or ordinance other than a minor traffic violation; been summoned into court as a defendant or had any lawsuit filed against you (other than a malpractice suit)?

- (a) Although you further indicated in your written response to questions 15 and 16 that you had been indicted in the “Eastern District Court of Michigan for not using [a] student loan for purpose of education,” additionally, in fact, on or about March 26, 1992, you were arrested by the Twin Cities Police Department in Corte Madera, California. You were originally charged with a felony under California Penal Code §484g, relating to credit card theft, and attended hearings on April 10, 1992, April 23, 1992, May 8, 1992, and June 9, 1992, in the Municipal Court, Criminal Division, County of Marin located in Corte Madera, California. On or about June 9, 1992, you were granted diversion on a reduced misdemeanor charge of California Penal Code §459, relating to burglary, ordered to complete 40 hours of community service and ordered to pay a \$100 diversion fee.
- (5) On or about January 22, 2001, you entered a plea of guilty in the United States District Court for the Eastern District of Michigan, Northern Division, located in Bay City, Michigan, to one misdemeanor count of a violation of United States Code, Title 18, Section 641, Conspiracy to Commit Theft of Public Money of Over \$20,000 with more than minimal planning. You admitted under oath in open court to forging the name of a school official on a student loan application

in order to fraudulently obtain money and that you did so in a conspiracy with others. On or about June 5, 2001, you were sentenced to six months of electronic monitoring, placed on probation for three years, ordered to satisfy restitution in the amount of \$37,000 and fined \$5,000.

Your acts, conduct, and/or omissions as alleged in paragraphs (1) through (4) above, individually and/or collectively, constitute "fraud, misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the board," as that clause is used in Section 4731.22(A), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (1) through (4) above, individually and/or collectively, constitute "[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (1) through (5) above, individually and/or collectively, constitute a failure to furnish satisfactory proof of good moral character as required by Sections 4731.29 and 4731.08, Ohio Revised Code.

Further, your plea of guilty or the judicial finding of guilt as alleged in paragraph (5) above, individually and/or collectively, constitutes "[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude," as that clause is used in Section 4731.22(B)(13), Ohio Revised Code.

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

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

In the event that there is no request for such hearing received within thirty days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, permanently

revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand you or place you on probation.

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

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Lance A. Talmage, M.D.
Secretary

LAT/blt
Enclosures

CERTIFIED MAIL # 7003 0500 0002 4333 3058
RETURN RECEIPT REQUESTED