State Medical Board of Ohio

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December 8, 2004

Manju Bajpai, M.D.
4962 Burkewood Court, Apt. 202
Sylvania, OH 43560

Dear Doctor Bajpai:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Siobhan R. Clovis, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on December 8, 2004, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order.

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

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

THE STATE MEDICAL BOARD OF OHIO

Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

CERTIFIED MAIL NO. 7000 0600 0024 5149 8736
RETURN RECEIPT REQUESTED

Cc: Elizabeth Y. Collis, Esq.
CERTIFIED MAIL NO. 7000 0600 0024 5149 8712
RETURN RECEIPT REQUESTED

MAILED 12-22-04

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Siobhan R. Clovis, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on December 8, 2004, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order; constitute a true and complete copy of the Findings and Order of the State Medical Board in the Matter of Manju Bajpai, 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)

December 8, 2004
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF	*
	*
MANJU BAJPAI, M.D.	*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on December 8, 2004.

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

It is hereby ORDERED that:

> The application of Manju Bajpai, M.D., for a certificate to practice medicine and surgery in Ohio is DENIED.

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

Lance A. Talmage, M.D.
Secretary

(SEAL)

December 8, 2004
Date

STATE MEDICAL BOARD
OF OHIO

2004 NOV -1 P 3: 13

REPORT AND RECOMMENDATION
IN THE MATTER OF MANJU BAJPAI, M.D.

The Matter of Manju Bajpai, M.D., was heard by Siobhan R. Clovis, Esq., Hearing Examiner for the State Medical Board of Ohio, on September 21, 2004.

INTRODUCTION

I. Basis for Hearing

A. By letter dated July 14, 2004, the State Medical Board of Ohio [Board] notified Manju Bajpai, M.D., that it had proposed to determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate her certificate to practice medicine and surgery, or to reprimand her or place her on probation. The Board based its proposed action on the following allegations:

- Dr. Bajpai had provided false and/or incomplete information in her November 2003 Application for Certificate – Medicine or Osteopathic Medicine.

- Dr. Bajpai had not passed all three Steps of the USMLE within a seven-year period.

The Board alleged that the acts, conduct, and/or omissions of Dr. Bajpai, 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."

- "'making a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine or 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."

- "a failure to furnish satisfactory proof of good moral character as required by Sections 4731.29 and 4731.08, Ohio Revised Code."

- "a failure to fulfill the requirements of 4731.14, Ohio Revised Code, and Rule 4731-6-14, Ohio Administrative Code. Pursuant to Section 4731.14, Ohio Revised Code, and Rule 4731-6-14, Ohio Administrative Code, an applicant must have passed one of the examinations specified in Paragraph (C) of Rule 4731-6-14, Ohio Administrative Code. Pursuant to Rule 4731-6-14(C)(3), Ohio Administrative Code, all three steps of the USMLE must be passed within a seven-year period."

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

B. On August 5, 2004, Elizabeth Y. Collis, Esq., submitted a written hearing request on behalf of Dr. Bajpai. (State's Exhibit 1B).

II. Appearances

A. On behalf of the State of Ohio: Jim Petro, Attorney General, by Tara L. Berrien, Assistant Attorney General.

B. On behalf of the Respondent: Elizabeth Y. Collis, Esq.

EVIDENCE EXAMINED

I. Testimony Heard

A. Presented by the State

1. Manju Bajpai, M.D., as upon cross-examination
2. Marc A. Huntoon, M.D.

B. Presented by the Respondent

Manju Bajpai, M.D.

II. Exhibits Examined

A. Presented by the State

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

2. State's Exhibit 2: Copies of documents maintained by the Board regarding the application of Manju Bajpai, M.D., for medical licensure in Ohio.

3. State's Exhibit 3: Certified copies of documents concerning Dr. Bajpai's Federation Credentials Verification Service application. (Note: The certified copies were submitted at hearing under seal. The Hearing Examiner broke the seal, numbered the pages, and redacted social security numbers. Further, the Hearing Examiner compared the sealed documents to the unsealed copies used at hearing. There were no discrepancies. See Hearing Transcript at 158.)

4. State's Exhibit 4: Copy of Dr. Bajpai's "Graduate Medical Education Agreement" with the Medical College of Ohio for the period of July 1, 1997, through June 30, 1998.

5. State's Exhibit 5: Copy of Dr. Bajpai's "Graduate Medical Education Agreement" with the Medical College of Ohio for the period of July 1, 1998, through June 30, 1999.

6. State's Exhibit 6: Copy of an August 12, 1998, letter from Dr. Bajpai to Marc A. Huntoon, M.D.

7. State's Exhibit 7: Copy of a March 17, 1998, evaluation of Dr. Bajpai's performance at the Medical College of Ohio.

8. State's Exhibit 8: Copy of a May 1998 evaluation of Dr. Bajpai's performance at the Medical College of Ohio.

9. State's Exhibit 9: Copy of a June 1998 evaluation of Dr. Bajpai's performance at the Medical College of Ohio.

10 State's Exhibit 10: Copy of the "Notice of Appointment" of Dr. Bajpai to a first-year psychiatry residency at Wayne State University for the period of September 1, 1998, through July 31, 1999.

11. State's Exhibit 11: Copy of the "Notice of Appointment" of Dr. Bajpai to a second-year psychiatry residency at Wayne State University for the period of September 1, 1999, through August 31, 2000.

12. State's Exhibit 12: Copy of the "Notice of Appointment" of Dr. Bajpai to a third-year psychiatry residency at Wayne State University for the period of September 1, 2000, through August 31, 2001.

13. State's Exhibit 13: Copy of a June 30, 2001, letter from Dr. Bajpai to the Program Director of the Department of Psychiatry, Wayne State University.

14. State's Exhibit 14: Copy of a September 6, 2000, evaluation of Dr. Bajpai by Sonya McKee, M.D., Director, Wayne State University Psychiatry Residency Training Program.

15. State's Exhibit 15: Copy of a December 1, 2001, letter from Dr. Bajpai to Manual Tancer, M.D., with attached copy of a May 6, 1998, "Memo."

16. State's Exhibit 16: Copy of a January 19, 2001, letter from Dr. Tancer to Dr. Bajpai.

17. State's Exhibit 17: Copy of a January 29, 2001, letter from Dr. Tancer to Dr. Bajpai.

18. State's Exhibit 18: Copy of Dr. Bajpai's "Graduate Medical Education Agreement" with the Medical College of Ohio for the period of July 1, 2001, through June 30, 2002.

19. State's Exhibit 19: Copy of Dr. Bajpai's "Graduate Medical Education Agreement" with the Medical College of Ohio for the period of July 1, 2002, through June 30, 2003.

20. State's Exhibit 20: Copy of Dr. Bajpai's results on the October 2002 "Psychiatry Resident in Training Examination (PRITE)."

21. State's Exhibit 21: Copy of a December 9, 2002, "Memorandum" to Dr. Bajpai from Wun Jung Kim, M.D., Director of Residency Training in Child and Adolescent Psychiatry, Medical College of Ohio.

22. State's Exhibit 22: Copy of an April 7, 2003, "Memorandum" to Dr. Bajpai from Jeff Wahl, M.D., Assistant Director of Residency Training in Child and Adolescent Psychiatry, Medical College of Ohio.

23. State's Exhibit 23: Copy of a June 16, 2003, letter to Dr. Bajpai from Dr. Wahl.

24. State's Exhibit 26: September 20, 2004, confirmation of a facsimile transmission from the Office of the Ohio Attorney General to Dr. Huntoon.

B. Presented by the Respondent

1. Respondent's Exhibit A: Copy of an August 12, 1998, letter to "whom it may concern" from Dr. Huntoon regarding Dr. Bajpai.

2. Respondent's Exhibit B: Copy of a certification that Dr. Bajpai served as a resident in anesthesiology at the Medical College of Ohio from July 1, 1997, through June 30, 1998.

3. Respondent's Exhibit C: Copy of a certification that Dr. Bajpai satisfactorily performed as a resident in general psychiatry at Wayne State University School of Medicine from September 1, 1998, through June 30, 2001.

4. Respondent's Exhibit E: Copy of a June 16, 2003, letter to Dr. Bajpai from Dr. Wahl. (Note: This letter is also in the record as State's Exhibit 23).

5. Respondent's Exhibit F: Copy of a July 1, 2003, letter about Dr. Bajpai to Stephen C. Scheiber, M.D., from Dr. Wahl.

6. Respondent's Exhibit G: Copy of a "Resident Evaluation" of Dr. Bajpai, for the period of April 1 through June 30, 2003.

7. Respondent's Exhibit H: Copy of a June 27, 2003, "Residency Training Committee Final Letter for Graduating Residents" for Dr. Bajpai.

8. Respondent's Exhibit I: Copy of a certification that Dr. Bajpai completed a residency in child and adolescent psychiatry for the period of July 1, 2001, through June 30, 2003, at the Medical College of Ohio.

* 9. Respondent's Exhibit J: Letters from parents of patients written in support of Dr. Bajpai. (Note: The State did not have the opportunity to cross-examine the authors of the letters.)

Note: All exhibits marked with an asterisk [*] have been sealed to protect patient confidentiality.

