

# State Medical Board of Ohio

30 E. Broad Street, 3rd Floor, Columbus, OH 43215-6127



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Executive Director

(614) 466-3934  
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October 10, 2007

Ramin Rafie, M.D.  
2511 Oakstone Drive  
Columbus, OH 43231

Dear Doctor Rafie:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Patricia A. Davidson, Esq., Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on October 10, 2007, including motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

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

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

THE STATE MEDICAL BOARD OF OHIO

Lance A. Talmage, M.D.  
Secretary

LAT:jam  
Enclosures

CERTIFIED MAIL NO. 91 7108 2133 3933 8960 9401  
RETURN RECEIPT REQUESTED

Cc: Kevin P. Byers, Esq.  
CERTIFIED MAIL NO. 91 7108 2133 3933 8960 9418  
RETURN RECEIPT REQUESTED

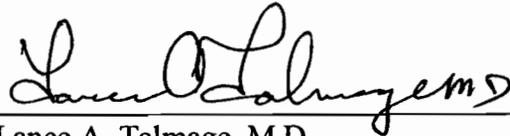
*Mailed 10-12-07*

To protect and enhance the health and safety of the public through effective medical regulation

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Patricia A. Davidson, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on October 10, 2007, including motions approving and confirming the Findings of Fact, Conclusions and Proposed Order of the Hearing Examiner as the Findings and Order of the State Medical Board of Ohio; constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Ramin Rafie, 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)

October 10, 2007  
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

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\*

RAMIN RAFIE, M.D.

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ENTRY OF ORDER

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

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

It is hereby ORDERED that:

The application of Ramin Rafie, M.D., for a certificate to practice allopathic medicine and surgery is PERMANENTLY DENIED.

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

(SEAL)



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Lance A. Talmage, M.D.  
Secretary

October 10, 2007

\_\_\_\_\_  
Date

**REPORT AND RECOMMENDATION  
IN THE MATTER OF RAMIN RAFIE, M.D.**

2007 SEP 14 P 1:30

The Matter of Ramin Rafie, M.D., was heard by Patricia A. Davidson, Hearing Examiner for the State Medical Board of Ohio, on August 15, 2007.

**INTRODUCTION**

Basis for Hearing

By letter dated April 12, 2007, the State Medical Board of Ohio [Board] notified Ramin Rafie, M.D., that, with respect to his August 2006 application for a certificate to practice medicine, the Board proposed to deny the application or impose other discipline. This proposed action was based on several allegations, including that Dr. Rafie had not provided true and complete information on his application to the Board as well as his application to the Federation Credentials Verification Service [FCVS]. Further, the Board alleged that Dr. Rafie had not passed all three steps of the United States Medical Licensing Examination [USMLE] within seven years as required.

The Board alleged that Dr. Rafie's conduct constitutes "fraud, misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the board," as that language is used in Ohio Revised Code Section [R.C.] 4731.22(A), and also constitutes making "a false, fraudulent, deceptive, or misleading statement \* \* \* in securing or attempting to secure any certificate to practice or certificate of registration issued by the board," as that language is used in R.C. 4731.22(B)(5).

Further, the Board alleged that Dr. Rafie has not furnished satisfactory proof of good moral character as required by R.C. 4731.08, and has not completed an examination sequence acceptable to the Board under R.C. 4731.14 and Rule 4731-6-14, Ohio Administrative Code.

The Board advised Dr. Rafie of his right to request a hearing, and received his written request for hearing on April 16, 2007. (State Exhibits 1A, 1B)

Appearances

Marc Dann, Attorney General, and Barbara J. Pfeiffer, Assistant Attorney General, for the State.

Kevin P. Byers, Esq., for the Respondent.

**EVIDENCE EXAMINED**

Testimony Heard

Ramin Rafie, M.D.  
Kay Rieve

2007 SEP 14 P 1:30

STATE MEDICAL BOARD  
OF OHIO

Exhibits Examined

- A. State's Exhibits 1A through 1L: Procedural exhibits.  
State's Exhibit 2: Documents maintained by the Board.  
State's Exhibit 3: Documents maintained by Grant Medical Center.  
State's Exhibit 4: Documents maintained by University of California at Irvine.
- B. Respondent's Exhibits A through J: Reference letters in support of Dr. Rafie.

**SUMMARY OF THE EVIDENCE**

All exhibits and transcripts of testimony were reviewed and considered by the Hearing Examiner, although not all items of evidence are included below.

**Background and Medical School**

1. Ramin Rafie, M.D., was born in 1974 in Tehran, Iran, and he came to the United States when he was six years old. In 1996, he received his undergraduate degree from the University of California at Los Angeles. (St. Ex. 2 at 6, 38, 55; Tr. at 42-43)
2. In September 1997, Dr. Rafie began medical school at the University of California at Irvine [UC Irvine]. (St. Ex. 2 at 6, 33) In a letter dated March 31, 2000, the medical school notified Dr. Rafie that it was placing him on probation:

It has come to the attention of the Committee on Promotions and Honors [Committee] that you have failed the shelf exam in Pediatrics twice. This failure has resulted in a failing grade for the course. The Medical Student Handbook clearly states that any failure during the clinical years may result in a dismissal hearing before the Committee. \* \* \* Based on the review of your file, you are being placed on Academic Probation. The conditions of Academic Probation are described in the Student Handbook. You should review the conditions of Academic Probation. In particular you should note that to be removed from Academic Probation you must have corrected the deficiency, i.e., passed Pediatrics, and you must petition the Committee to have the Academic Probation lifted. Any failure while on probation may result in a dismissal hearing. I strongly suggest that you meet with Dr. Michael Prislin, the Associate Dean for Student Affairs, to discuss your plans to remedy your current academic shortcomings. It is also recommended that you reduce any extracurricular activities \* \* \* .

(St. Ex. 4 at 7)

3. Dr. Rafie testified that he had received this letter about his probation and that he had met with Dr. Prislin several times. He testified that his failure in pediatrics had been very upsetting and

that he remembers crying because he had never failed anything before. He explained that it was a “very significant” event because it was a third-year rotation and meant that he would be ranked in a bottom percentile of his class. Dr. Rafie further stated that one of the reasons that the situation had been painful was that he had felt the probation was unfair, because another student in a similar situation was not placed on probation. (Tr. at 92-93, 99-102, 109-110, 106-107)

4. On May 10, 2000, the medical school committee sent Dr. Rafie a letter notifying him that his petition, in which he asked that he not be required to repeat the rotation, was rejected. The committee stated that it was imperative that he successfully complete the pediatrics rotation and that he could file an appeal if he wished. Dr. Rafie testified that he remembers receiving that letter. (St. Ex. 4 at 8; Tr. at 51, 103-107)
5. While he was on probation, Dr. Rafie failed the rotation in obstetrics and gynecology [OB/GYN]. He felt this second failure was “significant,” and he was concerned that he would have a dismissal hearing. However, Dr. Rafie testified that Dr. Prislun had told him not to worry and that no dismissal hearing would be held. (Tr. at 54, 93-94, 101-103, 107)
6. In another letter dated November 7, 2000, the medical school committee focused on Dr. Rafie’s failure of the OB/GYN rotation, noting that Dr. Rafie was already on probation and that the committee was “concerned.” Again, the committee stated that any future failures could result in a dismissal hearing. Dr. Rafie testified that he remembers receiving this letter. (St. Ex. 4 at 9; Tr. at 51-52, 108)
7. By the end of December 2001, Dr. Rafie had passed both rotations. He stated that he had originally planned to graduate in June 2001, but, instead, he received his medical degree from UC Irvine in June 2003. He explained that, although he had finished all his rotations in December 2001, he could not receive his degree until he had passed Steps 1 and 2 of the USMLE. He did not pass Step 2 until April 2003, on his fifth attempt. (St. Ex. 2 at 6, 33; St. Ex. 4 at 6; Tr. at 44-45)
8. Dr. Rafie also testified that his completion of medical school was delayed because his father was diagnosed with Parkinson’s disease. Dr. Rafie further testified that the delay in graduating was caused in part by his having to re-take the pediatrics examination. He asserted that, at one point, he was prepared to take the examination but it was not ready, which pushed things back for about one month. (St. Ex. 2 at 6, 33, 38; St. Ex. 4 at 6; Tr. at 84-94, 104-107)

#### **Dr. Rafie’s Statements on FCVS and Board Applications regarding Medical School**

9. In 2006, in connection with applying to the Board for licensure, Dr. Rafie completed an application with FCVS.<sup>1</sup> On August 7, 2006, Dr. Rafie signed an Affidavit and Release stating that he had answered all questions on the FCVS Application “truthfully and completely,” and

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<sup>1</sup> Dr. Rafie testified that he filled out the FCVS application on August 8, 2006. (Tr. at 112-113) He also testified that he completed the FCVS application “approximately two months after I filled out my Ohio medical application.” (Tr. at 70)

that all the statements he had made or would make on the application were true. (St. Ex. 2 at 35, 46, 50-52)

