



# State Medical Board of Ohio

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July 11, 2007

Hans Hoffman Truong, M.D.  
3010 Palmer Way  
Spring, TX 77380

Dear Doctor Truong:

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 July 11, 2007, including motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

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

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

THE STATE MEDICAL BOARD OF OHIO

Lance A. Talmage, M.D.  
Secretary

LAT:jam  
Enclosures

CERTIFIED MAIL NO. 91 7108 2133 3931 8317 3184  
RETURN RECEIPT REQUESTED

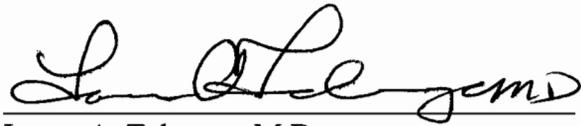
Cc: James M. McGovern, Esq.  
CERTIFIED MAIL NO. 91 7108 2133 3931 8317 3191  
RETURN RECEIPT REQUESTED

*Mailed 7-12-07*

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Patricia A. Davidson, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on July 11, 2007, including motions approving and confirming the Findings of Fact, Conclusions and Proposed Order of the Hearing Examiner as the Findings and Order of the State Medical Board of Ohio; constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Hans Hoffman Truong, M.D., as it appears in the Journal of the State Medical Board of Ohio.

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



Lance A. Talmage, M.D.  
Secretary

(SEAL)

July 11, 2007

\_\_\_\_\_  
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

\*

\*

HANS HOFFMAN TRUONG, M.D.

\*

ENTRY OF ORDER

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

Upon the Report and Recommendation of 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:

**GRANT OF APPLICATION; REPRIMAND:** The application of Hans Hoffman Truong, M.D., for a certificate to practice allopathic medicine and surgery is GRANTED, provided that he otherwise meets all statutory and regulatory requirements. In addition, Dr. Truong is hereby REPRIMANDED.

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

(SEAL)



Lance A. Talmage, M.D.  
Secretary

July 11, 2007  
Date

**REPORT AND RECOMMENDATION  
IN THE MATTER OF HANS HOFFMAN TRUONG, M.D.**

STATE MEDICAL BOARD  
OF OHIO

2007 JUN 15 A 11: 19

The Matter of Hans Hoffman Truong, M.D., was heard by Patricia A. Davidson, Hearing Examiner for the State Medical Board of Ohio, on May 4, 2007.

**INTRODUCTION**

I. Basis for Hearing

- A. By letter dated January 11, 2007, the State Medical Board of Ohio [Board] notified Hans Hoffman Truong, M.D., that it proposed to deny his application for a certificate to practice medicine and surgery in Ohio or take other disciplinary action. The Board's proposed action was based on several allegations including that Dr. Truong had made false statements on his Ohio and Iowa licensure applications.

The Board charged that Dr. Truong's alleged conduct constitutes "[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," under Ohio Revised Code Section [R.C.] 4731.22(B)(5). The Board further charged that Dr. Truong's conduct constitutes a "failure to furnish satisfactory proof of good moral character" as required by R.C. 4731.29 and 4731.08. Accordingly, the Board advised Dr. Truong of his right to request a hearing. (State's Exhibit 1A)

- B. On February 1, 2007, the Board received Dr. Truong's request for a hearing. (St. Ex. 1B)

II. Appearances

Marc Dann, Attorney General, and Damion M. Clifford, Assistant Attorney General, for the State of Ohio; James M. McGovern, Esq., for the Respondent.

**EVIDENCE EXAMINED**

I. Testimony Heard

Hans Hoffman Truong, M.D.

II. Exhibits Admitted

- A. Presented by the State

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

State's Exhibit 2: Documents maintained by the Board in connection with Dr. Truong's September 2006 application for a certificate to practice medicine in Ohio, redacted in part.

State's Exhibit 3: Records maintained by the Florida Department of Health in *Board of Medicine vs Hans Truong*, Citation No. 200320144, Case No. 2003152061.

State's Exhibit 4: Documents maintained by the Iowa Board of Medical Examiners, including verification of Dr. Truong's licensure status in August 2006 and a July 2005 letter to Dr. Truong. (**Admitted under seal.**)

State's Exhibit 5: Licensure records maintained by the Iowa Board of Medical Examiners regarding Dr. Truong.

B. Presented by the Respondent

Respondent's Exhibit A: Dr. Truong's curriculum vitae, redacted in part.

Respondent's Exhibit B: Dr. Truong's notice of withdrawal of his application for an Ohio certificate to practice medicine. (Same as State's Ex. 1R, except it lacks a file stamp)

Respondent's Exhibit C: Copy of information from the Ohio eLicense Center regarding Dr. Truong.

Respondent's Exhibit D: Records maintained by Dr. Truong's partnership, identified in the affidavit as "Horizon Radiology, P.A." (Note: Pages 47 and 48 were withdrawn by the Respondent.)

## PROCEDURAL MATTERS

On May 3, 2007, the Respondent filed a "Notice of Withdrawal of His Application for Certificate." This notice is addressed below, following the summary of evidence. (Transcript at 7-10, 82-83; St. Ex. 1R)

## SUMMARY OF THE EVIDENCE

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

### Background

1. Hans Hoffman Truong, M.D., received an undergraduate degree in biochemistry from the University of Illinois in 1988, and his medical degree from the Pritzker School of Medicine at the University of Chicago in 1992. In 1993, Dr. Truong completed an internship at Lyndon B. Johnson Hospital in Houston, Texas, and, in 1997, he completed a four-year residency in diagnostic radiology at Hermann Hospital and M.D. Anderson Cancer Center in Houston. (Resp. Ex. A at 4-5; St. Ex. 5 at 81-82)
2. Dr. Truong is board certified in diagnostic radiology. His documentary evidence shows that he has been licensed to practice medicine in the following 17 states: Alabama, California, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Louisiana, Mississippi, Missouri, New York, Oklahoma, Pennsylvania, Texas, Maine, and Nebraska. (Tr. at 86, 91; Resp. Ex. A; St. Ex. 2 at 11; St. Ex. 5 at 55, 62-79)
3. Dr. Truong testified that he is employed by, and is a partner of, Horizon Radiology Associates in Houston, Texas. He explained that he is currently engaged almost exclusively in "teleradiology,"

which involves reading x-rays sent to him from remote locations by computer transmission. He explained that he works nights, starting at 5:00 p.m. and continuing until 7:00 a.m. the next morning. (Tr. at 84, 87-89)