SUMMARY OF THE EVIDENCE

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

1. Manju Bajpai, M.D., testified that she had completed college and medical school in India. She stated that she had graduated from medical school in 1977. Dr. Bajpai further stated that she had completed a one-year internship before entering a "diploma" program in obstetrics/gynecology. She testified that she had received a "diploma" in obstetrics/gynecology in 1981, and a master's degree in 1983. She advised that she had

practiced obstetrics/gynecology in India from 1984 through 1993. (Hearing Transcript [Tr.] at 15, 60-61).

Dr. Bajpai testified that her husband had died in 1991, leaving her with two small children. She further testified that she and her children had immigrated to the United States in 1993, and had settled in Ohio in 1995. She advised that her parents and siblings had already lived in the United States, in the Toledo, Ohio, and Detroit, Michigan, areas. Dr. Bajpai testified that Hindi is her native language, but that she is proficient in English. (Tr. at 13-14, 61-62).

Dr. Bajpai testified that, from 1993 through 1997, she had not worked. She further testified that, in 1997, she had begun a first-year residency program in anesthesiology at the Medical College of Ohio [MCO]. After beginning a second year of that residency, she transferred to a psychiatry residency program at Wayne State University [WSU]. From 1998 through 2001 she completed three years of that program before transferring to the child and adolescent psychiatry program at MCO, from which she graduated in 2003 after completing two additional years. (Tr. at 18-20, 27-30, 45-47, 63; State's Exhibit [St. Ex.] 2 at 6; St. Exs. 4, 5, 6, 10, 11, 12, 13, 18, 19; Respondent's Exhibits [Resp. Exs.] A, B, C, F, I).

Dr. Bajpai testified that she is currently licensed to practice medicine in Michigan, where she works as a "consultant" at a Community Health Center about two days a week. She advised that she has lived in the Toledo area throughout her graduate medical training at both MCO and WSU. (Tr. at 14-15, 85, 100, 102).

In November 2003 Dr. Bajpai submitted to the Board an "Application for Certificate – Medicine or Osteopathic Medicine" [License Application]. Dr. Bajpai acknowledged that she had signed her License Application, thereby certifying the truth of all statements that she had made, or would make, with respect to the application process. Dr. Bajpai's License Application is still pending. (Tr. at 15-16, 108; St. Ex. 2).

Dr. Bajpai's anesthesiology residency at MCO

2. Dr. Bajpai testified that she had completed a first-year residency program in anesthesiology at MCO. Dr. Bajpai's April 1997 "Graduate Medical Education Agreement" with MCO shows that the duration of the first-year program was from July 1, 1997, through June 30, 1998. (Tr. at 18; St. Ex. 5; Resp. Ex. B).

3. The State presented documents showing that Dr. Bajpai had received three negative evaluations during her first-year anesthesiology residency at MCO. These negative

   evaluations were dated February 1998, May 1998, and June 1998. (St. Exs. 7, 8, 9). The comments in the February 1998 evaluation, for the "Med I" rotation, include the following:

> Documentation was very poor quality. Discharge summaries / H/P were not done in a timely fashion. Needs to learn Basic Medicine before she can proceed in her career. Improved slightly by the last week of my rotation, otherwise she would not have passed. I'm not sure how she performed the last 2 weeks of this rotation. * * *

Dr. Bajpai was rated unsatisfactory in the following categories: clinical judgment, medical knowledge, and clinical skills (history-taking and physical examination). (St. Ex. 7).

The comment in Dr. Bajpai's May 1998 evaluation, for the "Med III" rotation, was: "Very pleasant and [illegible] resident but she has a very weak medical knowledge base." She received an unsatisfactory rating in "medical knowledge." There are no comments in the June 1998 evaluation, for the "Med IV" rotation, but Dr. Bajpai was given unsatisfactory scores in the following categories: medical knowledge, clinical skills (physical examination), medical care, and overall clinical competence as a specialist in internal medicine. (St. Exs. 8, 9).

4. Marc A. Huntoon, M.D., testified that, during Dr. Bajpai's anesthesiology residency at MCO, he had been the chair of the Department of Anesthesiology at MCO, and the residency program director. Dr. Huntoon testified that he is currently the Chairman of the Division of Pain Medicine at the Mayo Clinic in Rochester, Minnesota. (Tr. at 129-130).

Dr. Huntoon described the evaluation process at MCO:

> Dr. Bajpai, as many of our trainees, was doing her clinical base here, which involved rotations through a variety of other subspecialties, including general surgery, internal medicine, emergency medicine, et cetera.
>
> And normally the persons would be evaluated as they rotated on those other services by a representative from that particular clinical area. So if it was an internal medicine area, one of the internal medicine staff would be doing the evaluation.
>
> * * *
>
> [The residents] rotated approximately once every month; so they would get one evaluation every month, and then I would receive those evaluations and note them. And if there were any problems, I would discuss those with the person being evaluated.

(Tr. at 130-131).

Dr. Huntoon testified that the evaluations had been written and kept in files which had been accessible to the residents. He advised that residents had not been required to review the files or to sign the evaluations, but that "[g]enerally the more conscientious residents would come in and ask to see their file so that they could see where they were going and what problems, if any, they had." (Tr. at 131-132).

Dr. Huntoon testified that he recalls Dr. Bajpai. He acknowledged that his signature appears on each of her three negative evaluations. He explained that he had tried to review all resident evaluations and that he had signed every evaluation that he had read. He further advised that he had met with any resident who had received an unsatisfactory or marginal evaluation. (Tr. at 130, 133-134).

Dr. Huntoon testified that he remembers speaking to Dr. Bajpai about her negative evaluations. He stated, "I would say at least twice, but I seem to recall that it was about three times that we talked about this altogether during her time there." When asked how certain he was that he had discussed the negative evaluations with Dr. Bajpai, using a one-to-ten scale with ten being the most certain, Dr. Huntoon replied, "I'm sure I discussed them with her. I'll say nine." Dr. Huntoon also testified that the absence of Dr. Bajpai's signature on the evaluation forms does not meant that she had not reviewed them, because residents had not been required to sign the forms. (Tr. at 132, 134-135, 138-139, 144).

5. Dr. Bajpai testified that most of her evaluations had been good, and that usually she had reviewed her evaluations with her supervisor. However, she maintained that she had never seen, or been made aware of, the negative evaluations of February, May, and June 1998 until copies had been mailed to her by the Board. Her signature does not appear on any of the three evaluations. She testified that she would have signed any evaluation that she had seen. (Tr. at 22-27, 67-70; St. Exs. 7, 8, 9).

Dr. Bajpai was asked whether she had discussed any negative evaluations with Dr. Huntoon:

> Q. [Ms. Berrien] Had [Dr. Huntoon] ever talked to you about your performance or any evaluations that you had?
>
> A. [Dr. Bajpai] Not really.
>
> Q. Not really?
>
> A. I mean, he did not.
>
> Q. He did not?

A. I mean, that is my recall, but I think he did not.

(Tr. at 24).

6. Dr. Bajpai's License Application includes a "Physician Information Profile" compiled by the Federation Credentials Verification Service [FCVS]. Dr. Bajpai explained that she had provided information to FCVS about her residency programs, and that FCVS had verified that information through the residency programs. Dr. Bajpai further explained that her "Physician Information Profile" had been issued directly to the Board; she had not had it available when completing the Board's application form. (Tr. at 78-80, 103, 108-109; St. Ex. 2 at 20-45).

   The State presented a December 3, 2003, letter from FCVS to Dr. Bajpai, which requested information that had been omitted from Dr. Bajpai's FCVS application. The letter requested information about any unusual circumstances associated with Dr. Bajpai's postgraduate medical education. One of the questions asked of Dr. Bajpai was whether any negative reports had been filed against her at MCO. Despite the negative evaluations of February, May, and June 1998, Dr. Bajpai answered "No" to this question. Dr. Bajpai testified that she had answered "No" because she had not been aware of those negative evaluations. (Tr. at 95; St. Ex. 3 at 4).

7. Dr. Bajpai's "Physician Information Profile" also includes a form entitled "Verification of Postgraduate Medical Education," with information about Dr. Bajpai's anesthesiology residency. The form was completed on December 15, 2003, by Shashi Bhatt, M.D., the current Program Director for the Department of Anesthesiology at MCO. (St. Ex. 2 at 42).

   Dr. Bhatt, like Dr. Bajpai, answered "No" to the question of whether any negative reports had been filed against Dr. Bajpai. Dr. Huntoon testified that, had he completed the FCVS form, he would have answered that question in the affirmative. (Tr. at 141-143; St. Ex. 2 at 42).

8. Despite Dr. Bajpai's negative evaluations, on August 12, 1998, Dr. Huntoon wrote a letter stating that Dr. Bajpai had "satisfactorily completed her Internship (PGY-1) year" at MCO. The letter does not mention any negative evaluations. When asked about the letter, Dr. Huntoon responded, "I don't know. What can I say? * * * It's a tough position to be a chairman. You don't want to destroy people's professional lives." (Tr. at 144-145; Resp. Ex. A).

9. Dr. Bajpai testified that, in May 1998, she had signed a "Graduate Medical Education Agreement" with MCO for a second year of the anesthesiology residency, for the term of July 1, 1998, through June 30, 1999. She further testified that she had not completed the second year of the program, and that she had submitted a resignation letter to Dr. Huntoon on August 12, 1998. (Tr. at 18-20; St. Exs. 5, 6).