10. The medical school at UC Irvine, responding to an FCVS verification request in October 2006, answered “yes” when asked whether there had been “unusual circumstances” during Dr. Rafie’s medical education and whether Dr. Rafie had been placed on any “academic probation.” On a checklist, the medical school indicated that Dr. Rafie: (a) had participated in “academic remediation” from July 2001 to December 2001; (b) had taken an approved leave of absence from July 31, 2000, to August 25, 2000; and (c) had been on “academic probation” from March 2000 to June 2003. (St. Ex. 2 at 50-52; Tr. at 19-24, 70, 50-52, 88-94)

In a letter accompanying the form, the UC Irvine registrar stated, among other things, that Dr. Rafie had received failing grades in his pediatrics and OB/GYN rotations and had been placed “on academic probation in March of 2000.” The registrar also advised that, following remediation, Dr. Rafie had passed both rotations by the end of 2001. In addition, the registrar noted that Dr. Rafie had “extended his curriculum by six months for both academic and personal reasons.” (St. Ex. 4 at 6)

11. In 2006, in answering the questions on his FCVS application, Dr. Rafie answered “No” when asked whether there had been any probation during medical school at UC Irvine. He also answered “No” when asked if there had been any negative reports or any limitations. He answered “Yes” when asked whether there had been any “interruptions.” (St. Ex. 2 69-70; Tr. at 111-112) Regarding his “Yes” answer, Dr. Rafie provided the following explanation to FCVS, in its entirety:

I extended my medical education as my father was diagnosed with Parkinson’s Disease and I wanted to spend time with him before starting residency.

(St. Ex. 2 at 54)

12. In his license application filed with the Board in August 2006, Dr. Rafie was also asked whether his medical school or other program had ever placed him on probation. In answering, Dr. Rafie made no mention of the probation at UC Irvine. At hearing, he admitted that, in his Ohio license application, he had not told the Board about his probation during medical school. (St. Ex. 2 at 17, 21; Tr. at 52-54)
13. Dr. Rafie acknowledged that the letters he received from the medical school “clearly evidence academic probation.” When asked why he did not mention his probation at UC Irvine on his license application, he said he “forgot.” He stated that, when thinking back to his time at medical school, the probation “had not made a strong enough impression on my time there. \* \* \* [I]t did not jar enough of a significant memory for me to answer positively that I was put on probation while at UC Irvine.” (Tr. at 53-54, 95-96, 102-103)

In addition, Dr. Rafie asserted that Dr. Prislín, in several conversations, had minimized the importance of the probation and assured him that it was “nothing \* \* \* of any significance.” Further, Dr. Rafie testified that he had been a student leader, with a position on the school’s

ethics committee, and that he had seen students who blatantly violated the ethics code, including at least one student with gross violations who was not put on probation or had any mark on his record. Dr. Rafie testified that he had felt that his own situation, involving academic probation and then passing the courses, had been very minor in comparison. (Tr. at 53-55)

14. Similarly, Dr. Rafie was asked how he could have forgotten his probation and answered “No” on the FCVS application, given his testimony that the probation had been emotionally charged and very difficult. He answered, “Well, if I remember correctly, at that point in time, on August 8th of 2006, when I filled this out, that did not pop up in my mind as being a significant situation because of my conversations with Dr. Prislin and on my experience on the ethics committee with other people in the medical school.” When asked if he still had the letters from the medical school regarding his probation, Dr. Rafie stated that he was not sure, but that, if he had them, they would be in his desk at his parents’ house because “these were unique letters and they are of a significant event in your life.” (Tr. at 113-115)
15. Dr. Rafie also discussed another reason that may have influenced his failure to report his probationary period on these applications. When asked whether it was the unfairness of the probation that had caused him not to report it, he answered:
  - A. Well, I would say no, consciously I would never make that decision, but I think subconsciously that may play a factor.
  - Q. What do you mean subconsciously?
  - A. Well, there's a term in medicine called egosyntonic. \* \* \* [E]gosyntonic, and this refers to one -- self-preservation of one's ego when they were into a possibly negative predicament. It's called egosyntonic because you are preserving your own ego, and there is a subconscious factor in it. People that have had a traumatic experience, that have been very emotionally charged, you can ask them and they will have forgotten about it. It's egosyntonic for them to deny that experience to help preserve their ego.
  - Q. And you testified in response to the State's question that this was quite an event. It was your first failure. It was a significant personal event?
  - A. That's correct.
  - Q. Would you call it traumatic?
  - A. Well, traumatic in the sense that it was one of the few times in my life I remember crying out loud, \* \* \*.

(Tr. at 169-170)

Dr. Rafie further explained that everyone is egosyntonic, that it is a human trait. However, he also stated that his narrative responses on his application were *not* egosyntonic. Rather, he stated that he had given the Board his interpretation of the facts: “In my interpretation this was what, in my opinion, was sufficient to answer the questions, and that's why I said if there are any more questions or concerns, please don't hesitate to contact me. This was the first application I sent for a license.” (Tr. at 175-176) Dr. Rafie then provided the following additional explanation for the content of his narrative statement to the Board:

Q. But you're saying that your responses here to the Medical Board were not egosyntonic in nature; is that correct?

A. No, I'm not saying that. When you pointed out that I put the affirmatives on this application, yet I didn't explain it, I don't understand why I did that. That doesn't make sense to me. That's not consistent with my behavior. If I had to give a reason why I did that, I might speculate -- and I emphasize the word "speculate" -- meaning it's egosyntonic. It's not with my intention to mislead the board, lie to the board, not my intention to misrepresent myself to the board. As I explained, possibly there is an unconscious factor that people don't have control over, which I explained as egosyntonic.

(Tr. at 175-177)

### **Initial Post-Graduate Training – Internship in Massachusetts**

16. Dr. Rafie testified that, during medical school, he had applied for residency programs in anesthesiology but that, when match day came, he was not matched with any program. He had then entered a process called the “scramble” and obtained an internship in Massachusetts. From July 2003 to June 2004, Dr. Rafie trained in internal medicine at the Berkshire Medical Center in Pittsfield, Massachusetts. He stated that he was offered a second year but was “not very happy with the hospital there or the program.” (St. Ex. 2 at 8, 12, 39; Tr. at 46-47, 81)
17. Dr. Rafie stated that, in July 2004, he moved to Florida with his significant other who had a residency there. Dr. Rafie testified that he looked for work, sending applications all over the country. He stated that, when he received the offer from Grant Medical Center [Grant] for a residency in family medicine, he was happy to accept because Grant had agreed to give him credit for 8 of his 12 months of internal-medicine training in Massachusetts. (St. Ex. 2 at 8-14, 43, 69-70; Tr. at 46-47)

### **Residency at Grant Medical Center**

18. Dr. Rafie started work at Grant on March 1, 2005. It was agreed that he would not start as a second-year resident but would spend four months, March 2005 through June 2005, completing his PGY1 year in family medicine. Thus, Dr. Rafie was scheduled to start his PGY2 in July 2005 in the family-medicine program. (Tr. at 48-49)

September 2005 – Plan for Academic Development

19. On September 7, 2005, Dr. Rafie signed a Plan for Academic Development, which was “intended to serve as a more detailed extension” of his Individualized Education Plan. The Plan for Academic Development sets forth “specific concerns” about Dr. Rafie’s progress in patient care, medical knowledge, practice-based learning, and systems-based practice. It also sets forth specific goals in each area and provides for a study plan as well as “continued limiting of office patient volume to allow for documentation skill acquisition” and “one-on-one shadowing experience with Dr. David Marques \* \* \* to acquire skills in patient rapport, documentation development, and to build on areas of knowledge deficit.” Further, the Plan for Academic Development states that “successfully completing this plan” would enable Dr. Rafie “to advance onto the R2 position.” The plan was signed by Teresa Holt, M.D., as his faculty advisor, and Bruce Vanderhoff, M.D., the program director at that time. (St. Ex. 3 at 13-14; Tr. at 58-60)
20. Dr. Rafie subsequently stated, in his Board hearing, that he had viewed this Plan for Academic Development as being “on probation,” although that term does not appear in the document. He also testified that, during the summer before, leading up to this Plan, he had not wanted to stay at Grant. He explained that he had told Dr. Vanderhoff during the summer of 2006 that he wanted to be released from the residency contract at Grant because he had received an offer for an internal-medicine residency in California. Dr. Rafie testified that Dr. Vanderhoff had declined to release him from the contract, stating that Dr. Rafie was obligated to Grant. (Tr. at 57-61, 163-166)
21. In or about January 2006, Dr. Vanderhoff was promoted to Director of Medical Education, and Robert Skully, M.D., became the Program Director for the residency program. (Tr. at 62-63; see, also, St. Ex. 3 at 2, 12)