Dr. Truong explained that almost all states require that, when he reads x-rays in Texas, he must hold a medical license in the state where the x-rays were taken. He noted, however, that some states offer a telemedicine license that is a special, limited license for doing work such as teleradiology.<sup>1</sup> (Tr. at 88-92)

Dr. Truong further explained that, at the time he applied for an Ohio certificate, he and his partners had made a marketing decision “to compete with all the other nighthawk companies who offer, you know, 48 to 50-state coverage,” and that they had accordingly decided to apply for licenses in multiple states. He testified that he is currently licensed in 18 states and has applications pending in ten other states. (Tr. at 88-92)

Dr. Truong testified that his company has three administrative employees who work on credentialing and licensure on a full-time basis. These employees have included Donna Shelton and Melissa Tugwell. He stated that they would prepare the applications for him to review, and that it was Ms. Tugwell who assisted in submitting his Ohio application. (Tr. at 92-95)

#### **2003 Citation issued by the Florida Department of Health, Board of Medicine**

4. In December 2003, the Florida Department of Health, Board of Medicine [Florida DOH], issued a “Uniform Non-Disciplinary Citation” to Dr. Truong in Case Number 2003152061. The citation lists the “Date of Violation” as April 10, 2003. (St. Ex. 3)

The citation stated that the Florida DOH had probable cause to believe that Dr. Truong had violated certain Florida statutes and rules by committing the following acts, and, in addition, the citation stated the penalty for the violation:

[Dr. Truong] was granted an extension of up to six months within which to fulfill the educational requirements relating to HIV/AIDS, Domestic Violence, and Prevention of Medical Errors. Documentation of completion of the required CME must have been submitted by April 10, 2003.

\* \* \*

Pursuant to Rule 64B8-8.017(3)(j), Florida Administrative Code, the Board/Department has set the following penalty for violation of the aforesaid provision: \$1,000.00 plus costs in the amount of \$89.00 (Emphasis added.)

Total amount due \$1,089.00

(St. Ex. 3)

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<sup>1</sup> Pursuant to R.C. 4731.296, which is entitled “Telemedicine certificate,” the Board may issue a certificate for the practice of telemedicine in Ohio by a physician who is located outside Ohio. However, Dr. Truong did not submit an application for a telemedicine certificate in Ohio. (St. Ex. 2)

In addition, the citation states that, if the citation is not disputed in 30 days, the citation “will automatically be filed as a final order of the board but will not be considered disciplinary action against your license.” (St. Ex. 3)

5. Dr. Truong acknowledged that the citation was served on him. In January 2004, he paid the monetary penalty of \$1,000 and costs, for a total paid of \$1,089.00. (St. Ex. 5 at 60) The citation was filed with the Florida DOH Deputy Clerk on April 9, 2004. (St. Ex. 3)
6. The Federation of State Medical Boards reported the Florida action as follows:

SUMMARY OF REPORTED ACTIONS

Reporting State/Agency: FLORIDA  
Date of Order: 04/09/2004  
Action(s): ISSUED A NON-DISCIPLINARY CITATION  
ASSESSSED A MONETARY PENALTY  
Basis for Action(s): Failure to Comply with CME Requirements.

(St. Ex. 5 at 20)

7. Dr. Truong completed the missing CME credits about a month after his extension expired. (Resp. Ex. D at 32, 35-44; Tr. at 100-102)
8. In February 2005, Mary O’Brien of the Florida DOH informed Dr. Truong, with respect to matter number 2004-28574, that a complaint had been investigated and reviewed by the Florida Board, which “found that there was insufficient evidence to support prosecution and directed the case be dismissed.”<sup>2</sup> (St. Ex. 5 at 23, 38)

**Dr. Truong’s 2004 Application for an Iowa License**

9. Dr. Truong submitted a licensure application to the Iowa Board of Medical Examiners [Iowa Board] in December 2004. He signed his Iowa application on December 2, 2004, declaring in part:

I hereby certify that I have fully read and understood all instructions sent with this application. I also certify that I have carefully read the questions in the foregoing application and have answered them completely, without reservations of any kind. I declare under penalty of perjury that my answers and all statements made by me on this application and accompanying attachments are true and correct. \* \* \*

I also declare, under penalty of perjury, that if I did not personally complete the foregoing application that I have fully read and confirmed each question and accompanying answer and take full responsibility for all answers contained in this application.

(St. Ex. 5 at 19)

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<sup>2</sup> This was a separate matter in Florida, and it is important to note that the Ohio Board did *not cite* or rely on this matter in its January 2007 Notice of Opportunity for Hearing. Ms. O’Brien’s letter is described merely to provide background and context.

10. On his Iowa application, Dr. Truong answered “No” to the following questions:
19. Has any jurisdiction \* \* \* ever limited, restricted, warned, censured, placed on probation, suspended or revoked a license you held?
  20. Have you ever been notified of any charges filed against you by a licensing or disciplinary agency of any jurisdiction of the U.S. or other nation.
  21. Have you ever been investigated or subject to an inquiry/review by any professional licensing agency, including investigations or reviews which resulted in no formal action(s)? (Answer “Yes” if you have ever been contacted by an investigator or Board agent to review a complaint or report filed against you.)

(St. Ex. 5 at 18)

11. The Iowa Board contacted Dr. Truong regarding some of his answers. (Tr. at 126) In response, Dr. Truong wrote a letter in March 2005 to the Iowa Board explaining certain answers as follows:

Enclosed herewith are corrected pages (3, 4, and 6 respectively) of my application for Iowa Permanent Medical License.

Also enclosed is correspondence from the state of Florida which addresses Questions 19, 20, 21 and 23 of Section 10 on the application. The letter from Ms. O’Brien clarifies the unfounded complaint (2004-28574) which was not a sanction by the Florida board. My assistant, Donna Shelton, completed the application and did not understand this question as being relevant, and I attested to the accuracy of the information without noticing the discrepancy.