Dr. Bajpai explained that she had decided to transfer to a psychiatry residency at Wayne State University. She testified that she had wanted to leave the anesthesiology residency because the long hours had resulted in problems with her children. She stated that, at the time, her son had been 13 years old, and her daughter had been six. (Tr. at 63-66, 7-72). She testified:

> My daughter * * * started sitting in one corner. She stopped talking to people, then school started calling me stating that your daughter is not functioning normally.
>
> Then my son's school started deteriorating because I'm not home, and I mean, this is all like a health situation. Healthwise, went down. Their education went down. Like my daughter * * * started acting up; so this was a big deal for me.
>
> (Tr. at 66).
>
> I resigned from the anesthesia program * * * because of my problems in family, and I mean, I have to leave early morning. I used to come [home] so late, kids were halfway sleepy. And who can monitor their education, what their routine, what they are doing? I don't know. So I thought let me resign this program and I should go to program where I can cope with the residency as well as with my kids.

(Tr. at 71).

Dr. Bajpai testified that she had tried to obtain accommodations for her family situation, but that the program had not been amenable to such changes. She explained,

> [A]nesthesia is not an easy program to go in because they have set rooms. You have to be there. You have to arrange [the] rooms. You have to bring medications from pharmacy. You have to carry your medication.
>
> Well, they cannot say, okay, today you are off, go home and take care of kids. No way. They can't do that because they have a set room, set patients they do, and you have to perform operations. So it was very hard for them even to do anything.

(Tr. at 66-67).

Dr. Huntoon testified that Dr. Bajpai had not been asked or forced to leave MCO. However, he stated, "I know we talked about the fact that she was not doing well, and perhaps a fresh start would be a better idea for her." (Tr. at 147).

10. Dr. Bajpai testified that she had begun the first-year psychiatry program at WSU on September 1, 1998. She stated that, after leaving the MCO program in mid-August 1998, she had taken a short vacation before starting the program at WSU. In the "Resume of Activities" in her License Application, Dr. Bajpai failed to list her time in the second-year anesthesiology residency at MCO during July and August 1998. Rather, she listed that she had been at MCO from July 1997 through June 1998, and that she had been on "Vacation" for the period of July through August 1998. (Tr. at 19, 73-74; St. Ex. 2 at 6; St. Ex. 10).

    Dr. Bajpai acknowledged that she had informed a Board investigator that "if [she] didn't understand something on the application, [she] just wrote 'vacation.'" However, at hearing, she explained that she had listed "vacation" for the period of July through August 1998 because of a "recall problem." (Tr. at 21, 59, 73).

    Further, despite her resignation from MCO and transfer to WSU, Dr. Bajpai answered "No" to the following questions in the "Additional Information" section of her License Application:

    > 4. Have you ever **resigned from**, withdrawn from, or have you ever been warned by, censured by, disciplined by, been put on probation by, been requested to withdraw from, dismissed from, been refused renewal of a contract by, or expelled from, a medical school, clinical clerkship, externship, preceptorship, residency, or graduate medical education program? [Emphasis added.]
    >
    > 5. Have you ever transferred from one graduate medical education program to another?

    (St. Ex. 2 at 10).

11. Dr. Bajpai was asked about her "No" responses to these questions:

    > Q. [Ms. Collis] Okay. Why did you put "No" in that box?
    >
    > A. [Dr. Bajpai] Actually, I was reading. Everything was coming up no, no; so I did everything no. I never thought.
    >
    > Q. In your application, every single check is no?
    >
    > A. No, that is—

> Q. I mean, this is a long paragraph here. Did you take a lot of time and read it carefully?
>
> A. No, not really. Just I read, read, and just I took—I thought in my brain that I haven't done anything wrong, and they will let me put on and that was my feeling.
>
> Q. Did you try to hide the fact that you had attended the anesthesia program from the Medical Board?
>
> A. No, I never wanted to hide anything because I have given other places [in the License Application] that I was in this program, this program, and this program.

(Tr. at 77).

Dr. Bajpai testified that she had read the entire application and that she had had no questions while completing the application. However, she also stated that she had not been "very thorough" and that she had made mistakes. (Tr. at 17, 107).

Dr. Bajpai's psychiatry residency at WSU

12. Dr. Bajpai testified that she had chosen to transfer to the psychiatry residency at WSU for several reasons, including: it had been a "nice and well-known" program; she had believed that it would provide emotional and other support for her family problems, and that the hours had been shorter and more family-friendly. (Tr. at 74-75).

    Dr. Bajpai testified that she had been a resident in psychiatry at WSU for about three years. She presented a certificate demonstrating that she had satisfactorily performed as a resident physician in general psychiatry at WSU from September 1, 1998, through June 30, 2001. (Tr. at 27-30; Resp. Ex. C).

13. The State presented a May 6, 1998, "Memo" issued by WSU to "All Residents" requiring that the USMLE Step III be passed by the beginning of the "PGY III year of training." The Memo further states: "If a resident fails Step III, then a one month administrative leave to study for exam will be given. However, no additional leave will be granted, if failed again." (St. Ex. 15 at 3).

    At hearing, Dr. Bajpai initially testified that, when she had started the WSU program, there had been no policy about residents passing the USMLE Step III. When confronted with the May 6, 1998, Memo, she testified that she did not recall receiving this memorandum when she began her WSU residency in September 1998. (Tr. at 34-35, 80-81, 109).

14. Dr. Bajpai's PGY-III year of training began on September 1, 2000. She had not passed the USMLE Step III by that time. Dr. Bajpai admitted that Sonya McKee, M.D., her program director at WSU, had become concerned about Dr. Bajpai's failure to pass Step III. (Tr. at 31-32; St. Ex. 2 at 47; St. Ex. 12). In Dr. Bajpai's August 30, 2000, semi-annual evaluation, Dr. McKee noted the following:

> Dr. Bajpai is progressing through her Outpatient Psychiatry training with overall satisfactory evaluations. Dr. Balon expressed some concern in his evaluation that she is frequently late,[1] which she signed and acknowledged this concern on May 23, 2000. Dr. Bajpai's overriding concern and my overriding concern at this point is whether or not she completes the USMLE Step III. She has taken the examination and did not pass on one prior occasion. She stated that she feels that her poor typing skills impacted her negatively. I suggested to her that she seek outside training in improving this critical area if this indeed resulted in her failure. We reviewed the policy regarding non-progression in the program should she not clear USMLE Step III by the conclusion of the grace period, which is December 31, 2000. I also discussed with her the possibility of going on fractional time and extending her training if this might improve her likelihood of success. She stated that she would consider this and let me know if she chose to pursue this option. * * * She continues to plan to pursue Child/Adolescent Psychiatry after the completion of her general psychiatry requirements.

(St. Ex. 14). Dr. Bajpai admitted that she had not followed any of Dr. McKee's suggestions for assistance in passing the USMLE Step III. (Tr. at 35-36).

15. By January 2001, Dr. Bajpai had failed the USMLE Step III four times. She acknowledged that, on January 3, 2001, Dr. McKee had recommended that she take a leave of absence, without pay, to study for the examination. (Tr. at 37; St. Ex. 2 at 47).

Dr. Bajpai further acknowledged that, on January 12, 2001, she had written a letter to Manuel E. Tancer, M.D., the Associate Chairman of her Department, protesting Dr. McKee's recommendation. Dr. Bajpai's letter references the May 6, 1998, Memo that

[1] The evaluation includes a handwritten response to this charge from Dr. Bajpai: "This was an isolated inciden[t]. I was post call. I had to write posey + [illegible] orders for patient round the clock. It was neither a problem before nor after the inciden[t]." (St. Ex. 14).

Dr. Bajpai testified that she could not recall receiving.[2] The Memo is also attached to Dr. Bajpai's letter. (Tr. at 36-37; St. Ex. 15). The letter states, in pertinent part:

> I am writing this letter; after receiving the letter from Dr. Sonya Mckee dates 3rd and 4th January 2001. The letter stated 'Because of your failure to meet program requirement of completion of USMLE Step 3 examination with in grace period, I am recommending that you be placed on an unpaid administrative leave of absence effective January 2001.'
>
> I am in disagreement with the implications of this letter because of several reasons. This letter implies corrective action taken against me. I find it highly unfair especially since this is in contradiction to the initial policy referred to the memo dated 5th June 1998, basis of step 3, which indicates 'All Residents.'
>
> Also in accordance with ACGME, residents are to be provided with details of any corrective action to be taken especially concerning suspension or termination from the program, policies regarding suspension or termination should have been provided at the beginning of residency and should have included details of such action to be taken. The memo received in 1998 pertaining to 'All Residents' fails to mention any details of such action; and it is unfair to assume that there can be such action without there being any indication of such a proposed action in the future. It appears highly unfair that I be put on suspension or imply termination from the program while my colleague[s] have graduated since 1998 without any such disciplinary actions.

(St. Ex. 15).

Dr. Tancer responded to Dr. Bajpai in a January 19, 2001, letter which advised, in pertinent part:

> I recently spoke to Dr. Malone and he supports the Department's decision not to suspend you. Therefore, you are to continue your assigned duties.