Letter to Dr. Rafie dated February 2, 2006

22. In a letter dated February 2, 2006, Dr. Skully informed Dr. Rafie that the faculty had met to review his performance from July 1, 2005, to December 31, 2005. Based on that review, Dr. Skully stated to Dr. Rafie: “You are not currently meeting all of the ACGME<sup>2</sup> competences.” (St. Ex. 3 at 9)

In this letter to Dr. Rafie, Dr. Skully highlighted Dr. Rafie’s score of 280 on the in-training examination, which he described as “completely unacceptable.” Dr. Skully informed Dr. Rafie that this score raised “serious questions” about Dr. Rafie’s “ability to eventually practice medicine.” (St. Ex. 3 at 9)

Dr. Skully also focused on conflicts Dr. Rafie had experienced with residents and hospital staff, noting that a few of Dr. Rafie’s office patients had fired him, “which is highly unusual

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<sup>2</sup> “ACGME” refers to the Accreditation Council for Graduate Medical Education.

for our experience here.” Further, Dr. Skully stated that Dr. Rafie’s accuracy and timeliness of medical documentation had been “poor,” although progress had been made. Dr. Skully advised Dr. Rafie to continue his efforts toward the goal in his Individualized Education Plan “to routinely read up on case topics and document your conversations with patients more thoroughly” and to continue his reading plan established with Dr. Holt. (St. Ex. 3 at 9)

In addition, Dr. Skully noted that Dr. Rafie had failed Step 3 of the USMLE and reminded him that, if he did not pass Step 3 by June 30, 2006, Dr. Rafie could not continue his residency at Grant. Finally, Dr. Skully encouraged Dr. Rafie to make the “appropriate adjustments in order to successfully complete your residency obligations.” (St. Ex. 3 at 9)

Letter to Dr. Rafie dated February 22, 2006: Probation

23. In a letter to Dr. Rafie dated February 22, 2006, Dr. Skully informed him that the faculty had discussed his performance in the night-float rotation and “voiced various concerns regarding your clinical skills and professional behavior.” (St. Ex. 3 at 11) Dr. Skully further stated:

\* \* \* [Y]ou are not functioning at the level that we expect of an R2 on the medicine service: residents and faculty who picked up your patients in the morning after you had been on call felt that your work ups and evaluations were incomplete and put patients at risk. Because of this you will not receive credit for the Night Float month.

(St. Ex. 3 at 11)<sup>3</sup>

Dr. Skully also described “another troubling incident” in which Dr. Rafie was working in obstetrics with Dr. Marques, who had reported that Dr. Rafie was “drastically incorrect” in identifying a patient’s dilation and had been unable to differentiate between one centimeter and four centimeters dilation, or between four and ten centimeters dilation. Dr. Skully stated that, while these skills are often acquired during medical school, they should certainly be acquired by the first month as OB house staff. (St. Ex. 3 at 11) Dr. Skully then notified Dr. Rafie of a modification of his training status, as follows:

Because of this occurrence, the faculty believes you are not able to function as an R2 resident on the OB rotation. You will function at an R1 level during your OB month in May [2006].

(St. Ex. 3 at 11) Further, Dr. Skully informed Dr. Rafie that “of particular concern” was that Dr. Rafie seemed genuinely unaware of his performance deficiencies and was “functioning with a false sense of confidence and self assuredness.” Dr. Skully stated bluntly: “I am therefore concerned about your ability to ever function as an independent practitioner.” (St. Ex. 3 at 11)

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<sup>3</sup> Dr. Rafie testified that the night-float rotation required working from 7:00 p.m. to 7:00 a.m. in the emergency department doing adult medicine, not pediatrics or OB/GYN. He explained that, during this rotation, residents are supposed to sleep during the day, but that he had not been able to make that adjustment. (Tr. at 133-134)

Moreover, Dr. Skully stated that the letter constituted “official notice of academic probation,” starting immediately and continuing to May 31, 2006, “during which time we expect significant clinical improvement from you in order to continue work as a resident here.” (St. Ex. 3 at 12)

At the bottom of this letter, there is a handwritten notation, “Discussed and reviewed – 3/1/06,” followed by the signatures of Dr. Rafie, Dr. Skully, Dr. Holt, and others. Dr. Rafie testified that he had received the letter, that he attended a meeting Drs. Skully, Fitch, and Holt regarding his being “put on probation,” and that he had signed the letter indicating that he had been officially notified of his academic probation. Dr. Rafie further acknowledged that the letter had set forth that “significant clinical improvement” was expected in order for him to continue working at Grant. (St. Ex. 3 at 12; Tr. at 64-64, 115-116)

March 1, 2006 – Further Discussions with Dr. Rafie

24. At the bottom of a typed statement by David Marques, M.D., Dr. Skully added a handwritten note, dated “3/1/6,” stating that he had discussed with Dr. Rafie the negative comments that Dr. Marques had made regarding Dr. Rafie’s performance on February 17, 2006. For example, Dr. Marques had stated his “concern that we have an R2 that is incompetent in his cervical exams.” According to the handwritten note at the bottom, Dr. Skully had discussed Dr. Marques’ comments with Dr. Rafie and had explained to Dr. Rafie that, when he asks no questions and acts as if he knows what he is doing, his conduct can put patients at risk. Dr. Skully stated that Dr. Rafie “voiced understanding & agreement.” (St. Ex. 3 at 26)<sup>4</sup>

March 29, 2006 - Memorandum to Dr. Rafie from Dr. Holt

25. In a memorandum to Dr. Rafie dated March 29, 2006, Teresa Holt, M.D., provided a review of the evaluations of and comments regarding Dr. Rafie made by faculty, an outside preceptor, and fellow residents. (St. Ex. 3 at 10) Dr. Holt wrote in part:

\* \* \* There were multiple areas of concern noted. Several sources commented on your “tunnel vision” – where they perceive you to make a premature diagnosis without closely looking at all patient details. All senior residents commented on your difficulty accepting alternative diagnosis or treatment plans. A few residents and one preceptor stated that you disregarded their suggestions all together. Feedback was also given that you seemed overwhelmed and frustrated much of the time and that this resulted in a further lack of attention to detail. Fellow residents also described inadequate checkout.

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<sup>4</sup> Dr. Rafie stated that he did not review a copy of the memorandum with Dr. Skully’s handwritten note until preparing for the Board hearing. (Tr. at 68-69)

One area of improvement was noted by a junior resident—he noted that you were taking a little longer in the room with patients and writing slightly more thorough R2 admit notes.

During our discussion there was a point where you were frustrated and admitted to us that there are times you do not care about a patient's concern. We reflected to you that your feelings of apathy are obvious to both patients and fellow physicians. We worry that this attitude may be an insurmountable barrier to you becoming a successful physician.

(St. Ex. 3 at 10) Dr. Holt identified specific areas for improvement and noted that the group would meet again in April to discuss Dr. Rafie's progress. (St. Ex. 3 at 10)

March 2006 through May 2006 - Further Communications with Dr. Rafie

26. In a memorandum to Dr. Vanderhoff dated May 23, 2006, Dr. Skully described several communications he had with Dr. Rafie:

On February 22, 2006, I wrote a letter to Dr. Rafie informing him that he would be on academic probation for the period of March 1, 2006, through May 31, 2006. Drs. Fitch, Holt and myself met with Dr. Rafie on March 1, 2006, to discuss this (letter enclosed).

[Omitted: Dr. Skully's recitation of the reasons underlying the probation, with details from negative reports.]<sup>5</sup>

I recently received notification from Children's Hospital that he failed his April Pediatric Emergency month (evaluation enclosed). I have met with Dr. Rafie and informed him that failure of a rotation during the probationary period is not acceptable and therefore grounds for termination from the residency. \* \* \*

\* \* \* I would suggest that he be placed on a leave of absence beginning June 1, 2006, which would give him a month's time to pursue other residency training and study for Step 3 of the USMLE. He has asked to take a Family Medicine board review course during the end of June which is offered here in Columbus, and I think this would be a good idea for him as well.

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<sup>5</sup> In this letter, which was not sent to Dr. Rafie, Dr. Skully provided details of negative reports about Dr. Rafie's performance that resulted in his probation. The details of those reports are excluded because the allegations in this matter involve whether Dr. Rafie was placed on probation and failed to *report* his probation and its outcome accurately to the Board and FCVS.

This matter does *not* involve an allegation of failing to practice in accordance with minimal standards. Therefore, the Hearing Examiner determined that the probative value of the details was outweighed by the potential for undue prejudice. However, where a written communication was provided directly to Dr. Rafie, the Hearing Examiner concluded that the contents of the negative reports have more probative value because these communications tend to establish precisely what Dr. Rafie knew and when he knew it.

My current plans are to proceed with the above. Beginning July 1, 2006, he will no longer be a resident here at Grant. He will not be eligible for a second year certificate as he has failed two rotations this academic year. I met yesterday with Dr. Rafie regarding these matters, and will meet again with him tomorrow, at which time I will provide him with a copy of our policy SPP-FPR 10 "Disciplinary Action and Due Process."