A copy of the Uniform Non-Disciplinary Citation is also enclosed and was imposed because I failed to submit the required CME hours in a timely manner. Subsequently, those were submitted, accepted and my Florida license is in good standing, a copy of which is also enclosed.

(St. Ex. 5 at 59)

12. On April 19, 2005, the Iowa Board’s licensure coordinator, LaDee Piner, sent an internal memorandum to the Iowa Licensure Committee, stating in part:

Dr. Truong is before the Licensure Committee due to non-disclosure of a non-disciplinary citation issued by the state of Florida and for being investigated by the state of Florida. His Florida license verification also indicates that there was a malpractice case that was closed; however, no information has been found regarding this case.

Florida issued Dr. Truong a non-disciplinary citation for not submit[ing] the required CME. He paid a fine of \$1089.00 On his application he should have answered, “yes” to questions 19 and 20. He was also investigated by the state of

Florida in 2004 and the case was dismissed without a finding of probable cause.  
Dr. Truong should have answered, “yes” to question 21 on his application.

(St. Ex. 5 at 4, 39) In her memorandum, Ms. Piner reported that the decision had been made to issue the Iowa medical license to Dr. Truong and then bring him before the Licensure Committee “to determine if further action is needed.” Ms. Piner noted: “In the past, Letters of Warning have been issued for non-disclosure.” (St. Ex. 5 at 4)

13. The Iowa Board issued a license to Dr. Truong on April 18, 2005. (St. Ex. 5 at 39) In another internal memorandum dated May 11, 2005, Ms. Piner reported to the Iowa Board’s Licensure Committee as follows:

Dr. Truong was before the Licensure Committee at the May mid-mailing.  
Everyone requested that a Letter of Warning or Letter o[f] Education be sent.

(St. Ex. 5 at 3)

14. On July 13, 2005, the Iowa Board issued a Letter of Warning to Dr. Truong based in part on his failure to disclose the Florida non-disciplinary citation (which it referred to at one point as the “Florida action”) on his Iowa application. The Iowa Board noted that its Letter of Warning did not constitute a formal disciplinary action and was not a public record in Iowa.<sup>3</sup> However, the Iowa Board stated that “this in no way relieves you of your responsibility to provide truthful and accurate answers if asked about the nature and/or outcome of this investigation by another licensing authority.” (St. Ex. 4)

15. At hearing, Dr. Truong acknowledged that he had received the Letter of Warning from the Iowa Board. Further, he stated that he had read it and understood it. (Tr. at 44, 69-70)

16. An internal report to the Iowa Board’s Licensure Committee, dated August 24, 2005, states as follows:

Dr. Truong has submitted a letter to the Board following the receipt of the Letter of Warning he received on July 13, 2005. The Committee needs to determine if the Letter of Warning should be rescinded, modified, or stay as is. (St. Ex. 5 at 2)

[Handwritten addendum:]

*Sept. 21, 05 -- Committee review  
No changes to original decision or letter.*

(St. Ex. 5 at 2)

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<sup>3</sup> The full text of the Letter of Warning is not quoted in this report, and the copy in State’s Exhibit 4 was admitted under seal in order to keep confidential, to the extent possible, those parts of the letter that contain confidential information (e.g., information that does not appear in the public licensure records of the Iowa Board). However, the letter’s existence and some of its content have been alleged in the Notice of Opportunity for Hearing, and those allegations cannot be addressed without some reference to and discussion of the letter. Board Members may review the full text of the letter in State’s Exhibit 4.

### **Dr. Truong's 2006 Application for an Ohio Certificate**

17. On September 18, 2006, Dr. Truong submitted an application to the Board for a certificate to practice medicine in Ohio. (St. Ex. 2) By signing the Ohio application, Dr. Truong certified that the information provided in it was true. (St. Ex. 2 at 20; Tr. at 47)
18. In the "Additional Information" section of the application, Dr. Truong answered "No" to Question 7, which asked:

*Has any board, bureau, department, agency or other body, including those in Ohio, in any way limited, restricted, suspended, or revoked any professional license, certificate or registration granted to you; placed you on probation; or imposed a fine, censure or reprimand against you?* (Emphasis added.)

(St. Ex. 2 at 13) In addition, Dr. Truong answered "No" to Question 12, which asked:

Have you ever been *notified of any investigation* concerning you by any board, bureau, department, agency, or other body, including those in Ohio, with respect to a professional license? (Emphasis added.)

(St. Ex. 2 at 14)

### **Dr. Truong's Testimony Regarding His Reliance on Others' Representations**

19. Dr. Truong testified that his assistant, Donna Shelton, had called Florida and talked with Ms. Condo, who had signed the non-disciplinary citation. Dr. Truong stated that Ms. Shelton had said that Ms. Condo had said that the Florida citation was not a state disciplinary action and did not have to be disclosed on his Ohio application. (Tr. at 102-105) In support of his testimony, Dr. Truong submitted a note dated "June 21," allegedly written by Ms. Shelton,<sup>4</sup> which states as follows:

Today I called Sandy Condo, the Government Analyst who signed off on the Uniform Non-Disciplinary Citation to try to clarify the issue with *renewing* state licenses. (Emphasis added.)

I explained the situation with the citations for CME's, and she said although the information is public information, it is not considered a state disciplinary action and only a citation, and is not considered discipline on your Florida licenses [*sic*] nor should it be answered "Yes" on *any* questionnaire. (Emphasis added)

(Resp. Ex. D at 50; Tr. at 103-105; see, also, Tr. at 132-134) Dr. Truong stated that he relied on this statement when answering questions 7 and 12 on his Ohio application. (Tr. at 105-106)

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<sup>4</sup> Ms. Shelton did not testify at the hearing, and, therefore, her out-of-hearing statements were not subject to cross-examination. In addition, the Respondent did not submit a sworn affidavit from Ms. Shelton regarding these matters.

Dr. Truong also submitted another note, dated June 21, 2005, which he stated had also been written by Ms. Shelton. In this note, Ms. Shelton stated that Ms. Condo had stated that Dr. Truong's nondisciplinary citation "is not a disciplinary action reported on Florida license, but is public information." (Tr. at 106-107; Resp. Ex. D at 51; emphasis in original)

Dr. Truong testified that the Letter of Warning from the Iowa Board had prompted his assistant to make further inquiries to persons in Florida, and that the responses to these inquiries were the basis for his answers on the Ohio application and other applications:

The letter from Iowa prompted us to call Florida and talk to them directly on how to answer these questions. And they reaffirmed [to] us that we should answer those questions how we did.