---

[2] Dr. Bajpai's letter refers to a memorandum dated "5th June 1998." The memorandum attached to her letter is dated "5/6/98." Dr. Bajpai explained during her testimony that, in India, one writes numerical dates as "day/month/year" rather than "month/day/year," as is done in the United States. Therefore, given the context of the letter, it appears that Dr. Bajpai was referring to the May 6, 1998, Memo and that she had erroneously interpreted the date as June 5, 1998. (Tr. at 27- 28; St. Ex. 15).

> However, Dr. Malone did advocate the decision that if the Step III is not passed by the end of your third year, you will not be advanced and your contract will not be continued.

(St. Ex. 16).

In a January 29, 2001, letter to Dr. Bajpai, Dr. Tancer wrote:

> Because of your failure to meet the program requirement of completion of USMLE Step III examination within the designated grace period, I am recommending that your contract not be renewed at the end of the current contract period. Your contract will expire on August 31, 2001.

(St. Ex. 17).

Dr. Bajpai testified that she had never been placed on unpaid administrative leave, as Dr. McKee had originally recommended. (Tr. at 40, 83-84).

16. The transcript of Dr. Bajpai's USMLE scores shows that she had failed Step III again on May 1, 2001. (St. Ex. 2 at 47).

    On June 30, 2001, Dr. Bajpai submitted a letter of resignation to her program director, which announced her intention to join a "child/adolescent fellowship" at MCO, beginning July 1, 2001. (Tr. at 30; St. Ex. 13).

17. Dr. Bajpai denied that she had transferred to MCO out of fear that her contract would not have been renewed at WSU. She stated that she had transferred because her daughter had been sick. Dr. Bajpai also testified that she had decided to transfer to the Child/Adolescent Psychiatry program at MCO because that was the specialization that she had wanted to pursue. (Tr. at 84-85).

18. Despite her resignation from WSU, the non-renewal of her contract there, and her transfer to MCO, Dr. Bajpai answered "No" to the following questions in the "Additional Information" section of her License Application:

    > 4. Have you ever **resigned from**, withdrawn from, or have you ever been warned by, censured by, disciplined by, been put on probation by, been requested to withdraw from, dismissed from, **been refused renewal of a contract by**, or expelled from, a medical school, clinical clerkship, externship, preceptorship, residency, or graduate medical education program? [Emphasis added.]

> 5. Have you ever transferred from one graduate medical education program to another?

(St. Ex. 2 at 10).

When questioned why she had answered No to these questions, Dr. Bajpai responded:

> I don't know. It was just like I put all the noes, thinking that nothing is—I haven't done anything. That was in my head.

(Tr. at 87).

Dr. Bajpai also suggested that, because she had resigned, she had not been refused renewal of her WSU contract. She further suggested that her contract at WSU could have been renewed, if she had passed the USMLE Step III prior to August 31, 2001. However, she acknowledged that Dr. Tancer's January 29, 2001, letter does not provide that her contract would be renewed if she passed before the end of her third year. Further, she acknowledged that she had not passed the USMLE Step III until August 25, 2003. (Tr. at 44, 57, 116-117).

Dr. Bajpai's child and adolescent psychiatry residency at MCO

19. Dr. Bajpai presented certification that she had successfully completed a residency in Child and Adolescent Psychiatry at MCO, which she had begun on July 1, 2001, and completed on June 30, 2003. (Resp. Ex. F, I).

Dr. Bajpai also presented an evaluation which had rated her work during the period of April through June 2003. The evaluation rates Dr. Bajpai as meeting the standards of professional competency. It also includes the following comments:

> Warm & engaging manner, pleasant, enthusiastic.
>
> Defensive (but less so) in face of negative feedback.
>
> Dr. Bajpai has shown marked progress in her ability to deliver an organized oral presentation of a case, as demonstrated by her recent performance in mock boards.

(Resp. Ex. G).

Lastly, Dr. Bajpai presented a June 27, 2003, "Residency Training Committee Final Letter for Graduating Residents" [Final Letter], which had been completed by Wun Jung Kim, M.D., M.P.H. Dr. Bajpai testified that Dr. Kim had been the program director of her

residency. The Final Letter rates each of Dr. Bajpai's "Clinical Competence" skills as satisfactory. (Tr. at 92; esp. Ex. H). The following statements about Dr. Bajpai were approved by Dr. Kim:

> During the dates of training at this institution, Dr. Manju Bajpai was not subjected to any institutional disciplinary action due to unethical/unprofessional behavior or clinical incompetence.
>
> To the best of our knowledge, Dr. Manju Bajpai was not investigated by any governmental or other legal body and was not the defendant in any malpractice suit during residency training.
>
> To the best of our knowledge, no conditions exist that would impair Dr. Manju Bajpai['s] ability to practice child and adolescent psychiatry.

(Resp. Ex. H).

20. Dr. Bajpai admitted that, contrary to Dr. Kim's assertion in her Final Letter, she had been disciplined during her psychiatry residency at MCO. The State presented a copy of a December 9, 2002, memorandum issued to Dr. Bajpai by Dr. Kim. The memorandum includes the notation, "RE: Disciplinary Action." (Tr. at 48-52; St. Ex. 21). The memorandum states, in pertinent part:

> This is to inform you that the Residency Training Committee of Child and Adolescent Psychiatry at MCO decided to place you in a warning status due to the following deficiencies, effective on December 9, 2002:
>
> 1. Billing errors for outpatient cases
> 2. Incomplete record keeping in the outpatient service
> 3. The need to respond in a timely manner to pediatric consultation and emergency cases
> 4. Insufficient assessment information for inpatient admissions
> 5. Delayed psychiatric evaluation reports at the Children's Resource Center
>
> As I discussed in my meeting with you on December 2, 2002, it is imperative for you to correct deficiencies in order to continue your residency training. Your progress will be closely supervised and monitored by the supervisor of each service you are assigned to until the end of February, 2003. Each month, the supervisors will review your progress in [] relation to the above deficiencies and will give you their

> feedback on your performance. I am planning to meet with you monthly to give you the summary feedback from all supervisors.

(St. Ex. 21).

The State also presented an April 7, 2003, memorandum advising that Dr. Bajpai's warning status would continue, as her performance had not warranted progression to probationary status, but had not yet been sufficient to merit the cessation of the warning status. The memorandum listed four specific areas as needing attention. The first specific area involved Dr. Bajpai's score on the Psychiatry Resident in Training Examination [PRITE]. Dr. Bajpai's "Global Score in Psychiatry" on the October 2002 PRITE had been in the 13th percentile. (St. Ex. 20, 22).

The April 7, 2003, memorandum stated:

> The Child Psychiatric Resident-In-Training examination was selected as a competency measure during the past year; it was expected that our second-year residents would rank at or above the 25th percentile nationally. Dr. Bajpai's score did not meet this cutoff. For academic remediation, she is now reviewing 2-3 chapters of our residency textbook (Child and Adolescent Psychiatry, 3rd edition) weekly with one of her outpatient supervisors, Dr. Zrull, who also has extensive experience with the national board certification process in child psychiatry. Of course, she continues to participate in all required didactic lectures.

(St. Ex. 22).

The memorandum also advised that Dr. Bajpai's billing, availability for consultations, and written assessments would continue to be closely monitored. (St. Ex. 22).

A June 16, 2003, letter to Dr. Bajpai advised that her warning status had been discontinued "[d]ue to [her] satisfactory progress in the last three months and [her] recent score on a PRITE exam." (St. Ex. 23).

21. Dr. Bajpai acknowledged receipt of the December 9, 2002, and April 7, 2003, memoranda regarding disciplinary action against her. (Tr. at 48, 50). Nevertheless, Dr. Bajpai answered "No" to the following question in the "Additional Information" section of her License Application:

> 4. Have you ever resigned from, withdrawn from, or have you ever been warned by, censured by, disciplined by, been put on probation by, been requested to withdraw from, dismissed from, been refused renewal of a contract by, or expelled from, a medical school, clinical

> clerkship, externship, preceptorship, residency, or graduate medical education program?

(St. Ex. 2 at 10).

Dr. Bajpai also answered "No" to the following questions in her FCVS application:

> Were any negative reports ever filed by instructors?
>
> Were any limitations or special requirements imposed on you due to questions of academic incompetence or disciplinary problems?

(St. Ex. 3 at 4).

Jeffrey Wahl, M.D., the current Residency Training Director of the Child and Adolescent Psychiatry Program at MCO, answered these questions in the affirmative when reporting about Dr. Bajpai to the FCVS in a "Verification of Postgraduate Medical Education" form. Dr. Bajpai testified that, during her residency, Dr. Wahl had been the Assistant Director of the Child and Adolescent Psychiatry Program, and that he had been involved in supervising her. (Tr. at 54; St. Ex. 2 at 43).

Dr. Bajpai explained that she had answered "No" to these questions because she had believed that these matters were "in-house" and that these were not the sort of disciplinary actions that one would need to report to the Board. She suggested that she had been given this idea by Dr. Kim, and pointed out that, in her Final Letter, Dr. Kim had approved a statement that Dr. Bajpai had never been disciplined at the program. Dr. Bajpai also testified that she would have answered the questions correctly, if she had been advised to do so. (Tr. at 55-57, 87-92, 95; Resp. Ex. H).