(St. Ex. 3 at 19-20) Dr. Rafie stated, with respect to the final paragraph quoted above, that he did meet with Dr. Skully and did receive a copy of the policies as stated. He also testified that he did meet with Dr. Vanderhoff to discuss an appeal. However, he stated that he did not view the letter itself until preparing for the Board hearing. (Tr. at 122-123)

Letter to Dr. Rafie dated June 1, 2006

27. In a letter to Dr. Rafie dated June 1, 2006, Dr. Skully informed Dr. Rafie that he had not successfully completed his probation and that his appointment was being terminated:

This letter is to confirm, as we have discussed, that you have not been successful completing your probationary period, and therefore your residency appointment here we will terminate effective July 1, 2006. You may appeal this termination, as outlined in the enclosed SPP-FPR 10 and Department of Medical Education (SPP-ED 1015) policies.

As we have discussed, you may continue in the residency on a "Professional Development" month from now until June 30th, 2006.

(St. Ex. 3 at 15) At the hearing, Dr. Rafie testified that he had received this letter from Dr. Skully by certified mail. He further testified that he did not dispute the statement by Dr. Skully, added at the bottom of the letter, that Dr. Rafie had refused to sign the termination letter on June 1, 2006. Dr. Rafie explained that he did not sign the letter because he did not agree with it. (St. Ex. 3 at 15; Tr. at 123-124)

Dr. Rafie's Conversation with Dr. Vanderhoff on June 8, 2006

28. On June 8, 2006, Bruce Vanderhoff, M.D., wrote a memorandum regarding a discussion he had had with Dr. Rafie. In the memorandum, addressed to Dr. Skully, Dr. Vanderhoff stated:

Dr. Rafie stopped by my office today to discuss your June 1, 2006, letter of dismissal. (He incidentally continues to decline to sign or return the original letter you provided him. Nevertheless, he acknowledges receipt of the letter, expressed understanding of its contents, and confirmed that you met with him to discuss his dismissal.)

(St. Ex. 3 at 16)

Dr. Rafie confirmed that this meeting with Dr. Vanderhoff took place and that he had met with Dr. Vanderhoff to discuss the appeal process, having received the June 1 letter of dismissal. However, Dr. Rafie noted that he did not see Dr. Vanderhoff's memorandum until preparing for hearing. (Tr. at 127)

*Dr. Rafie's Appeal of Grant's Decision – Hearing & Report of the Grievance Panel*

29. Dr. Rafie testified that he pursued an appeal of the decision set forth in Dr. Skully's letter of June 1, 2007, and that a grievance panel held a hearing on July 10, 2006. (St. Ex. 3 at 17-18; Tr. at 190-191)
30. Dr. Rafie testified that, during his appeal hearing at Grant in July 2006, he became familiar with the contents of a letter written to Dr. Skully by Wendy K. Stevens, M.D., the Director of Resident Education in the Department of Emergency Medicine at Columbus Children's Hospital. In this letter, Dr. Stevens discussed Dr. Rafie's "failing rotation evaluation" for the April 2006 rotation in pediatric emergency medicine. Dr. Stevens stated among other things that the faculty at Children's Hospital had concerns regarding Dr. Rafie's clinical skills, and she highlighted several specific examples of poor performance. (St. Ex. 3 at 21-22; Tr. at 67)
31. In the grievance panel's report and recommendation, signed by the panel members on July 12 and 13, 2006, the panel set forth the following findings and recommendations:

FINDINGS: The Panel reached the following findings:

1. Dr. Rafie was placed on Academic Work Plan in September, 2005, which apparently ended without remedial action. He was placed on 90 day probation in late February, 2006.
2. While on probation, Dr. Rafie received positive feedback indicating improvement in the first 30 day period but failed the second month's rotation and received negative feedback for the third month.
3. Dr. Rafie has not passed Level 3 of the USMLE despite several attempts. This is currently a prerequisite for promotion to the PGY-3 year in Family Practice.
4. Dr. Rafie's self-evaluation was largely more positive than the evaluation of physicians and nurses. Compared to his peers' self-evaluations, his was the highest. Compared to his peers, he received significantly more ratings of less than three (3) from physicians and nurses.
5. Children's Hospital cited an unexcused absence as a contributing factor to his failure of the rotation in April, 2006. The Panel agrees there was a misunderstanding about Dr. Rafie's scheduled vacation at that time.

However, the Panel also noted that Dr. Rafie did not take effective affirmative action when he realized he was on the schedule during his vacation. The Panel also noted that Children's provided substantive comments over and above the vacation issue.

6. Although the documentation of timely feedback is not optimal, there is sufficient documentation to demonstrate that Dr. Rafie was aware of the deficiencies and given an opportunity to correct them.
7. Dr. Rafie is a pleasant and likeable person and the difficulties he is encountering seem to have nothing to do with his personality or interpersonal relationships.
8. Dr. Rafie is making an effort to improve his clinical knowledge. However, his efforts to date have been ineffective.
9. Dr. Rafie currently is not able to practice medicine independently, even in the supervised setting of a PGY-2 residency.

#### RECOMMENDATION:

The Panel recommends that the decision of Dr. Skully be affirmed and that Dr. Rafie's contract not be renewed.

The Panel considered a recommendation that instead of non-renewal, Dr. Rafie be required to repeat his PGY-2 year with explicit conditions. However, the Panel felt that would not be feasible due to the following circumstances: (1) the lack of resources (both financial and faculty) to support an extra PGY-2 resident; (2) the required conditions (e.g., a mandatory psychological examination to determine whether Dr. Rafie suffers from an emotional condition or learning disability, additional supervision passing the USMLE Level 3, passing all rotations and continually showing improvement) would be onerous and an undue burden for Dr. Rafie, the faculty and other residents; (3) the Panel had little confidence that Dr. Rafie can pass the USMLE exam as required; and (4) the Panel had little confidence that Dr. Rafie can learn to recognize his limitations or apply critical thought to his own performance regardless of the amount of supervision provided in a repeat year.

Finally, the Panel noted that this matter was especially difficult because Dr. Rafie is a likeable person who appears to be trying hard to improve his clinical knowledge. Unfortunately, the combination of academic problems (as evidenced by his inability to pass the USMLE) and practical criticism indicates that he lacks the capacity to practice medicine independently. \* \* \*

(St. Ex. 3 at 17-18)

32. Dr. Rafie testified that he received a copy of the above-quoted report and recommendation following his appeal hearing. (Tr. at 66)
33. By letter dated July 17, 2006, the Assistant Director of Medical Education at Grant informed Dr. Rafie that the Graduate Medical Education Committee had voted to uphold the recommendation of the Grievance Panel “to not renew your contract for the PGY-3 year” and that Grant was terminating his employment effective July 31, 2006. The Assistant Director stated that a copy of the Report and Recommendation was attached. (St. Ex. 3 at 8)

### **Federation Credentials Verification Service**

#### Information provided by Grant to FCVS

34. In September 2006, Dr. Skully completed an FCVS questionnaire stating that Dr. Rafie had successfully completed an internship at Grant in family medicine from March 1, 2005, to June 30, 2005. Dr. Skully also stated that Dr. Rafie had participated in a residency program from July 1, 2005, to June 30, 2006. When asked whether Dr. Rafie had “successfully completed” the residency, Dr. Skully answered, “No.” (St. Ex. 2 at 39, 67)

In addition, Dr. Skully answered “Yes” to all the following items on the questionnaire:

Was this individual ever placed on probation?  
Were any negative reports ever filed by instructors?  
Were any limitations or special requirements placed upon this individual because of questions of academic incompetence, disciplinary problems or any other reason?

(St. Ex. 2 at 67; St. Ex. 3 at 7) Dr. Skully explained these affirmative answers in an accompanying letter dated September 21, 2006, as follows:

Under “Unusual Circumstances,” Question 2 was answered “Yes.” Dr. Rafie was placed on an Academic Development Plan in September, 2005, and on Academic Probation on March 1, 2006. The probationary period lasted for three months.

Under “Unusual Circumstances,” Question 4 was answered “Yes.” Dr. Rafie did not receive credit for his Night Float rotation in January 2006 or his Pediatric Emergency rotation in April 2006.

Under “Unusual Circumstances,” Question 5 was answered “Yes.” Because of concerns that Dr. Rafie was not able to function in a supervisory role, a more senior resident was assigned to supervise and shadow him in March 2006 during his Internal Medicine rotation.