(Tr. at 144)

All I know is when we filled out applications, we called Florida and asked them how should these questions be answered, and they told us to answer them "No", because these questions refer to actions against your license, and a lot of doctors got caught up in this kind of trap that Florida had done where they granted the license, and then they gave this extension to complete this five hours of special CME that they required.

A lot of doctors didn't get it done in time, like I didn't, and they imposed this Nondisciplinary Citation against quite a few doctors.

But they especially made it nondisciplinary so it wouldn't have ramifications, you know, serious ramifications against these physicians, because they deem it as not a serious matter.

(Tr. at 56) Dr. Truong clarified that he himself did not make these telephone calls but that they were made by his assistant, Ms. Shelton. (Tr. at 58-59)

20. When Dr. Truong was asked whether his assistants had contacted the Iowa Board, Ohio Board, or other boards to ask them how to answer the questions on their respective applications, Dr. Truong responded that Ms. Shelton had asked the Florida Board how to handle questions on other states' applications with respect to the Florida citation. When asked again as to whether his assistant had contacted other boards about the questions on those other boards' applications, Dr. Truong replied that Ms. Shelton "was in contact with the Iowa Board in that, you know, they wanted us to amend some of our answers." Asked a third time whether his assistant had contacted any other board about the questions on that board's application, he stated that his assistant had not, to his knowledge, done so. (Tr. at 124-125)
21. In addition, Dr. Truong provided a copy of a letter from J. A. Lammert, an investigation specialist with the Florida DOH, dated August 4, 2005, as follows:

Dear Ms. Shelton:

It was a pleasure to speak with you yesterday afternoon. In confirmation of that telephone conversation, enclosed is a copy of the department of Health's computer record of the citation that was issued to [Dr. Truong].

Please note that, effective September 15, 2003, the department was authorized to issue non-disciplinary citations for first offense in instances where a violation of Florida's Medical Practice Act did not substantially threaten the public health, safety and welfare. The incident at issue in this complaint fell into that category.

Hopefully, this information will be of assistance to you in renewing this physician's medical licenses. Should you need further help, please don't hesitate to contact me.

(Resp. Ex. D at 53; see, also, St. Ex. 5 at 42) Dr. Truong testified that he relied on this letter before signing his Ohio application. In addition, he emphasized that his office received this August 2005 letter from Mr. Lammert after receiving the July 2005 Letter of Warning from the Iowa Board. (Tr. at 107-110)

Dr. Truong testified that the August 2005 letter from Mr. Lammert had a substantial impact on his answers to the questions on the Ohio application. Based on Mr. Lammert's letter, Dr. Truong stated that he "truly believed that the Florida citation was a nondisciplinary action that was not against my license, and was on – you know, no threat to public welfare." Further, Dr. Truong testified that the question on the Ohio application had been "referring to actions against your license. That would be something that was a threat to public welfare, and that is the context of that question." (Tr. at 107-110)

#### **Dr. Truong's Testimony Regarding His Answer to Question 12 on the Ohio Application**

22. With respect to question 12 on the Ohio application, Dr. Truong agreed that the question asks whether he had "*ever been notified of any investigation concerning you by any board \* \* \* with respect to a professional license?*" (Tr. at 16, emphasis added)
23. At the hearing, Dr. Truong was asked why he had not answered "yes" to that question, in light of the Letter of Warning he had received in July 2005 from the Iowa Board, in which the Iowa Board had stated explicitly that it had conducted an "investigation" concerning his application. He answered: "Because I saw that as a Letter of Warning and not an investigation." (Tr. at 65)
24. Dr. Truong testified further as follows:
  - A. \* \* \* I see this as a Letter of Warning, and the question here reads, "Have you been notified of an investigation concerning you by any board, bureau, department, agency or other body including those in Ohio with respect to your professional license."

And in my opinion, Iowa did not investigate, because they did not seek dialogue from me or seek my explanation of the occurrence of the events in regard to the Florida matter.

To me, that did not constitute an investigation. They just simply dropped a Letter of Warning -- I mean, issued me a license and dropped me a Letter of Warning.

So, to me, that did not constitute an investigation, and therefore, the correct answer to this was "No."

Q. So as we sit here today, you believe that you answered Questions 7 and 12 of the Ohio application truthfully?

A. Correctly, yes.

(Tr. at 70)

25. Dr. Truong agreed that the words "investigative" and "investigation" appear in the Iowa Board's Letter of Warning. However, he feels that, just because the Iowa Board said in its letter that there was an investigation, "does not mean it's an investigation, in my opinion, because they did not seek my version of the facts or the events, they just issued a warning without doing an investigation." (Tr. at 72)

I did not see this letter from Iowa as an investigation. I saw this strictly as a Letter of Warning. And maybe it's just my not understanding the letter. I know I stated earlier that I understood the letter, but maybe I just don't understand this verbose, legal language. But to me, this is not an investigation if they didn't give me a chance to explain my side of the story.

I mean, they just mail me a letter saying, "We warn you," and they granted me a license and then they gave me a warning and say, "Here's your license. Here's a warning letter," and they don't look at both sides of the story. \* \* \* <sup>5</sup>

They send me a Letter of Warning and then call it an investigation. I mean, to me, that's not an investigation. So I answered the question in Ohio, based on my intent not to deceive Ohio, and that my firm belief that I did not have any investigation done upon me by Iowa.