USMLE

22. Rule 4731-6-14(C)(3), Ohio Administrative Code, requires an applicant for Ohio licensure to complete all three steps of the USMLE within a seven-year period. The Rule further provides:

> A limited exception to this rule may * * * be granted to an applicant who suffered from a significant health condition which by its severity would necessarily cause a delay to the applicant's medical study.

Ohio Adm. Code 4731-6-14(C)(3).

23. Dr. Bajpai passed USMLE Step I on her third attempt on September 27, 1995. Accordingly, she was required to pass the remaining two steps by September 2002.

Dr. Bajpai passed the USMLE Step II on her third attempt on March 5, 1996. However, she did not pass the USMLE Step III until August 25, 2003, on her ninth attempt. (St. Ex. 2 at 47).

24. Dr. Bajpai admitted that she had not suffered from any health condition that had prevented her from studying for the USMLE Step III. However, she testified that, because of her family situation, she had found it impossible to adequately prepare for the examination. (Tr. at 31, 52, 58, 81-83). She explained:

> I was trying to pass, but my family situation was not very good. I was—I had like two kids. I'm a single person. My husband died, and after that, I'm caring two of my kids with me. My daughter was young, and when I was in college, my father used to take care of the kids.
>
> I mean, somebody has to stay the night with them; so sometimes my daughter was getting sick. Sick means she was getting emotionally involved because nobody is home, and she used to sit home alone * * *. And I used to get calls from the school stating that she needs some help * * * for her emotion * * *.

(Tr. at 31).

Dr. Bajpai also mentioned that her father had been ill, and that her son had had trouble at school. She further stated that her residency program had been challenging, even without studying for the USMLE. Dr. Bajpai advised that she had not failed eight times despite studying hard; rather, she had not had time to adequately prepare until after she had completed her residency. (Tr. at 52, 81-83).

Additional Information

25. Dr. Bajpai testified that she had not been trying to hide any information about her residencies from the Board. She pointed out that she had listed all three of her residency programs in her License Application. She also pointed out that the FCVS had reported that there had been no "unusual circumstance" at her anesthesiology residency or the psychiatry residency at WSU. (Tr. at 77, 79; St. Ex. 2 at 6, 24).

26. Dr. Bajpai testified that she would like to be licensed in Ohio, even though she is currently employed and licensed in Michigan. She stated that she has lived in Toledo throughout her residency programs and that she would like to stay there to maintain a stable family life. Dr. Bajpai advised that her daughter, who is now in ninth grade, is doing well academically and socially, and that she would not want to uproot her at this time. She also explained that she has a long commute to her job in Michigan. Dr. Bajpai stated that she believes that her prospects for employment in the Toledo area are good. (Tr. at 99-101).

27. Dr. Bajpai submitted two support letters from parents of patients. Both parents were impressed with Dr. Bajpai's treatment of their children. (Resp. Ex. J).

When asked why the Board should license her, Dr. Bajpai responded:

> Ohio will be benefited by me, and I will be benefited by Ohio because my family will be stable there. And I am a nice person. I'm not a bad person like a cheater * * *. It so happened there, but I'm not—I mean it was not intentional. I can tell you there it was not an intentional thing.

(Tr. at 102).

FINDINGS OF FACT

1. In November 2003 Manju Bajpai, M.D., submitted an Application for Certificate – Medicine or Osteopathic Medicine [License Application] to the Board. Dr. Bajpai's License Application is currently pending. By signing the License Application, Dr. Bajpai certified that the information provided therein was true.

2. Dr. Bajpai answered "No" in response to question number 4 in the "Additional Information" section of her License Application, which asks:

> Have you ever resigned from, withdrawn from, or have you ever been warned by, censured by, disciplined by, been put on probation by, been requested to withdraw from, dismissed from, been refused renewal of a contract by, or expelled from, a medical school, clinical clerkship, externship, preceptorship, residency, or graduate medical education program?

   a. In fact, on August 12, 1998, Dr. Bajpai resigned from an anesthesiology residency at the Medical College of Ohio [MCO].

   b. In fact, on January 29, 2001, Dr. Bajpai was advised by the Wayne State University [WSU] psychiatry residency program that her residency contract would not be renewed due to her failure to successfully pass the USMLE Step III within a designated grace period. Further, on June 30, 2001, Dr. Bajpai resigned from the WSU psychiatric residency.

   c. In fact, on December 9, 2002, Dr. Bajpai was advised of disciplinary action at the MCO Child and Adult Psychiatry residency program and was placed on warning status due in part to incomplete record keeping, a failure to respond in a timely manner to pediatric consultation and emergency cases, insufficient

assessment information, and delayed psychiatric evaluation reports. Further, on April 7, 2003, Dr. Bajpai was advised that her warning status would continue.

3. Dr. Bajpai answered "No" in response to question number 5 in the "Additional Information" section of her License Application, which asks:

   Have you ever transferred from one graduate medical education program to another?

   a. In fact, on August 12, 1998, Dr. Bajpai resigned from the MCO anesthesia residency and, on September 1, 1998, began the WSU psychiatric residency.

   b. In fact, on June 30, 2001, Dr. Bajpai resigned from the WSU psychiatric residency and, on July 1, 2001, began the MCO psychiatric residency.

4. Dr. Bajpai indicated in the "Resume of Activities" section of her License Application that she had been at MCO from July 1997 to June 1998 and that she had been on "vacation" from July 1998 through August 1998. In fact, Dr. Bajpai was in the PGY-II at MCO beginning on July 1, 1998, until she resigned on August 12, 1998, and began the WSU psychiatric residency on September 1, 1998.

5. Dr. Bajpai answered "No" to the questions on her Federation Credentials Verification Service [FCVS] application which asked whether there had been any unusual circumstances associated with any of her postgraduate medical education, specifically:

   Were any negative reports ever filed by instructors?

   Were any limitations or special requirements imposed on you because of academic, incompetence, disciplinary problems or any other reason?

   a. In fact, in or about February, May, and June 1998, Dr. Bajpai had been aware of negative instructor evaluations during her MCO anesthesia residency.

   b. In fact, on April 7, 2003, Dr. Bajpai was directed to participate in academic remediation at the MCO psychiatric residency after she scored in the thirteenth percentile on the Child Psychiatric Resident In-Training examination.

6. Although Dr. Bajpai took and passed the USMLE Step I examination on September 27, 1995 (third attempt), the USMLE Step II examination on March 5, 1996 (third attempt), and the USMLE Step III examination on August 25, 2003 (ninth attempt), Dr. Bajpai did not pass all three steps of the examination within seven years.

CONCLUSIONS OF LAW

1. The acts, conduct, and/or omissions of Manju Bajpai, M.D., as set forth in Findings of Fact 1 through 5, individually and/or collectively constitute "fraud, misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the board," as that clause is used in Section 4731.22(A), Ohio Revised Code.

2. The acts, conduct, and/or omissions of Dr. Bajpai, as set forth in Findings of Fact 1 through 5, 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.

3. The acts, conduct, and/or omissions of Dr. Bajpai, as set forth in Findings of Fact 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.

4. Dr. Bajpai's failure to successfully complete all three steps of the USMLE within a seven year period, as set forth in Findings of Fact 6, constitutes a failure to fulfill the requirements of Section 4731.14, Ohio Revised Code, and Rule 4731-6-14, Ohio Administrative Code. Pursuant to Section 4731.14, Ohio Revised Code, and Rule 4731-6-14, Ohio Administrative Code, an applicant must have passed one of the examinations specified in Paragraph (C) of Rule 4731-6-14, Ohio Administrative Code. Pursuant to Rule 4731-6-14(C)(3), Ohio Administrative Code, all three steps of the USMLE must be passed within a seven-year period.

* * * * *

Dr. Bajpai cannot be licensed in Ohio at this time because she failed to pass all three Steps of the USMLE within seven years. She admitted that her failure to pass was not caused by a significant health condition, but she argued that her family and work obligations had prevented her from adequately studying. The seven-year rule does not provide for an exception under these circumstances.[3] Accordingly, the seven-year rule requires the denial of Dr. Bajpai's License Application.

[3] Rule 4731-6-14, Ohio Administrative Code.

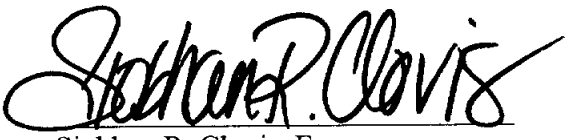
Even if Dr. Bajpai had passed all three steps of the USMLE as required, the deceitful statements in her License and FCVS Applications compel the conclusion that Dr. Bajpai should be denied a medical license in Ohio. Good moral character requires "simple honesty."[4] Dr. Bajpai has demonstrated that she lacks that trait. Dr. Bajpai testified that she had marked "No" to the all of the questions in her application, without carefully reading the questions, because she had felt that she had done nothing wrong. With her record, that amounts to deceit.

PROPOSED ORDER

It is hereby ORDERED that:

The application of Manju Bajpai, M.D., for a certificate to practice medicine and surgery in Ohio is PERMANENTLY DENIED.

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



Siobhan R. Clovis, Esq.
Hearing Examiner

[4] *Staschak v. State Medical Board of Ohio*, Franklin App. No. 03AP-799, 2004-Ohio-4650, at ¶28.