(St. Ex. 2 at 68; St. Ex. 3 at 6)

Statements by Dr. Rafie to FCVS

35. On his FCVS application, Dr. Rafie answered questions regarding his residency program at Grant.<sup>6</sup> Dr. Rafie answered “Yes” when asked if there had been a probation during his residency at Grant. He provided the following explanation of his “Yes” answer: “Twice – was taken off probation first time & second time I decided to change fields outside of Family Medicine.” (St. Ex. 2 at 69-70)

Dr. Rafie answered “No” on the FCVS application when asked if there had been any “negative reports” or “limitations.” (St. Ex. 2 at 69-70)

When asked if he had completed his PGY2 at Grant, Dr. Rafie answered “Yes” and provided the following dates: “03/2005 to 07/2006.” (St. Ex. 2 at 69-70)

36. At the hearing, Dr. Rafie answered as follows when asked why he did not disclose that Grant had placed him on probation on February 22, 2006:

That discrepancy in hindsight is just an oversight on my part. Granted, it is a significant oversight, I admit. It was—I filled out the FCVS application, I believe, on—approximately two months after I filled out my Ohio medical application. I think not only was I in a different state of mind, I was geographically in a different state. I was in California and it did not—for whatever reason, I failed to mention on the FCVS application. It was significant, mistakenly overlooked.

(Tr. at 69-70)

**Ohio License Application**

37. On August 29, 2006, Dr. Rafie submitted an Application for Physician Licensure to the Board. In signing the application, he certified that the information provided therein was true, and that he had answered all the questions truthfully and completely. Further, Dr. Rafie certified that he understood that failure to answer the questions on the application truthfully and completely could lead to denial, revocation, or other disciplinary sanction of his license to practice medicine, or result in prosecution under state and federal laws. (St. Ex. 2 at 5, 26-27; Tr. at 137-138)
38. On page eight of the application, Dr. Rafie answered “Yes” when asked if he had “*successfully completed*” his PGY2 residency in family medicine at Grant. He set forth the dates as March 2005 to July 2006. (St. Ex. 2 at 8, 13, 15) (Emphasis added)

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<sup>6</sup> Dr. Rafie’s answers to FCVS questions regarding medical school at UC Irvine were discussed above.

39. Under the heading “Additional Information,” the instructions state:

If you answer “YES” to any of the following questions, you are required to furnish complete details, including date, place, reason and disposition of the matter. All affirmative answers must be thoroughly explained on a separate sheet of paper. You must submit copies of all relevant documentation, such as court pleadings, court or agency orders, and institutional correspondence and orders. Please note that some questions require very specific and detailed information. Make sure that all responses are complete.

(St. Ex. 2 at 17) (Emphasis in original)

40. Under the heading “Additional Information” in the application, Dr. Rafie answered “Yes” to questions including Questions 2 and 4, which asked, respectively:

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

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 17)

41. Dr. Rafie provided the following explanation regarding his “yes” answers:

2, 3, 4: I was put on probation initially 11/05 @ Grant Medical Center which I successfully completed & was taken off probation – although No formal Notice was given.

My contract was Not renewed – 6/06 because I chose to switch residency fields out of Family Medicine to another field & program.

5: [Here, Dr. Rafie explained his departure from Berkshire Medical Center, which is not at issue.]

Please do not hesitate to contact me if you have any questions or concerns I may help clarify to help expedite this process.

(St. Ex. 2 at 21)

### **Dr. Rafie's Testimony Regarding Discrepancies<sup>7</sup>**

42. When asked to explain why he did not tell the Board about the probation imposed by Grant, as set forth in the letter dated February 22, 2006, Dr. Rafie provided several reasons. First, he testified that he thought there had been two probations at Grant, the first one being set imposed in the Plan for Academic Development dated September 7, 2005. He testified that he thought the probation beginning on February 22 was his second probation. He also testified that, when he referred to a probation starting on "11/05," he had simply been "wrong with the date" of his probation under the Plan for Academic Development. (Tr. at 61-62, 96)
43. In addition, Dr. Rafie testified regarding why he had asserted that he had "successfully completed" the probation commencing in November 2005 but "was taken off probation although No formal Notice was given." He stated:

Well, I said "no formal notice was given" because after my Plan for Academic Development, which I call a probation, I was not reminded of my circumstance on academic development, and it wasn't until subsequent months, in probably—I guess it was February of '06 when I was put on probation by Dr. Skully, and my understanding was my probation that had started the year prior had ended and that I had successfully completed it.

(Tr. at 96-97)

44. Dr. Rafie reiterated that, at the time he was formally placed on probation in February 2006, he thought he had successfully completed the earlier probation. However, when asked why he did not state on his licensure application that another probation was imposed beginning in February 2006, he answered as follows: "Well, I put it in the second paragraph. My contract was not renewed in June of '06." (Tr. at 97)

When pressed to discuss the 2006 probation rather than the contract nonrenewal, Dr. Rafie admitted that the February 2006 probation is *not* mentioned in his explanation to the Board, and he further acknowledged that it would not have looked good to have a failed probation on his application. (Tr. at 97-99)

45. Second, Dr. Rafie testified that his employment at Grant was not "terminated." Instead, he stated that he simply was not offered a contract for the next year. (Tr. at 62, 135-136)

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<sup>7</sup> This discussion does not include Dr. Rafie's explanations regarding his probation during medical school at UC Irvine, which have been set forth above. (See paragraphs 2-7, above)

46. In addition, Dr. Rafie asserted that he had consulted Dr. Skully about how he should answer questions on the applications about his Grant residency:

Given my rocky course or tenure, I knew there would be issues about my performance when I applied for licensure, not just here in Ohio but in any state in my professional career, and I actually met with Dr. Skully to discuss with him, not necessarily to solicit, how—well, I wanted to know how he would answer some of these issues that would inevitably come up. And I wanted to make sure I was on the same page he was on because I wanted to minimize discrepancies, because the last thing I wanted was for my application to get slowed down or -- because of such inconsistencies. When I did meet with him, he clarified for me how he was going to answer certain of his questions so we were both on the same page, some of those in the affirmative, some in the negative. In all honesty, I couldn't tell you which questions are which, it's too long ago, but I also do remember I brought up some concerns, and he brought up these questions don't really apply to you. These are questions more so—more attending physicians, so they don't really apply to you.

(Tr. at 71-72)

47. When asked whether he thought his explanation to the Board was complete, Dr. Rafie answered:

Well, you know, I answered them to the degree that I felt was sufficient. Just like today, I could answer each of your questions succinctly or I could talk about each one five or ten minutes in length. And, likewise, here I was concerned if what I had written was enough to satisfy the medical board's curiosity about my circumstance, and that's why I welcomed further discussion.

(Tr. at 138-139) Dr. Rafie further testified that he had ended his written addendum with the statement that the Board should “not hesitate” to contact him if it had “any questions or concerns” so that he could “help clarify” in order to expedite the process. He testified that he included his email address and cell phone number at the bottom of the addendum because he “wanted to cooperate in every possible way.” However, he acknowledged that the application clearly placed on him the burden to be truthful and complete in his answers. (Tr. at 72, 138)

48. With regard to his statement on the addendum that his contract was not renewed in June 2006 because he was choosing to switch fields, Dr. Rafie's testimony was not consistent with that statement. For example, Dr. Rafie testified that, at the time of his meeting with Dr. Vanderhoff on June 8, 2006, he had wanted to finish his residency at Grant because he had invested so much time, given up other opportunities, and would find the third year to be the easiest year. He testified that, at the time he received the dismissal letter (June 2006), it was his desire to finish the residency in family medicine and become board certified in family medicine. Moreover, Dr. Rafie testified that the reason he went through with the grievance hearing at Grant in July 2006 was that, “at that point I was committed to finishing the family

medicine residency.” Dr. Rafie insisted in his testimony that his interest “in switching fields” had been a year earlier. (Tr. at 129-130, 140)<sup>8</sup>

Dr. Rafie, when asked again to explain his statement to the Board on his application that his contract with Grant was not renewed in June 2006 because he had chosen to switch fields out of family medicine, stated as follows:

Q. But is it true that you were asserting in your answer here, the reason is because in June of '06 I wanted to switch residency fields?