(Tr. at 116-117)

26. Although Dr. Truong asserted that there had been no "investigation" by the Iowa Board because "there was no dialogue back and forth for us to explain our side of the situation," he acknowledged that, prior to receiving the Letter of Warning from the Iowa Board, he had been contacted by the Iowa Board with regard to several of his answers, and that, in response, he had sent a letter to the Iowa Board in March 2005. (Tr. at 67) Dr. Truong described his

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<sup>5</sup> In this testimony, Dr. Truong also stated, in part, as follows: "And then they get all this evidence. I mean, half of it is not substantiated. They say I had a malpractice claim in Florida, which is completely false. That's completely erroneous information." (Tr. at 116) Although the memorandum of April 19, 2005, mentions a malpractice case that was closed, the Letter of Warning issued by the Iowa Board includes no mention of, or any warning regarding, a malpractice claim in Florida. (St. Ex. 4)

letter to the Iowa Board as “a clarification letter given earlier in the application process where we submitted some additional documents.” (Tr. at 67)

27. When asked what had prompted him to write his letter to the Iowa Board in March 2005, Dr. Truong stated: “I believe my assistant, Donna, had dialogue back and forth with Iowa, and they wanted some clarification on some of the questions that had been answered, so we were asked to submit some additional documentation.” (Tr. at 67-68)
28. Dr. Truong further stated that, although the Iowa Board used the words “investigation” and “investigative” in the Letter of Warning, he did not consider the “type of investigation” by the Iowa Board was the same type of investigation that the Ohio Board was asking about in Question 12 of its application. (Tr. at 115-116)

#### **Dr. Truong’s Testimony Regarding His Answer to Question 7 on the Ohio Application**

29. With respect to the Ohio application, Dr. Truong agreed that the Question 7 asked him whether “any board” had “imposed a fine” against “you.” (Tr. at 15, 53-55)

However, Dr. Truong testified that, although that is what the question says, he correctly answered “No,” because the monetary penalty he paid pursuant to the nondisciplinary citation in Florida was not a “fine.” He testified: “[T]he action from Florida was a nondisciplinary citation, and not a fine. It was a nondisciplinary action, so it was not taken against my license.” (Tr. at 47-48, 53-54)

Dr. Truong also stated his understanding of Question 7: “The way I interpret this question, they [the Ohio Board] are asking me if they [the Florida Board] have imposed a fine against my license, and I interpret that as no.” (Tr. at 53-54)

30. With respect to whether the monetary penalty imposed by the Florida Board was a “fine,” Dr. Truong testified as follows, in part:

Q. When you answered Question No. 7 on the Ohio application, did you view the money that you had paid to the State of Florida, pursuant to the Uniform Nondisciplinary Citation, to be a fine?

A. No.

Q. Why not?

A. Because it says, clearly, this is a citation. And it's a Nondisciplinary Citation. And that means it's not against your license.

Q. What did you think the Ohio application was asking about when it used the term “fine”?

A. To me, the question clearly says, “Has there been a fine *against your license*,” and to me, the answer is clearly no. (Emphasis added.)

(Tr. at 114-115)

Q. \* \* \* How would you characterize what the amount of money you paid to Florida, \$1,089, as based upon the Uniform Nondisciplinary Citation, how would you characterize that payment?

A. A Nondisciplinary Citation.

Q. How do you interpret the word "fine"? What does that word mean to you?

A. In this context, a fine would be something paid against your license. When they are taking discipline against your license, they would impose a fine and you would pay a penalty against your license. In this case, this was a nondisciplinary action against my license, and then they imposed a citation.

\* \* \*

Q. Doctor, I want to make sure I characterize this correctly. You defined "fine" as something being paid against your license, and that they impose a fine and impose a penalty against your license; is that accurate?

A. No. I'm not a lawyer and I don't have a copy of Black's Law Dictionary, but I'm getting tangled up in semantics. And, you know, I just know how I understand it as a, quote, Doctor and, quote, lay person to the law, and this was a Nondisciplinary Citation, meaning it, quote, wasn't against my license, is how Florida explained it to me. Therefore, I did not consider it a fine, which in my opinion is more serious, and that's when they take formal discipline against your license. So I hope I get my point across, but that's the best I can explain it in my lay education.<sup>6</sup>

Q. And that's all I'm asking for, Doctor. You did use the word "penalty", though. You would characterize it as a penalty?

A. I don't understand these terms you're throwing out. And I'm sorry, but my education is in medicine. If you want to ask me about the liver and how it works, go right ahead.

Q. What is your interpretation of penalty, in your belief as a physician who has a college degree, a medical degree, who's been through residency and is board certified? What is your definition of the word "penalty"?

A. A penalty would be a broad term that may be a punishment.

(Tr. at 138-140)

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<sup>6</sup> The Hearing Examiner notes definitions of the noun "fine" in various dictionaries:

- "A sum of money required to be paid as a penalty for an offense." *The American Heritage Dictionary of the English Language* (4th ed., Houghton Mifflin Co., 2004).
- "A sum of money paid to settle a matter; esp., a sum required to be paid as punishment or penalty for an offense." *Webster's New World Dictionary of American English* (3rd College ed., Simon & Schuster, 1988).
- "A sum of money imposed as a penalty for an offense or dereliction: *a parking fine*." *Dictionary.com Unabridged Dictionary*, <www.dictionary.com> (June 13, 2007).

**Dr. Truong's Testimony Regarding His Answers on the 2004 Iowa Application**

31. Dr. Truong testified that, when he submitted the Iowa application in December 2004, he had believed that his responses were correct but that the Iowa Board had asked for clarification and documentation. (Tr. at 126)
32. At the hearing, Dr. Truong was asked to identify "the discrepancy" in his Iowa application that he had noted in his letter to the Iowa Board in March 2005, as follows:

Also enclosed is correspondence from the state of Florida which addresses Questions 19, 20, 21 and 23 of Section 10 on the application. The letter from Ms. O'Brien clarifies the unfounded complaint (2004-28574) which was not a sanction by the Florida board. My assistant, Donna Shelton, completed the application and did not understand this question as being relevant, and I attested to the accuracy of the information without noticing *the discrepancy*.

(St. Ex. 5 at 59, emphasis added; Tr. at 125-126) Dr. Truong answered as follows:

The paragraph is kind of vague, but I believe it's just referring them wanting us to clarify those four questions on the application, and they wanted us to change the answers.

(Tr. at 126). When asked to explain further, Dr. Truong stated, in part:

Iowa called us and they wanted us to clarify those answers for them, and also provide additional documentation. They were in dialogue with us during the application process, and wanted us to clarify those various questions and submit additional documentation, at which point, then, they submitted a Letter of Warning \* \* \* versus taking formal – the disciplinary action.