State Medical Board of Ohio

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EXCERPT FROM THE DRAFT MINUTES OF DECEMBER 8, 2004

REPORTS AND RECOMMENDATIONS

Ms. Sloan announced that the Board would now consider the findings and orders appearing on the Board's agenda. She asked whether each member of the Board had received, read, and considered the hearing records, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Manju Bajpai, M.D.; Gregory Lee Ebner, D.O.; Jeffrey David Neidhart, M.D.; and Kwabena Oteng, M.D. A roll call was taken:

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

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

Ms. Sloan 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.

Ms. Sloan 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.

MANJU BAJPAI, M.D.

Ms. Sloan directed the Board's attention to the matter of Manju Bajpai, M.D. She advised that objections were filed to Hearing Examiner Clovis' Report and Recommendation and were previously distributed to Board members.

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

Dr. Bajpai was accompanied by her attorney, Elizabeth Y. Collis.

Ms. Collis stated that in the Report and Recommendation Ms. Clovis found that the Board does not have the authority to grant Dr. Bajpai a license as she did not complete all three parts of the USMLE examination within seven years. Ms. Collis stated that she argued at the hearing that the Board does have a provision that allows for an exception and an extension of time for up to three years, if the applicant has a significant medical condition that prevents her from taking the examination. She noted that in this case testimony was presented at the hearing that, although Dr. Bajpai does not have a significant medical condition, her minor daughter did have a medical condition at the time Dr. Bajpai was in her residencies and going through all of this test taking. That prevented Dr. Bajpai from focusing on studying for this examination and passing these three parts within the seven years.

Ms. Collis stated that, during that time period, Dr. Bajpai made significant changes to her residency so that she could both attend to the needs of her child, complete her residency and continue to study for her exam. At this point Dr. Bajpai has completed and successfully passed all three parts of the examination; but Step III was completed after the seven-year limitation.

Ms. Collis stated that in limited cases the Board has allowed an extension for persons who take the exam outside of the seven-year period. She noted the case of Effie Lee, M.D., whose case came before the Board in January 2003. In that case, an extension was allowed for Dr. Lee to complete the sequence after the seven-year limit but before the ten-year limit. Ms. Collis stated that, although Dr. Lee had suffered from cancer, it was clear that she had completed all of her training prior to contracting cancer, and therefore she should have been able to pass all parts of her examination before the first seven-year limitation. In Dr. Lee's case, even though the Board recognized that her illness came on after she could have successfully

completed all of the exams, the Board did allow her to take advantage of the exception and the additional time and did allow her to sit for the examination. Ms. Collis stated that Dr. Bajpai is not requesting additional time, but she is requesting that the Board allow her to take advantage of that extension period.

Ms. Collis stated that the second issue that was raised at the hearing was whether Dr. Bajpai provided the Board with false information on her application. Ms. Collis stated that it is their position that Dr. Bajpai did incorrectly answer some of the questions on the application. They did not contest that at the hearing. She added that no evidence was presented at hearing that Dr. Bajpai intended to provide the Board with incorrect or false information. Dr. Bajpai has worked hard to complete her medical training, and she has worked hard to pass all parts of her examination, and she did not intend to provide this Board with false information. Ms. Collis asked that the Board grant Dr. Bajpai a license.

Dr. Bajpai thanked the Board for the opportunity to appear before it. She apologized to the Board for having to appear. She stated that the last thing that anyone would ever want would be to have their application for licensure denied. Dr. Bajpai also apologized for not passing all three steps of the USMLE within seven years, and for providing incorrect information on her application for licensure.

Dr. Bajpai stated that since moving to the United States with her children in 1993, it has been a long, hard road. Before moving to the United States, she was married and living in India. She had practiced medicine there for over ten years. Once her husband passed away, she moved to the United States to be near family members and to start a new life with her children. The move was not easy. Her children were young so she stayed at home with them and began to study for Steps I and II of the USMLE. In 1997, having passed those exams, she began her internship in anesthesiology.

Dr. Bajpai stated that, in retrospect, an anesthesiology residency and internship was not a good choice for her. She had young children, limited financial resources and limited assistance from family members to help her with the care and raising of the children. Although her father helped as often as he could, he was elderly and also had many health problems, including seven bypass heart surgeries. He could not be responsible for the full-time care of her children when they were not in school. Dr. Bajpai stated that she found that, as an anesthesiology resident, she was away from home for a long period of time. She often left home for work before her children woke up for school and returned home most evenings when they were in bed. Dr. Bajpai stated that her daughter, who was in the second grade at the time, did not adjust well with this arrangement. She stopped talking at school and would not interact with her teachers or other students. Dr. Bajpai stated that she began receiving calls from the school saying that her daughter was not doing well in school.

Dr. Bajpai stated that her daughter needed additional attention and counseling, so she decided to change to a different residency program so that she would be home by 6:00 p.m. It was for this reason that she changed to the psychiatric program. Over the years, although her daughter improved somewhat with her assistance, she always had difficulties and has always needed more attention. Dr. Bajpai stated that, given her work schedule, the daily responsibilities of being a single parent, and the additional challenges of her daughter, she found that there were many times that she would sign up to take the next examination, and

she would be so busy working as a resident and caring for her children that she would not be able to adequately study for the exam. There were many times that she took the exam when she knew that she was not prepared, but she didn't want to lose her registration money.

Dr. Bajpai advised that at one point her residency program did offer to allow her to take an unpaid leave of absence from work to study for the exam, but at that time she believed that she could not afford to take the leave. In hindsight, she realizes that this was a mistake. She finally passed all three parts of the examination, but only after the seven-year limitation had passed.

Dr. Bajpai acknowledged that at the time of completing her application for licensure, she answered some questions incorrectly. She apologized for this, stating that she never intended to provide false information or misleading information to the Board. She stated that she did not feel that she had anything to hide, and she didn't feel that she had done anything wrong in her residency program. She didn't realize that she had anything to disclose to the Board. Even though she incorrectly answered, "no," to question 4, which asks whether she had attended more than one residency, she did list all three residency programs she attended. She also understands that she failed to provide the Board with information about three negative evaluations she received in 1998, while in her anesthesiology residency. Dr. Bajpai stated that she had no memory of those evaluations, and she did not realize that the application asks for the internal evaluations that were done when she was a resident.

Dr. Bajpai asked that the Board consider her application for a license in Ohio. She stated that she has finally completed all of her training, passed all three parts of the USMLE, and she would like to begin her work in the Toledo area. Dr. Bajpai again thanked the Board for allowing her to appear before it.

Ms. Sloan asked whether the Assistant Attorney General wished to respond.

Ms. Berrien stated that she agrees with the Report and Recommendation in this case, and that Dr. Bajpai should be permanently denied licensure in this state. Dr. Bajpai intentionally misrepresented information on the application to mislead the Board. She told the Board investigator that if she didn't understand something on the application, she wrote, "vacation." That statement alone shows intent, and it shows a dishonest motive.

Ms. Berrien continued that at the hearing and today, Dr. Bajpai stated that she omitted information because she had a recall problem or she didn't read the question carefully. She asked that the Board consider Dr. Bajpai's statement that she inadvertently forgot some of the instances on her application. Dr. Bajpai said that she didn't recall the three negative evaluations from the medical college. Ms. Berrien noted that that was her first residency program in the United States and she received three negative evaluations, two of which were back to back. Her supervisor talked to her about these evaluations. Ms. Berrien questioned whether anyone could forget that. She reminded the Board that Dr. Bajpai testified that her program director never talked to her about it. The program director testified that he's sure he discussed her negative evaluations with her. He remembered that six years later. Those negative evaluations from the medical college are not the only negative reports Dr. Bajpai forgot to include in her application. At her second

residency program, she was informed that her contract would not be renewed because she failed to pass the USMLE Step III. Dr. Bajpai is the sole source of income for her family and she's about to lose her job because she's studying for an exam she hasn't passed. Dr. Bajpai asked whether the Board members would forget that that happened. The application asked whether Dr. Bajpai has been refused renewal of a contract, and Dr. Bajpai responded, "no."

Ms. Berrien continued that Dr. Bajpai was disciplined again at her third residency program, but that information was omitted from her application. Ms. Berrien asked the Board to consider why Dr. Bajpai was being disciplined there. She was deficient in five different areas, and she received low scores in her residency and training exam. She was informed of her warning status in meetings, and it was memorialized in writing twice. She asked whether the Board would forget those instances. They are not on Dr. Bajpai's application.

Ms. Berrien stated that it is not credible to say that Dr. Bajpai did not intend to mislead or provide this Board with incorrect information, or that she had a recall problem. The Hearing Examiner picked up on this lack of credibility. It's also not credible to say that she thought she could hide this information – the negative evaluations and the disciplinary action – because they occurred in-house or were internal evaluations. Ms. Berrien noted that almost all of the questions concern what occurred "in house." They ask, "have you ever been warned," "have you ever been disciplined," "have you ever resigned?" These questions are on the application because, in order for this Board to make an intelligent, informed decision, the Board should be aware of what happened during residency programs and other employment.

Ms. Berrien added that there should also be no concern for a language barrier. Dr. Bajpai indicated that she is proficient in English, and it wasn't a lack of understanding the question on the application. She admitted that she didn't take time and care to fill out the application; however, Board members are being asked to take time and care to decide on her application.