A. No. It wasn't in June of '06 I chose to switch residency fields. Perhaps it would be more accurate if it was written my contract was not renewed in 6 of '07 because I had chosen to switch residency fields. That decision was made probably about a year prior; however, my contract was not renewed, because it comes up for renewal on an annual basis. Was I able to clarify myself? \* \* \*

(Tr. at 141)

49. Further, Dr. Rafie disputed the content of certain discussions as reported by Dr. Skully. For example, with regard to Dr. Stevens' letter, Dr. Rafie stated that he met with Drs. Fitch and Holt about the failed rotation at Children's Hospital, and met later with Dr. Skully, who “didn't really bring up [the] pediatric rotation.” Dr. Rafie testified that Dr. Skully had said “in a prior communication on paper” that failure of a rotation during probation was not acceptable but did not discuss it in conversation. Dr. Rafie also testified, however, that he could not remember whether or not Dr. Skully had informed him that failure of a rotation was unacceptable and grounds for termination. He stated that Dr. Skully may have informed him of it but he could not remember explicitly. (Tr. at 118-120)

## USMLE

50. Dr. Rafie passed Step 1 of the USMLE in June 1999. (St. Ex. 2 at 33, 72) Therefore, his seven-year period to complete all three steps of the USMLE ended in June 2006.
51. In April 2003, Dr. Rafie passed Step 2 on his fifth attempt. As of April 2006, Dr. Rafie had failed Step 3 four times. (St. Ex. 2 at 33, 72; Tr. at 86-87)
52. As part of registering with the Federation of State Medical Boards (FSMB) to re-take Step 3 of the USMLE, Dr. Rafie completed the top part of an FSMB form entitled “USMLE Step 3— Certification of Postgraduate Training.” Dr. Rafie appears to have signed the form on June 8, 2006. (St. Ex. 2 at 31, St. Ex. 3 at 4)

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<sup>8</sup> When asked if he could document that Grant did not renew his contract because he wanted to switch fields, Dr. Rafie pointed to a paragraph in Dr. Skully's letter of May 23, 2006, which had included the comment that “Dr. Rafie has never had an interest in Family Medicine” and that Dr. Rafie's “ultimate goal” was to be an anesthesiologist, dermatologist, or sleep-medicine physician. (Tr. at 142-143; St. Ex. 3 at 20)

The bottom portion of the form, requiring certification by the training program, was completed by Dr. Skully for Grant. He signed the form under oath on June 8, 2006, as notarized. Dr. Skully certified that, on March 1, 2005, Dr. Rafie had begun 13 months of postgraduate education in an internship or residency program. (St. Ex. 2 at 31, St. Ex. 3 at 4)

However, when asked whether the training program had “cause to take adverse action against this applicant’s participation (restriction, suspension, termination, requested resignation, etc.), Dr. Skully answered, “Yes,” and referred to an attached explanation. (St. Ex. 3 at 31)

Similarly, Dr. Skully, when asked to state the date on which Dr. Rafie was expected to complete his training, did not provide a date but referred to the attached explanation. (St. Ex. 2 at 31, St. Ex. 3 at 4)

In the attached letter, dated June 12, 2006, Dr. Skully explained as follows:

Regarding Dr. Rafie’s competence and conduct, he showed improvement during his matriculation at our residency. At this time, he is not competent to supervise more junior residents.

Because of his inability to perform in a supervisory capacity, and failure to make significant progress recently, the program will be terminating his contract at the end of this academic year, June 30, 2006. I do believe that passage of the USMLE Step 3 examination would improve his chances at finding another residency position, and I have encouraged this.

(St. Ex. 2 at 32; St. Ex. 3 at 5)

53. The FSMB certification form is marked with a date stamp as follows: “RECEIVED JUN 19 2006.” On June 20, 2006, the FSMB sent a copy of the form to the Ohio Board by facsimile transmission, stating that Dr. Rafie had “applied to take the USMLE Step 3 examination for Ohio” and that the form showed that “adverse action was taken.” The FSMB asked the Board to review the matter and notify FSMB as soon as possible “whether or not Dr. Rafie will be allowed to take the Step 3 examination for Ohio.” (St. Ex. 2 at 30-31)
54. On Monday, June 26, 2007, Dr. Rafie contacted the Board’s licensure department by email. He stated that he had been told by the FSMB that it was awaiting approval from the Ohio Board for him to take Step 3, and he asked to have his application approved, as follows:

I’m hoping you can approve my application so that I may sign up to take the USMLE Step 3 by the end of June (yes, just days away) so I may still qualify within my 7 yr window. If not, I’m hoping to take Step 3 as soon as possible thereafter.

(St. Ex. 2 at 4)

55. Kay Rieve, the administrative officer in charge of the Board's licensing department, testified that, upon receiving Dr. Rafie's email on June 26, 2006, she personally processed the FSMB inquiry and expedited it as quickly as possible. First, she located the materials faxed from the FSMB, which took some time. She stated that, from June 26 to June 28, she reviewed the materials, worked to confirm information with Grant, and reached a determination as to whether Dr. Rafie was eligible to sit for the examination. She explained that, from June 26 to June 28, she was trying to reach someone at Grant to verify that Dr. Rafie had attained at least nine months of postgraduate training, which was necessary for him to be eligible to take Step 3 of the USMLE. Ms. Rieve testified that she asked about the form, which indicated that Dr. Rafie had trained for 13 months, and she stated that Grant's response was that, "yes he will get 13 months of credit" for training. However, she commented that, although Dr. Rafie may have completed 13 months of residency training, he may not have "successfully completed" those months of residency training. (Tr. at 10-16, 26-27, 30-31)
56. The documents show that, before noon on June 28, 2006, Kay Rieve sent an email to the FSMB. She indicated that she would be sending a formal written response by facsimile transmission later in the day, but that the brief response to the FSMB's inquiry was that Dr. Rafie was eligible to take Step 3 of the USMLE in Ohio.<sup>9</sup> Ms. Rieve requested that the FSMB expedite Dr. Rafie's registration because his seven-year period to take Step 3 would end on June 30, 2007. (St. Ex. 2 at 3)

Later that day, Ms. Rieve also sent a formal letter to the FSMB by facsimile transmission, stating that she had reviewed the materials, spoken with Grant, and verified "that Dr. Rafie has completed the requisite 9-month post-graduate training requirement in order to be eligible to take Step 3 for Ohio." She requested that the FSMB expedite Dr. Rafie's registration and allow him to schedule Step 3 as soon as possible because he was nearing the end of his seven-year period for the USMLE at the end of June 2006. (St. Ex. 2 at 28-29)

Accordingly, the Board's approval was provided in less than two days after Dr. Rafie's personal inquiry, and within eight days of the FSMB's inquiry.

57. At some point, FSMB registered Dr. Rafie to sit for the examination on July 7, 2007, and he took the Step 3 examination on that date.

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<sup>9</sup> This email does not show a "cc" to Dr. Rafie nor is there evidence that Dr. Rafie viewed this email prior to submitting his applications to the Board and/or FCVS. (St. Ex. 2 at 3) Thus, there is no evidence that the email influenced him in answering questions on the FCVS and Board applications.

58. Dr. Rafie's scores on the USMLE were as follows (St. Ex. 2 at 33):

<b>U.S. Medical Licensing Examination</b>					
Test Date	Pass/Fail	Three-Digit Score		Two-Digit Score	
		Total	Min. Pass	Total	Min. Pass
<b>USMLE Step 1</b>					
6/17/1999	Pass	191	179	79	75
<b>USMLE Step 2</b>					
11/15/2001	Fail	168	174	73	75
03/15/2002	Fail	168	174	73	75
06/03/2002	Fail	171	174	74	75
12/02/2002	Fail	171	174	74	75
04/02/2003	Pass	180	174	76	75
<b>USMLE Step 3</b>					
06/03/2004	Fail	158	184	63	75
11/04/2004	Fail	182	184	74	75
11/09/2005	Fail	164	184	66	75
04/06/2006	Fail	180	184	73	75
07/07/2006	Pass	186	184	76	75

59. Dr. Rafie testified that his medical education and passing Step 2 of the USMLE were delayed by his father's illness. He did not describe the severity of the illness, nor did he describe any involvement in his father's care. He testified that his father was being treated by a physician and that he could not estimate the amount of delay attributable to his father's illness. He explained that it was not a situation where he had dedicated separate time to studying and for visiting with his family. He stated that, after completing his educational requirements at UC Irvine, he had simply moved back home to live with his parents and was living with them while studying for Step 2. (Tr. at 86)

**Letters in Support of Dr. Rafie**

60. Numerous people wrote letters supporting Dr. Rafie with regard to his residency applications, the grievance hearing at Grant, and the present matter before the Board. The writers did not testify at hearing and were not subject to cross-examination. (Resp. Exs. A-J)
61. For example, the director of the internal-medicine residency training program at Berkshire Medical Center wrote a recommendation letter for Dr. Rafie, stating that he was an excellent intern with strong communication and professional skills, that he had an excellent work ethic, and that his fund of knowledge was above average. (Resp. Ex. H)