(Tr. at 126) Although Dr. Truong stated that the Iowa Board "was in dialogue with us during the application process," he continued to maintain that he was not given a chance to present his side of the story. He explained that his clarification letter of March 2005 was "part of the initial application" and that the Iowa Board issued the Letter of Warning without giving him "a chance to explain my side of the story" and without giving him "any due process or anything." (Tr. at 129-130)

33. When Dr. Truong was asked whether he now understands, as of the hearing date, why Iowa sent him the Letter of Warning, he responded:

I'm not exactly – you know, it's hard to understand exactly why people do things, but they did what they did. And, you know, we tried to comply with their wishes. And they submitted me a license and gave me a Letter of Warning.

(Tr. at 126-127)

When asked, again, why Iowa sent him a Letter of Warning, he replied, “It seems they were unhappy with how we responded to a few of their questions.” (Tr. at 127)

34. Dr. Truong testified that, when he answered the questions on the Ohio application in 2006, he used the same reasoning that he had used when answering questions on the Iowa application in 2004. (Tr. at 120, 141-144)

### **RESPONDENT’S REQUEST TO WITHDRAW HIS APPLICATION**

On May 3, 2007, at 4:55 p.m., Dr. Truong filed a “Notice of Withdrawal of His Application for Certificate.” It appears that the document was transmitted via facsimile transmission at 3:57 p.m. The next day, on the morning of the hearing, the Board’s staff provided a copy of the filing to the Hearing Examiner.<sup>7</sup> In this notice, Dr. Truong stated that he “no longer desires to have his Ohio application processed or otherwise considered by the State Medical Board of Ohio.” (St. Ex. 1R; Resp. Ex. B)

The Hearing Examiner notes that Ohio law does not permit an applicant for a certificate to practice medicine to withdraw his or her application without the Board’s approval. R.C. 4731.22(M) provides in pertinent part:

(M) Notwithstanding any other provision of the Revised Code, all of the following apply:

(1) \* \* \*

(2) An application for a certificate made under the provisions of this chapter **may not be withdrawn without approval of the board.** (Emphasis added.)

The statute makes clear that Dr. Truong cannot simply notify the Board that he is withdrawing his application. In effect, R.C. 4731.22(M) does not allow applicants to obtain a dismissal of the Board’s charges against them—or a cancellation of the Board’s investigation into their conduct—by voluntarily withdrawing their applications.

Accordingly, the Hearing Examiner construed Dr. Truong’s “notice” as a request that the Board allow him to withdraw his application. The Hearing Officer did not have authority to grant that request, and the hearing proceeded as scheduled. Nevertheless, the Board may consider whether to approve the request to withdraw the application when it considers the other issues in this Report and Recommendation.

### **FINDINGS OF FACT**

1. On or about September 18, 2006, Hans Hoffman Truong, M.D., caused to be submitted to the State Medical Board of Ohio an Application for Certificate – Medicine or Osteopathic Medicine

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<sup>7</sup> Although the Respondent’s cover letter for his Notice of Withdrawal states that a copy was provided to the Hearing Examiner “via fax,” the telephone number recited in the cover letter is not the correct fax number for the Hearing Examiner. The telephone number listed is the same number used for sending the notice to Ms. Moore, the Case Control officer at the main office of the Board. (St. Ex. 1R; Resp Ex. B)

[Ohio application]. By signing the Ohio application, he certified that the information provided therein was true. This application is currently pending.

2. In December 2003, the Florida Department of Health, Board of Medicine [Florida DOH], issued to Dr. Truong a “Non-Disciplinary Citation” in Case Number 2003-152061.

The citation notified Dr. Truong that he was alleged to have violated Florida law by failing to comply with requirements for continuing medical education after having received an extension of up to six months to fulfill the requirements.

The citation stated that, if Dr. Truong did not dispute the citation, it would be filed as the final order of the Florida DOH. In addition, the citation states that the Florida DOH had set the following “penalty” for the violation: “\$1,000.00 plus costs in the amount of \$89.00.” In January 2004, Dr. Truong paid the monetary penalty of \$1,000 and costs, for a total paid of \$1,089.00.

On April 9, 2004, the citation was filed as the final order of the Florida DOH .

3. The monetary penalty imposed by the Florida DOH and paid by Dr. Truong constituted a “fine” within the ordinary meaning of that word and as that term was used in Question 7 of the Ohio application.
4. In December 2004, Dr. Truong caused to be submitted to the Iowa Board of Medical Examiners a 2004 Application for Iowa Permanent Medical License [Iowa application]. By signing the Iowa application on December 2, 2004, Dr. Truong declared under penalty of perjury that his answers were true and correct.

Dr. Truong answered “No” to questions numbered 20 and 21 in the Iowa application which, respectively, asked the following:

Have you ever been notified of any charges filed against you by a licensing or disciplinary agency of any jurisdiction of the U.S. or other nation?

Have you ever been investigated or subject to an inquiry/review by any professional licensing agency, including investigations or reviews which resulted in no formal action(s)?

5. On July 13, 2005, the Iowa Board issued to Dr. Truong a Letter of Warning based in part on his failure to disclose the Florida action on his application for an Iowa license. In its letter, the Iowa Board advised Dr. Truong that, although the Letter of Warning did not constitute a formal disciplinary action and was not a public record, “this in no way relieves you of your responsibility to provide truthful and accurate answers if asked about the nature and/or outcome of this investigation by another licensing authority \* \* \*.”
6. On the Ohio application filed in 2006, in the “Additional Information” section, Dr. Truong answered “No” to Questions 7 and 12 which, respectively, ask the following:

Has any board, bureau, department, agency or other body, including those in Ohio, in any way limited, restricted, suspended, or revoked any professional license, certificate or registration granted to you; placed you on probation; or imposed a fine, censure or reprimand against you?

Have you ever been notified of any investigation concerning you by any board, bureau, department, agency, or other body, including those in Ohio, with respect to a professional license?

### CONCLUSIONS OF LAW

1. Dr. Truong's conduct in answering questions on his application to the Iowa Board, as set forth above in Findings of Fact 2 and 4, does not constitute "[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board," as that language is used in R.C. 4731.22(B)(5).

Although Dr. Truong made inaccurate statements on his Iowa application, the Iowa Board did not find sufficient grounds during its investigation to establish that formal disciplinary action was warranted. At hearing in the present matter, Dr. Truong indicated that he had relied on his administrative assistant's representations regarding the appropriate way to answer the questions, and, although his reliance was not justified, the evidence is not sufficient to establish that he had intended to deceive, mislead, or defraud the Iowa Board.