Ms. Berrien stated that she believes that a recall problem can be safely ruled out in this case. What remains are dishonest motives, intent, and false and misleading statements. The Board may like Dr. Bajpai. She seems nice and pleasant, but that has nothing to do with good moral character, which is simple honesty. Dr. Bajpai's application and her testimony at the hearing show that her answers were not honest.
Ms. Berrien stated that the Ohio Administrative Code is also clear and very specific on the time period to pass Steps I through III of the USMLE. Unfortunately, Dr. Bajpai did not complete Steps I through III within the seven-year period. She asks the Board to waive the time period for her. Ms. Berrien stated that that waiver is available to an applicant who is ill or has a medical condition that prevents them or interferes with his ability to adequately study and pass the exam. In the case of Dr. Lee, Dr. Lee had cancer.
Dr. Bajpai is not saying that she was sick. Essentially, Dr. Bajpai is asking for a waiver because her family and work obligations were competing against her ability to study and pass the exam. Ms. Berrien asked how many Board members had competing obligations while studying, but still passed. Family obligations and financial responsibilities do not qualify as reasons for a waiver under the Board's rule. Ms. Berrien stated that she supports the Report and Recommendation that this application should be denied because Dr. Bajpai did not comply with the seven-year rule.

Ms. Berrien urged the Board to adopt the Report and Recommendation, as written.

Ms. Sloan stated that she would now entertain discussion in the above matter.

Dr. Steinbergh stated that she also supports the Report and Recommendation. This physician has repeatedly misrepresented herself on applications to the State of Ohio. She has clearly had multiple academic and clinical problems in her multiple training programs. This already raises several red flags. Dr. Bajpai did, in fact, fail to pass Step III of the USMLE within a seven-year period. Dr. Steinbergh stated that she doesn't believe that there are mitigating circumstances in this case. Dr. Bajpai, in fact, had multiple attempts at each step of the USMLE. She actually attempted to pass Step III nine times. She passed it in August 2003. The seven-year rule required that she pass Step III by September 2002.

Dr. Steinbergh stated that she does feel it is unfortunate that Dr. Bajpai had family stressors during her training, and that this may have been a major distraction. Dr. Steinbergh stated that she also feels that not everyone who desires to practice medicine in the State of Ohio is going to be successful. Dr. Steinbergh concluded that, in this case, she feels confident that Dr. Bajpai does not meet the criteria for licensure in the State of Ohio. Dr. Steinbergh spoke in support of the proposed permanent denial.

Dr. Kumar stated that he has a different take. He stated that he is an international medical graduate, and he can sympathize with many of the things that happened here. For a physician who is widowed and single, it is a major drawback or cultural shock, which comes through in Indian culture, which he doesn't think that anybody can understand. Dr. Bajpai came to the United States and was very qualified. She had a DGO, as well as a masters in surgery, OB/GYN, which is equivalent to Board certification in the United States. Dr. Kumar stated that he has a difficult time understanding why she started an anesthesia residency. He speculated that that was the only residency she could get. It is also understandable for him that in the first year or so of residency, she would have had difficulty in understanding the way the system works here, how they use the SOAP format. Dr. Kumar stated that when he came in as a resident, he didn't even know what the SOAP format was, let alone how to write it. It took him almost five months to figure it out. Dr. Kumar stated that he was not surprised that in the first year of Dr. Bajpai's residency she had difficulty writing things, particularly in an internal medicine rotation, where she was not even trained. Dr. Kumar added that the record indicates that Dr. Bajpai did improve as time went by.

Dr. Kumar stated that he did have concern that Dr. Bajpai continued to have deficiencies in her second and third residencies. That does bother him significantly. But he can see how deficiencies occurred in the first year. Dr. Kumar noted that the director of Dr. Bajpai's residency program did not actually put her on probation. There was an internal discussion. You could have an internal discussion to try to improve a resident who might get better. Dr. Kumar stated that he can easily understand how a resident, not understanding how the mechanism works, might have believed that those were internal ways to help her improve.

Dr. Kumar continued that he understands that beyond that, Dr. Bajpai had several problems. She did not

answer the questions correctly on many of the application forms. There was some hair splitting. She continued to finish her residencies and in many places she did very well. She trained with overall satisfactory evaluations in her second residency; and, although she got some negative comments in the third residency, she still passed.

Dr. Kumar stated that he understands that Dr. Bajpai did not do the USMLE in seven years. Whether the Board accepts her family situation or not, he is very uncomfortable with permanently denying Dr. Bajpai a license. If the Board does want to deny her a license, that's fine, but he would like to give her the option to overcome her deficiencies. As for the issue of her not being truthful and so on and so forth, the Board can look at that at the time she applies in the future. He again stated that he is against permanent denial. He could vote for denial, but he would like to remind Dr. Bajpai that a denial of her application will have a negative impact on her existing license in Michigan when she renews it. It might not be a bad idea, if the Board does go for denial, to allow her to think about withdrawing the application instead of having a denial on her record.

Dr. Steinbergh stated that, if the denial of application is because she didn't pass her USMLE Step III in seven years, that is not going to change. She will never be able to be licensed in the State of Ohio. There are other issues that have been discussed. Dr. Steinbergh stated that she feels from her reading of the record that Dr. Bajpai has had significant negative evaluations in both academic and clinical skills. That's a concern for her. The State of Michigan may have different licensure criteria. When they licensed Dr. Bajpai, she believes that she fulfilled Michigan's criteria. She does not meet Ohio's criteria and never will.

Dr. Kumar stated that he was told that the rules allow those who do not pass the USMLE within the seven-year or ten-year windows can go back and retake some exams that they didn't complete within that time.

Mr. Dilling stated that that is correct.

Dr. Kumar stated that she could take the whole series again. It doesn't mean that she can never take those exams again. She has a potential to complete the exams in the proper time. If the Board permanently denies Dr. Bajpai a license, it will completely bar her from that option. If the Board wants to deny her because she didn't meet the seven-year rule, he doesn't want to permanently deny her.

Dr. Steinbergh stated that, regarding Dr. Bajpai's misrepresentation on her application, she won't use the word, "fraud," but, essentially, it wasn't just one time. There were multiple instances on her application where she was clearly not responsibly replying to the questions on her application.

Dr. Kumar stated that he would agree with that.

Dr. Steinbergh stated that, when you think about the responsibility of a license to practice medicine, and the Board's mission being one of public protection, she doesn't feel that Dr. Bajpai meets the criteria.

Dr. Kumar stated that that may be the case. He added that, as he pointed out in his comments, he has serious issues with the negative comments she had. He can accept them in the first year.

Dr. Steinbergh stated that she would agree with Dr. Kumar, and added that she has no problem with cultural differences and the need for adaptation. She's talking about licensure and what the Board sees in terms of her academic and medical knowledge, and also misrepresentation or fraud on the application, and her not fulfilling the criteria.

Dr. Kumar stated that he cannot defend that in any fashion, and that he absolutely agrees with Dr. Steinbergh. Dr. Kumar stated that if Dr. Bajpai does go through the hoops and retakes the USMLE sequence, and at that time, if the Board wants to look at that application again in some fashion, the Board could require that she take some ethical courses. There's a potential. Dr. Kumar again stated that he is against permanent denial.

Dr. Buchan stated that the two issues discussed today, independently reviewed by him, and Dr. Bajpai's presence today might persuade him to exercise a bit more leniency. Together, there are two strikes and he is in favor of the Report and Recommendation, as written. He's in favor of the Findings of Fact and Conclusions of Law. Dr. Buchan added that he wouldn't be terribly disappointed if the word "permanently" was removed from the Order, but that's as far as he would be willing to go.

Dr. Davidson stated that Dr. Kumar spoke about the impact on Dr. Bajpai's Michigan license of denial versus permanent denial. She asked whether there is any further information on that. Does the Board affect that license by its action?

Dr. Kumar stated that when she renews her Michigan license, she will be asked whether she has had an application denied. She will have to say "yes," to that. He stated that he doesn't know what Michigan would do, but if they see some other jurisdiction denying Dr. Bajpai's license, they may take some action on that basis.

Dr. Steinbergh stated that if Dr. Bajpai held an Ohio license and was reapplying, and at some point in between licensure and reapplication something occurred and she had not properly reapplied, the Board might very well be looking at a Board Order that suspends Dr. Bajpai's license and includes terms for reinstatement and probation. Those things do happen, but when you deny a license, you deny a license. You can't then make recommendations of any sort in terms of work in ethics and so forth and so on. If the Board feels that removal of the word, "permanent," makes a difference in this case, she personally doesn't see it. If she were licensed in Ohio and the Board had to deal with this, it would probably go into some kind of a consent agreement or a Board order. She suggested that Michigan might have to do that also because they see that she's misrepresented her application in Ohio. There will be ramifications, but that may not necessarily mean that Michigan will permanently revoke her license. It would depend upon her representation in that State. Dr. Steinbergh stated that she's not so sure that she needs to make a decision on that.

Dr. Kumar stated that all he is suggesting that the Board remove the word, "permanent," and simply deny the application at this point, and allow Dr. Bajpai to withdraw her application rather than having a denial on the record.

Dr. Steinbergh stated that she doesn't think that would be appropriate. She stated that there has already been a Board hearing. It's on the record.

Dr. Davidson added that even a withdrawal goes on the record.

Dr. Kumar stated that he is in favor of a simple denial rather than a permanent denial.