62. Further, Katalin I. Koranyi, M.D., Professor of Clinical Pediatrics, College of Medicine, Ohio State University, an attending physician at Children's Hospital, wrote to the grievance committee at Grant that she worked closely with Dr. Rafie during his one-month rotation in Pediatric Infectious Diseases. She stated that he was organized, methodical, and detail-oriented in evaluating patients, that he was responsible and caring, and that he had a solid knowledge of medicine and pediatrics. "He had more depth of knowledge in pediatrics than I am accustomed to see from junior house staff." She further found that he was logical, had good problem-solving skills, and used good judgment in medical decisions. (Resp. Ex. D)
63. In July 2006, Mikhail Novikov, M.D., Ph.D., wrote that he had worked with Dr. Rafie for two weeks at Grant and found him to be a mature, intelligent, and hardworking resident physician who possessed a "broad and deep medical knowledge and good clinical intuition." He opined that Dr. Rafie's professionalism and work ethic were a model for others. In addition, he stated that Dr. Rafie was "quite proficient with medical procedures," and further stated that he felt thoroughly comfortable with Dr. Rafie taking care of patients on the floor and in the medical intensive-care unit. In summary, he stated that Dr. Rafie would make "a good doctor in his chosen area of family practice." (Resp. Ex. F)
64. In addition, it is noteworthy that Dr. Skully, the program director of the residency program at Grant, wrote a letter of recommendation for Dr. Rafie. In it, he acknowledged first that Dr. Rafie had been placed on academic probation due to concerns about his ability to provide patient care with limited supervision as well as concerns about his medical knowledge, which had resulted in Dr. Rafie's leaving the residency. However, Dr. Skully opined that Dr. Rafie has a "good chance to perform at a satisfactory level, and possibly excel," in another residency, for several reasons. First, Dr. Rafie has now passed Step 3 of the USMLE. Second, although it was clear that he would be unable to function independently in the next year of residency at Grant, "he may well be able to accomplish this in two years." Third, Dr. Skully noted that Dr. Rafie now plans to enter an internal-medicine program, which would allow him to focus on adult patients and eliminate the areas that had been difficult for him, namely pediatrics and obstetrics. Fourth, Dr. Skully stated: "Despite his leaving, which was clearly stressful for him, he has maintained superior work relationships with me and other medical education staff members. I think this speaks to unusual character strength." (Resp. Ex. C)
65. In July 2007, Dr. Rafie's employer, Peter G. Striegel, M.D., of Visiting Physicians Associates in Columbus, Ohio, stated that he had worked with Dr. Rafie since January 2007. He stated that Dr. Rafie is thoroughly professional, courteous and kind, honest and hardworking, and remarkably careful in the details of paperwork and patient contact. He noted that Dr. Rafie provides insightful and appropriate counsel on medical care, and that Dr. Rafie's astute observations regarding Dr. Striegel's work and patient's demeanor had significantly improved patient care. (Resp. Ex. A)

### FINDINGS OF FACT

1. On August 29, 2006, Ramin Rafie, M.D., caused to be submitted to the Board an Application for Physician Licensure [License Application], which is currently pending. By signing the License Application, he certified that the information provided therein was true, and that he had answered all questions truthfully and completely.
2. In the section of his License Application requesting information about postgraduate training, Dr. Rafie answered “Yes” when asked if he had “*successfully completed*” his PGY2 residency in family medicine at Grant Medical Center in Columbus, Ohio [Grant]. He set forth the dates as March 2005 to July 2006.

In fact, Dr. Rafie did not successfully complete his PGY2 residency at Grant. In a letter dated June 1, 2006, which he admits receiving, Dr. Rafie had been explicitly informed by Grant that he had *not* been successful in completing his probationary period and that his residency appointment was being terminated effective July 1, 2006. In other documents and in meetings, Dr. Rafie was placed on notice that he had failed two rotations and had not successfully completed his PGY2 residency at Grant. The amount of “credit” that Grant and/or the Board may have determined to allow with respect to permitting Dr. Rafie to sit for Step 3 of the USMLE does not change that Dr. Rafie knew, in August 2006, that he had not “successfully completed” his PGY2 residency at Grant.

3. Under the heading “Additional Information” in the License Application, the instructions state as follows, in part:

If you answer “YES” to any of the following questions, you are required to furnish complete details, including date, place, reason and disposition of the matter. All affirmative answers must be thoroughly explained on a separate sheet of paper. \* \* \* Please note that some questions require very specific and detailed information. Make sure that all responses are complete. (Emphasis in original)

In the “Additional Information” section of his License Application Dr. Rafie answered “YES” to questions 2 and 4, which, respectively, asked the following:

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

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?

In his written explanation of his “YES” answers on questions 2 and 4, Dr. Rafie stated:

I was put on probation initially 11/05 @ Grant Medical Center which I successfully completed & was taken off probation – although No formal Notice was given.

My contract was Not renewed - 6/06 because I chose to switch residency fields out of Family Medicine to another field & program.

- A. Dr. Rafie’s statement regarding probation, quoted above, was not true. Dr. Rafie was explicitly informed by Grant in February 2006 that he was on probation and informed on or about June 1, 2006, that he had not successfully fulfilled the criteria to satisfy his probation. Further, Dr. Rafie’s testimony that he thought he had successfully completed a probation beginning in September 2005 was not credible. No reasonable person reading the letters and memoranda addressed to Dr. Rafie would have believed that he had successfully remedied the problems identified by Grant in September 2005 in the Plan for Academic Development. Moreover, if Dr. Rafie intended to refer to a probation starting in the fall of 2005, then he completely omitted any reference to the formal probation that was imposed by Grant in February 2006, as to which Dr. Rafie received written notice.
  - B. Dr. Rafie’s statement that his contract with Grant was not renewed in June 2006 because he chose to switch residency fields out of family medicine to another field and program was not a true statement. Grant made clear to Dr. Rafie that his contract was not renewed due the program’s assessment of his performance. Dr. Rafie may have disagreed with the assessment, but he knew the reason that Grant had given for the non-renewal and failed to disclose it. Further, Dr. Rafie testified at the hearing that, as of June 2006, he wanted to complete his residency in family medicine at Grant.
  - C. Dr. Rafie failed to disclose on the License Application that, while in medical school at the University of California at Irvine [UC Irvine], he was notified that the school had placed him on academic probation due to his failing a rotation in pediatrics. Dr. Rafie further failed to disclose that, after being placed on probation, he failed his rotation in obstetrics and gynecology and remained on probation.
4. In connection with his License Application, Dr. Rafie signed an Authorization and Release form wherein he certified that the information provided with respect to his Federation

Credentials Verification Service [FCVS] application was true, and that he had answered all questions truthfully and completely.

Under the heading “Unusual Circumstances” on his FCVS application, Dr. Rafie answered “No” when asked whether there were any “negative reports” or any “limitations” placed on him during his residency at Grant. This answer was not true. He had received written notice of negative reports and limitations. He knew he had not received credit for his night float rotation in January 2006 or his pediatric emergency rotation in April 2006. In addition, Grant placed limitations on Dr. Rafie, such as being shadowed and supervised during a rotation because he was deemed unable to function in a supervisory role.

5. On his FCVS application, with respect to his medical education at the UC Irvine, Dr. Rafie answered “No” under the heading “Unusual Circumstances” when asked whether he had been placed on probation. That answer was not true. In or about March 2000, the medical school placed Dr. Rafie on academic probation due to his failing grade in the pediatrics rotation, which was also referred to as a clerkship.
6. Dr. Rafie has not completed an examination sequence acceptable to this Board as required by Section 4731.14, Ohio Revised Code, and Rule 4731-6-14, Ohio Administrative Code. He began his examination sequence on June 17, 1999, when he passed Step 1 of the U.S. Medical Licensing Examination on his first attempt. On April 2, 2003, he passed the USMLE Step 2 on his fifth attempt. He did not pass the USMLE Step 3 until his fifth attempt on July 7, 2006. Therefore, he did not pass all three Steps of the USMLE within a seven-year period because the period of eligibility ended in June 2006.

### **CONCLUSIONS OF LAW**

1. The acts, conduct, and/or omissions of Ramin Rafie, M.D., as set forth above in Findings of Fact 1 through 5, individually and 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 language is used in Ohio Revised Code Section [R.C.] 4731.22(A).
2. Dr. Rafie’s acts, conduct, and/or omissions as set forth above in Findings of Fact 1 through 5 above, individually and/or collectively, constitute “[m]aking a false, fraudulent, deceptive, or misleading statement \* \* \* in securing or attempting to secure any certificate to practice or certificate of registration issued by the board,” as that language is used in R.C. 4731.22(B)(5), Ohio Revised Code.
3. Further, Dr. Rafie’s acts, conduct, and/or omissions as set forth above in Findings of Fact 1 through 5, individually and/or collectively, constitute a failure to furnish satisfactory proof of good moral character as required by R.C. 4731.08.

4. Based on the conclusions stated above, the Hearing Examiner concludes that the issue regarding whether Dr. Rafie failed to successfully complete an examination sequence acceptable to the Board is moot, and need not be addressed by the Board.

In the alternative, the Hearing Examiner concludes that Dr. Rafie failed to successfully complete an examination sequence acceptable to this Board as required by R.C. 4731.14 and Rule 4731-6-14, Ohio Administrative Code, as set forth above in Finding of Fact 6.

Pursuant to R.C. 4731.14 and Rule 4731-6-14, an applicant must have passed one of the examinations specified in Rule 4731-6-14(C). For the USMLE, an applicant must pass all three Steps of the USMLE within a seven-year period. Dr. Rafie did not pass all three steps of the USMLE within seven years, and he has, therefore, failed to meet the licensure requirements in R.C. 4731.14 and Rule 4731-6-14.