Nonetheless, the Board was substantially justified in making the allegation.

2. Dr. Truong's conduct in answering Question 7 on the Ohio application, as set forth above in Findings of Fact 1, 2, 3 and 6, constitutes "[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).
3. Dr. Truong's conduct in answering Question 12 on the Ohio application, as set forth above in Findings of Fact 1, 5, and 6, constitutes "[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).
4. Dr. Truong's conduct, as set forth above in Findings of Fact 1 through 6, does not establish a failure to furnish satisfactory proof of good moral character as required by R.C. 4731.29 and 4731.08.

\* \* \* \* \*

The initial, underlying CME violation in this case was a relatively minor matter, and if Dr. Truong would simply have disclosed the Florida violation and penalty to the Iowa and Ohio Boards, there would have been few or no significant consequences. However, he failed to disclose the Florida matter.

Still, that omission, by itself, would have presented a comparatively small issue, but, unfortunately, Dr. Truong considerably aggravated the matter when—after receiving a letter from the Iowa Board stating explicitly that it had conducted an “investigation”—he answered “No” when the Ohio Board asked whether he had “ever been notified of any investigation” of him by any board. Dr. Truong cannot genuinely have believed, after receiving the Iowa Board’s letter, that he could truthfully answer “No” on the Ohio application when asked whether he had “ever been notified of any investigation” of him by any board.

Overall, the Hearing Examiner did not find a deliberate, calculated plan by Dr. Truong to defraud the Ohio Board. Rather, Dr. Truong demonstrated a willful disregard for the truthfulness of the statements on his application. His conduct in completing the Ohio application cannot be excused or minimized by pointing to reliance on statements allegedly made by and to his assistant:

- A) In its letter of July 2005, the Iowa Board explicitly notified Dr. Truong that it had conducted an “investigation” with regard to his application. The Hearing Examiner rejects Dr. Truong’s suggestion that the Iowa Board’s Letter of Warning was too complicated for him to understand. The language is simple and straightforward, and the meaning is clear. The Iowa Board plainly notified Dr. Truong that it had conducted an “investigation” of some type.
- B) Question 12 on the Ohio application is simple and specific: it asks whether any board had *notified* him that it had done an investigation, and the correct answer clearly was “Yes.” The question did not ask Dr. Truong whether a board had actually conducted a formal investigation or an adequate investigation, but only whether he had been “notified” of *any* investigation.
- C) In addition, the fact of the Letter of Warning from the Iowa Board, and the content of that letter, placed Dr. Truong on notice that the Iowa Board strongly disagreed with the broad assurances that had allegedly been made by a staff member of the Florida DOH. Specifically, the Letter of Warning put Dr. Truong (and his staff) on notice that a medical board had resoundingly rejected the opinion purportedly expressed regarding how to answer questions on other states’ applications about the Florida citation.

In addition, aside from the Letter of Warning, the proceedings before the Iowa Board placed Dr. Truong on notice that, if he continued to rely on the alleged assurances from the Florida individual, he did so at his peril.

- D) The Hearing Examiner finds that Dr. Truong’s reliance on statements such as the following by Ms. Shelton was unreasonable:

I explained the situation with the citations for CME's, and she said although the information is public information, it is not considered a state disciplinary action and only a citation, and is not considered discipline on your Florida licenses [sic] nor should it be answered "Yes" on *any* questionnaire. (Emphasis added)

First, it is highly unlikely that any state employee in Florida would have assured Ms. Shelton that Dr. Truong could answer "No" to *any* question, *regardless* of the specific wording of the question. Second, even if someone stated such an unlimited assurance, no reasonable person would rely on it. Third, it is beside the point that the Florida citation was (a) only a nondisciplinary citation, (b) not a formal disciplinary action, and (c) not discipline "on his license" or "against his license." Neither Question 7 nor Question 12 asked whether there had been "discipline" or a "disciplinary" action against his license by another board. Question 7 asked, very specifically, whether any board had imposed "a fine" against "you." Likewise, Question 12 asked whether any board had "notified" him of "any investigation" with respect to a professional license.

Mr. Lammert's statements in his letter to Ms. Shelton—that the Florida DOH had authority to issue non-disciplinary citations for first offenses where the violation did not substantially threaten the public health, etc., and that Dr. Truong's incident fell into that category—do not address the specific content of Questions 7 and 12 of the Ohio application. The fact that the Florida citation was not deemed by the Florida DOH to be "a disciplinary action" is irrelevant to specific questions asked in the Ohio application as to whether there was an "investigation" and whether there was a "fine." The two questions simply do not ask about "discipline" or a "disciplinary action" against the applicant's license in another state.

E) Neither Ms. Shelton nor Ms. Condo testified as a witness in the hearing, and the hearsay statements attributed to them are deemed unreliable.

The correct answer to the subject questions on the Ohio application did not depend on how serious the violation had been in Florida or whether Florida had designated the matter as "discipline against his license." The crux of the matter is that the questions in the Ohio application are very specific questions asking about "any investigation" and "a fine," and are not limited to whether there was "discipline" or a "disciplinary action."

The Iowa Board essentially was willing to let Dr. Truong "off the hook" for his failure to disclose the Florida nondisciplinary citation on his 2004 Iowa application, and the Hearing Examiner followed the Iowa Board's lead with regard to that application. But after the Iowa Board made clear to Dr. Truong in 2005 that he could no longer reasonably rely on the purported assurances made to his staff about answering questions regarding the Florida citation, his continued reliance on those assurances was more than a mere mistake.

In proposing the sanction, the Hearing Examiner based the recommendation on a conclusion that each of the two false answers on the Ohio application would independently justify a reprimand accompanying the grant of the certificate.

The question of whether the Board should approve a withdrawal of the application at this time depends on whether the Board finds a violation of Ohio law and, if so, how serious the violation is deemed to be.

If the Board concludes that Dr. Truong did not commit any violation of Ohio law, then it may simply grant the application. In the alternative, the Board may approve a withdrawal of the application if Dr. Truong truly has no further interest in providing teleradiology services to Ohio patients.