Ms. Sloan asked for a motion to approve and confirm the Proposed Order before further discussion.

MR. BROWNING MOVED TO APPROVE AND CONFIRM MS. CLOVIS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF MANJU BAJPAI, M.D. DR. DAVIDSON SECONDED THE MOTION.

DR. KUMAR MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF MANJU BAJPAI, M.D., BY REMOVING THE WORD, "PERMANENTLY." DR. BUCHAN SECONDED THE MOTION.

Dr. Robbins stated that he has wrestled with this case, too, and he comes down more on the denial than the other. Dr. Robbins stated that he would like to give Dr. Bajpai the opportunity to repeat all three steps of the USMLE and pass it and take an ethics course and then reapply at some point. He commented that, with the amount of time and number of attempts it took Dr. Bajpai to pass Step III, he believes there is a question of competency. In his mind, if Dr. Bajpai retakes all three steps and passes all three steps within a required time sequence, and took an ethics course, he's not sure he wants to totally shut the door on her ability to do that.

Mr. Dilling stated that if the Board amends the Proposed Order and includes conditions for licensure, the Board is essentially saying that if she meets these conditions she can have a license. If you just deny the application, the Board is kicking it to whatever future Board to which she reapplies to make a new decision.

Dr. Davidson stated that although she feels some sympathy, she was annoyed at some of the residency programs that could probably have made it a little clearer. They could have had her sign off on disciplinary discussions. She added that she doesn't think that that changes the facts of the matter and the accumulation of evidence. She acknowledged Dr. Bajpai's perseverance in getting through her residencies and through the USMLE process, but she also agrees that to climb up from a 13th percentile in training to get to where she is now says something. Dr. Davidson stated that she's a little bit worried about false hope in keeping someone in the system and having them spend money, rather than getting on with their lives. She stated that she will speak in favor of the Report and Recommendation, as written.

Dr. Egner stated that she does believe that Dr. Bajpai committed fraud. She stated that she doesn't buy that Dr. Bajpai didn't understand the question. The Board has had this issue before it so many times, and she believes that the Board has always come down pretty steadily on the side of not accepting a fraudulent application. Dr. Egner asked Board members to think back to their first year of residency and remember a presentation that they made for which an attending came down hard on them. She asked whether they can put themselves back in that hallway right now. You remember it. Now, put yourself in your chairman's office getting a written reprimand – you just don't forget it. So on the issue of fraud alone, she feels that the proposed permanent denial is appropriate.

Dr. Egner continued that she questioned Dr. Bajpai's ability to pass Steps I, II and III of the USMLE. She stated that it's not the Board's duty to know Dr. Bajpai's future, but if she were a betting person, she would say that Dr. Bajpai wouldn't be able to pass all three steps. She didn't meet the criteria of the seven-year exception, but the fraud issue is more of a convincer for her and she will go with the Hearing Examiner's Report and Recommendation.

Dr. Steinbergh stated that it is her understanding of the testing cycle and sequence of things that the tests are based on a body of knowledge that one has accrued within a period of time. From the time that she studied in medical school and subsequently came to the United States and took these steps, the body of knowledge has changed, teaching methods have changed, and it would be very unusual for Dr. Bajpai to be able to pass this series of examinations. Dr. Steinbergh added that she doesn't know about the process of the examination sequence itself, if she would even be eligible to retake three steps of this examination with the years that have gone from her basic education. Dr. Steinbergh stated that she doesn't even put that into her assessment of Dr. Bajpai. She just thinks that, for those reasons, Dr. Bajpai does not meet licensing criteria in Ohio.

Dr. Kumar stated that Dr. Egner stated that there was a written reprimand, but he didn't see any evidence of that in the record. There were letters written which the attending had signed, but he didn't see anything given to Dr. Bajpai.

Dr. Kumar stated that USMLE Steps I and II are part of ECFMG. If she did not do that, she couldn't even get into a residency.

Dr. Steinbergh stated that she understands that. She's talking about Dr. Bajpai's ability to be permitted to take those exams now. She doesn't know whether Dr. Bajpai would meet the criteria for the sequence of the examination cycle itself.

Dr. Kumar stated that he just wants to remove the permanency from the Proposed Order.

Dr. Buchan stated that he is in full agreement with denial of this application, and he believes that Dr. Bajpai will take home the notion that the Board doesn't feel that she meets the criteria for the exception to the rule. Dr. Buchan stated that he will speak in favor of the amendment to put the matter in

Dr. Bajpai's court to determine what she wants to do. The cards may be stacked against her. Dr. Bajpai understands that and she understands the sentiment of this Board today, but he doesn't want to remove that little glimmer of hope that may still represent itself.

Dr. Talmage left the meeting during the previous discussion.

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

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

The motion carried.

DR. KUMAR MOVED TO APPROVE AND CONFIRM MS. CLOVIS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF MANJU BAJPAI, M.D. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

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

The motion carried.

State Medical Board of Ohio

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

July 14, 2004

Manju Bajpai, M.D.
4962 Burkewood Court
Apartment #202
Sylvania, OH 43560

Dear Doctor Bajpai:

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) In or about November 2003, you submitted an Application for Certificate – Medicine or Osteopathic Medicine [License Application] to the Board. Your License Application is currently pending. By signing the License Application, you certified that the information provided therein was true.

(2) You answered "No" in response to question number 4 in the "Additional Information" section of your License Application, which asks:

> Have you ever resigned from, withdrawn from, or have you ever been warned by, censured by, disciplined by, been put on probation by, been requested to withdraw from, dismissed from, been refused renewal of a contract by, or expelled from, a medical school, clinical clerkship, externship, preceptorship, residency, or graduate medical education program?

(a) In fact, on or about August 12, 1998, you resigned from the Medical College of Ohio anesthesia residency [MCO anesthesia residency].

(b) In fact, on or about January 29, 2001, you were advised by the Wayne State University psychiatry residency program [Wayne State psychiatric residency] that your residency contract would not be renewed due to your failure to successfully pass the USMLE Step III within the designated grace period. Further, on or about June 30, 2001, you resigned from the Wayne State psychiatric residency.

Mailed 7-15-04

(c) In fact, on or about December 9, 2002, you were advised of disciplinary action at the Medical College of Ohio Child and Adult Psychiatry residency program [MCO psychiatric residency] and were placed on warning status due in part to incomplete record keeping, a failure to respond in a timely manner to pediatric consultation and emergency cases, insufficient assessment information, and delayed psychiatric evaluation reports. Further, on or about April 7, 2003, you were advised that your warning status would continue.

(3) You answered "No" in response to question number 5 in the "Additional Information" section of your License Application, which asks:

> Have you ever transferred from one graduate medical education program to another?

(a) In fact, on or about August 17, 1998, you resigned from the MCO anesthesia residency and, on or about September 1, 1998, began the Wayne State psychiatric residency.

(b) In fact, on or about June 30, 2001, you resigned from the Wayne State psychiatric residency and, on or about July 1, 2001, began the MCO psychiatric residency.

(4) You indicated in the Resume of Activities section of your License Application that you were at MCO from July 1997 to June 1998 and that you were on vacation from July 1998 through August 1998. In fact, you were in the PGY II at MCO beginning on or about July 1, 1998, until you resigned from PGY II at the MCO anesthesia residency on or about August 17, 1998, and began the Wayne State psychiatric residency on or about September 1, 1998.

(5) You answered "No" to the questions on your Federation Credentials Verification Service [FCVS] application which asked whether there were any unusual circumstances associated with any of your postgraduate medical education, specifically:

- were any negative reports ever filed by instructors; and
- were any limitations or special requirements imposed on you because of academic, incompetence, disciplinary problems or any other reason?

(a) In fact, on or about February 17, 1998, on or about March 31, 1998, and in or about June 1998, you were aware of negative instructor evaluations during your MCO anesthesia residency.

(b) In fact, on or about April 7, 2003, you were directed to participate in academic remediation at the MCO psychiatric residency after you scored in the thirteenth percentile on the Child Psychiatric Resident In-Training examination.

(6) Although you took and passed the USMLE Step I examination on September 27, 1995, (third attempt), the USMLE Step II examination on March 5, 1996, (third attempt), and the USMLE Step III examination on August 25, 2003, (ninth attempt), you did not pass all three steps of the examination within seven years.

Your acts, conduct, and/or omissions as alleged in paragraphs (1) through (5) 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 (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, 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 failure to successfully complete all three steps of the USMLE within a seven year period, as alleged in paragraph (6) above, constitutes a failure to fulfill the requirements of 4731.14, Ohio Revised Code, and Rule 4731-6-14, Ohio Administrative Code. Pursuant to Section 4731.14, Ohio Revised Code, and Rule 4731-6-14, Ohio Administrative Code, an applicant must have passed one of the examinations specified in Paragraph (C) of Rule 4731-6-14, Ohio Administrative Code. Pursuant to Rule 4731-6-14(C)(3), Ohio Administrative Code, all three steps of the USMLE must be passed within a seven-year period.

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

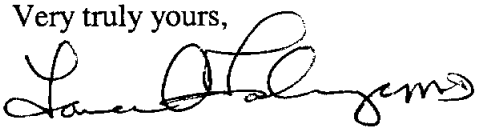
permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

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 # 7000 0600 0024 5144 8472
RETURN RECEIPT REQUESTED