Further, the Hearing Examiner concludes that Dr. Rafie has not met his burden of establishing “good cause” under Rule 4731-6-14(C) for his failure to complete all three Steps within seven years. Thus, the “good cause” exception in Rule 4731-6-14(C) does not apply. In addition, none of the other exceptions to the seven-year requirement in Rule 4731-6-14(C) are applicable.

\* \* \* \* \*

During the opening statement, the State’s counsel advised: “This is a case about half-truths and concealment in the application process.” That statement turned out to be correct. During the hearing, Dr. Rafie presented numerous explanations regarding the inaccuracies on his applications, and several of these appeared plausible, in isolation. However, other answers were so blatantly false that the Hearing Examiner, viewing the record as a whole, cannot give Dr. Rafie the benefit of the doubt. There were too many omissions and untrue statements for Dr. Rafie’s explanations to be believable. Moreover, at hearing, Dr. Rafie simply did not appear credible in his answers on key issues. The lack of honesty on the applications, and the lack of honesty during the hearing, are sufficient to deny the application for a certificate to practice in Ohio.

With respect to the USMLE, the Hearing Examiner concluded that the examination sequence is a moot issue. However, if the Board chooses to address that issue, then the Hearing Examiner notes the conclusion that the “good cause” exception is not applicable here. Dr. Rafie did not meet his burden of establishing how his father’s illness caused him to fail Step 2 four times before passing it on the fifth attempt or how it caused him to fail Step 3 four times before passing it on the fifth attempt. See *Matter of Irene Shulga, M.D.*

The Hearing Examiner was also unconvinced that any other entity—such as Grant Medical Center, the Board, or the Federation of State Medical Boards—were singly or as a group responsible for Dr. Rafie’s being unable to sit for Step 3 before the end of June 2006. Given all the events at Grant, he had reason to know that it could take time for Grant to complete its part of the registration process. Further, there is no evidence that Grant, the Board, or FSMB had a duty to process his registration for Step 3 in a certain number of days that would have been sufficient for him to take the

examination on or before June 30, 2006, nor is there evidence that a Step 3 registrant in circumstances similar to Dr. Rafie's could reasonably expect that Grant, FSMB and the Board would process his registration materials in a certain amount of time that would have been sufficient for him to be registered for, and take, Step 3 of the USMLE on or before June 30, 2006. In short, Dr. Rafie did not show reasonable diligence in attempting to take and pass all three steps of the USMLE within seven years.

It is true that the amount of time in excess of the seven-year limitation was less than one month. However, the amount of time in excess of the seven-year limitation is not a determinative factor. Rule 4731-6-14(C) does not create a sliding scale or balancing test under which, when the amount of time is small, an applicant need prove very little in order to establish good cause.

### **PROPOSED ORDER**

It is hereby ORDERED that:

The application of Ramin Rafie, M.D., for a certificate to practice allopathic medicine and surgery is PERMANENTLY DENIED.

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



Patricia A. Davidson  
Hearing Examiner

# State Medical Board of Ohio

30 E. Broad Street, 3rd Floor, Columbus, OH 43215-6127

Richard A. Whitehouse, Esq.  
Executive Director

(614) 466-3934  
med.ohio.gov



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

### REPORTS AND RECOMMENDATIONS

Dr. Kumar announced that the Board would now consider the Reports and Recommendations appearing on its agenda. He asked whether each member of the Board had received, read, and considered the hearing records, the proposed findings of fact, conclusions of law, and orders, and any objections filed in the matters of: Silas Mbasera Chikunguwo, M.D.; Janice Sue Haynes, M.T.; Mounir Khaled Khaled, M.D.; and Ramin Rafie, M.D. A roll call was taken:

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

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

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

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

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

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

.....

RAMIN RAFIE, M.D.

.....

**DR. MADIA MOVED TO APPROVE AND CONFIRM MS. DAVIDSON’S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF RAMIN RAFIE, M.D. MR. BROWNING SECONDED THE MOTION.**

.....

A vote was taken on Dr. Madia’s motion:

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

The motion carried.



# State Medical Board of Ohio

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

April 12, 2007

Ramin Rafie, M.D.  
46 Victorian Gate Way  
Columbus, OH 43215

Dear Doctor Rafie:

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

- (1) On or about August 29, 2006, you caused to be submitted to the Board an Application for Physician Licensure [License Application], which is currently pending. By signing the License Application, you certified that the information provided therein was true, and that you answered all questions truthfully and completely.
- (2) In the section of your License Application requesting information about postgraduate training, you indicated that you “successfully completed” training at Grant Medical Center [Grant] in Columbus, Ohio, in the department/specialty of family medicine from March 2005 to July 2006.

In fact, you failed to successfully complete your training program at Grant, and on or about June 1, 2006, you were informed by Grant that you had not been successful in completing your probationary period and your residency appointment was being terminated, effective July 1, 2006.

- (3) The “Additional Information” section of your License Application includes the instruction that, should you answer “YES” to any question, “you are required to furnish complete details, including date, place, reason and disposition of the matter. All affirmative answers must be thoroughly explained on a separate sheet of paper. \* \* \* Please note that some questions require very specific and detailed information. Make sure all responses are complete.” (Emphasis in the original.) In the “Additional Information” section of your License Application you answered “YES” to questions 2 and 4, which, respectively, asked the following:

*Mailed 4-12-07*

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

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?

In your written explanation of your "YES" answers you indicated that you were put on probation initially at Grant Medical Center in November 2005, and that you "successfully completed and [were] taken off probation, although no formal notice was given." You also indicated that your contract at Grant "was not renewed – 6/06 because [you] chose to switch residency fields out of family medicine to another field [and] program."

- (a) Although you stated that you successfully completed probation while you were at Grant, in fact, you were advised by Grant on or about June 1, 2006, that you had not successfully fulfilled the criteria to satisfy your probation.
  - (b) Although you stated that your residency contract with Grant was not renewed in June 2006 because you chose to switch residency fields out of family medicine to another field and program, in fact, Grant terminated your contract because of poor performance, which included your failure to successfully complete probation, your inability to perform in a supervisory capacity and your failure to make significant progress.
  - (c) You failed to disclose that in or around 2000 you were placed on academic probation while you were in medical school at the UC Irvine, after you received failing grades in the pediatrics and ob/gyn clerkships.
- (4) In connection with your License Application, you also signed an Authorization and Release form wherein you certified that the information provided with respect to your Federation Credentials Verification Service [FCVS] application was true, and that you answered all questions truthfully and completely.

You answered "No" to questions on your FCVS application, asking whether there were any unusual circumstances associated with your postgraduate medical education at Grant with respect to whether there were any negative reports filed by instructors, and whether there were any limitations or special requirements placed upon you because of questions of academic incompetence, disciplinary problems or any other reason.

In fact, you received negative reports from instructors at Grant, and you did not receive credit for your night float rotation in January 2006 or your pediatric emergency rotation in April 2006. In addition, Grant placed limitations upon you, requiring a more senior resident to be assigned to supervise and shadow you in March 2006 during your internal medicine rotation, as there were concerns that you were not able to function in a supervisory role.

- (5) You also answered "No" to questions in your FCVS application, asking whether there were any unusual circumstances associated with your medical education at the UC Irvine, with respect to being placed on probation.

In fact, in or around 2000 you were placed on academic probation while you were in medical school at the UC Irvine, after you received failing grades in the pediatrics and ob/gyn clerkships.

- (6) You have not completed an examination sequence acceptable to this Board as required by Section 4731.14, Ohio Revised Code, and Rule 4731-6-14, Ohio Administrative Code. You began your examination sequence on June 17, 1999, when you passed the USMLE Step I Examination on your first attempt. Although on April 2, 2003, you passed the USMLE Step II examination on your fifth attempt, you did not pass the USMLE Step III until your fifth attempt, which was on July 7, 2006. Therefore, you have not passed all three Steps of the USMLE within a seven-year period because the period of eligibility ended in June 2006.

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 “violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board,” as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: failing to furnish satisfactory proof of good moral character as required by Section 4731.08, Ohio Revised Code.

Further, your failure to successfully complete an examination sequence acceptable to this Board as required by Section 4731.14, Ohio Revised Code, and Rule 4731-6-14, Ohio Administrative Code, 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.”

Ramin Rafie, M.D.

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Copies of the applicable sections are enclosed for your information.

Very truly yours,

A handwritten signature in black ink that reads "Lance A. Talmage MD". The signature is written in a cursive style with a large, stylized initial "L".

Lance A. Talmage, M.D.

Secretary

LAT/MRB/flb

Enclosures

CERTIFIED MAIL #91 7108 2133 3933 8841 3900

RETURN RECEIPT REQUESTED

RESTRICTED DELIVERY