As set forth below in the Findings of Fact and Conclusions of Law, the Hearing Examiner has concluded that Dr. Truong committed a violation of Ohio law and that a reprimand would be appropriate.<sup>8</sup> If the Board agrees, then the Hearing Examiner recommends that the Board should not allow Dr. Truong to evade discipline by withdrawing his application.

However, the Board has other options if it concludes that one or more violations occurred, including that it may grant the application and take no further action on the violation. If the Board concludes that a reprimand is not warranted and that no future remediation or monitoring is necessary, then the Board may grant the application and take “no further action.” It would appear that, if “no further action” is appropriate, the Board alternatively could approve a withdrawal of Dr. Truong’s application.

### **PROPOSED ORDER**

It is hereby ORDERED that:

**GRANT OF APPLICATION; REPRIMAND:** The application of Hans Hoffman Truong, M.D., for a certificate to practice allopathic medicine and surgery is GRANTED, provided that he otherwise meets all statutory and regulatory requirements. In addition, Dr. Truong is hereby REPRIMANDED.

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

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Patricia A. Davidson  
Hearing Examiner

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<sup>8</sup> Section 4731-13-36(I), Ohio Administrative Code, provides:

"Grant of Application for Certificate" means that the board grants an application for a certificate to practice. In matters where disciplinary violations have been alleged against an applicant for a certificate, the grant of an application for certificate may be accompanied by a suspension, limitation, probation, reprimand, or no further action.

Section 4731-13-36(G), Ohio Administrative Code, provides:

“No Further Action” means that the board finds that a violation occurred but declines to impose any disciplinary sanction. No further action shall be ordered by the board under circumstances where the board finds that all necessary remedial measures have been completed by the certificate holder, future monitoring is unnecessary and reprimand is not warranted.

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However, the Board has other options if it concludes that one or more violations occurred, including that it may grant the application and take no further action on the violation. If the Board concludes that a reprimand is not warranted and that no future remediation or monitoring is necessary, then the Board may grant the application and take "no further action." It would appear that, if "no further action" is appropriate, the Board alternatively could approve a withdrawal of Dr. Truong's application.

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"No Further Action" means that the board finds that a violation occurred but declines to impose any disciplinary sanction. No further action shall be ordered by the board under circumstances where the board finds that all necessary remedial measures have been completed by the certificate holder, future monitoring is unnecessary and reprimand is not warranted.



# 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)

## EXCERPT FROM THE DRAFT MINUTES OF JULY 11, 2007

### REPORTS AND RECOMMENDATIONS

Dr. Kumar announced that the Board would now consider the Reports and Recommendations appearing on its agenda. He asked whether each member of the Board had received, read, and considered the hearing records, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Jabir Kamal Akhtar, M.D.; Robert Gross, D.O.; and Hans Hoffman Truong, M.D. A roll call was taken:

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

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

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

Dr. Amato - aye  
Dr. Steinbergh - aye  
Dr. Kumar - aye

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

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

Dr. Talmage left the meeting at this time.

.....

Mr. Albert left the meeting at this time.

HANS HOFFMAN TRUONG, M.D.

.....

**DR. MADIA MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF HANS HOFFMAN TRUONG, M.D. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:**

ROLL CALL:

Dr. Egner	- aye
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Madia	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Amato	- nay
Dr. Steinbergh	- nay
Dr. Kumar	- nay

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)

January 11, 2007

Hans Hoffman Truong, M.D.  
3010 Palmer Way  
Spring, TX 77380

Dear Doctor Truong:

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 September 18, 2006, you caused to be submitted to the Board an Application for Certificate – Medicine or Osteopathic Medicine [Ohio Application]. By signing the Ohio Application, you certified that the information provided therein was true.
- (2) In the “Additional Information” section of your Ohio Application you answered “NO” to questions numbered 7 and 12 which, respectively, ask the following:

Has any board, bureau, department, agency or other body, including those in Ohio, in any way limited, restricted, suspended, or revoked any professional license, certificate or registration granted to you; placed you on probation; or imposed a fine, censure or reprimand against you?

Have you ever been notified of any investigation concerning you by any board, bureau, department, agency, or other body, including those in Ohio, with respect to a professional license?

- (a) In fact, on or about April 9, 2004, the Florida Department of Health issued to you a fine and costs of \$1,089.00 [Florida action] based on your failure to fulfill continuing education requirements after having received a six month extension to fulfill said requirements.

*Mailed 1-11-07*

- (b) In fact, on or about July 13, 2005, the Iowa Board of Medical Examiners [Iowa Board] issued to you a Letter of Warning [Iowa action] based in part on your failure to disclose the Florida action on your application for an Iowa medical license. The Iowa action further advised you that the Iowa action “in no way relieves you of your responsibility to provide truthful and accurate answers if asked about the nature and/or outcome of this investigation by another licensing authority[.]”
- (3) On or about December 2, 2004, you caused to be submitted to the Iowa Board a 2004 Application for Iowa Permanent Medical License [Iowa Application]. By signing the Iowa Application, you declared under penalty of perjury that your answers were true and correct.

You answered “NO” to questions numbered 20 and 21 in the Iowa Application which, respectively, asked the following:

Have you ever been notified of any charges filed against you by a licensing or disciplinary agency of any jurisdiction of the U.S. or other nation?

Have you ever been investigated or subject to an inquiry/review by any professional licensing agency, including investigations or reviews which resulted in no formal action(s)?

In fact, on or about April 9, 2004, you were notified by the Florida Department of Health of a Uniform Non-disciplinary Citation which apprised you that you were alleged to have violated Florida law based on your failure to fulfill continuing education requirements after having received a six month extension to fulfill said requirements and you were assessed a fine and costs of \$1,089.00.

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

Further, your acts, conduct, and/or omissions as alleged in paragraphs (1) through (3) 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.

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

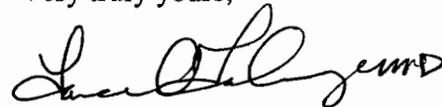
You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at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

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

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

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Lance A. Talmage, M.D.  
Secretary

LAT/DPK/fib  
Enclosures

CERTIFIED MAIL #7004 2510 0006 9802 9704  
RETURN RECEIPT REQUESTED