

**STATE OF ILLINOIS  
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION  
DIVISION OF PROFESSIONAL REGULATION**

IN RE: The Petition for Restoration of	)	
	)	
	)	
Muhammad S. Choudhry, M.D.,	)	No. 2011-9632
License No. 036.081407,	)	
Petitioner.	)	

**ORDER**

This matter comes before the Director of the Department of Financial and Professional Regulation of the State of Illinois (“Department”), following the Petitioner’s Motion for Rehearing and Reconsideration, and a Formal Hearing before Administrative Law Judge Ian Brenson (“ALJ”), having issued his Report and Recommendation (“ALJ Report”) to the Medical Disciplinary Board (“Board”) on August 7, 2018; and the Board having adopted the ALJ Report as presented and issued its Findings of Fact, Conclusions of Law, and Recommendation to the Director in this matter on December 5, 2018.

On or about December 15, 2015, Petitioner filed a Petition for Restoration of his Illinois physician and surgeon license. On June 5, 2018, the case proceeded to formal hearing. On or about August 7, 2018 the ALJ issued his Findings of Fact, Conclusions of Law, and Recommendation to the Medical Disciplinary Board. The ALJ Report stated Petitioner failed to prove by a preponderance of the evidence that his physician and surgeon license should be restored. The Medical Disciplinary Board adopted the ALJ Report’s Findings of Fact, Conclusions of Law, and Recommendation to deny Petitioner’s Petition for Restoration.

On September 24, 2018, Petitioner filed Exceptions and a Motion for Rehearing and Reconsideration arguing that the ALJ failed to properly weigh all of the mitigating evidence presented

by the Petitioner at hearing. On October 11, 2018, the Department filed a Response to Petitioner's Motion countering with Petitioner's failure to prove sufficient rehabilitation and that the ALJ's recommendation was consistent with the Medical Practice Act. On October 19, 2018, Petitioner filed a Reply to the Department's Response to Petitioner's Exceptions and Motion for Rehearing and Reconsideration. On October 30, 2018, Petitioner filed a Supplement to the Petitioner's Exceptions and Motion for Rehearing and Reconsideration ("Supplement") highlighting the sealment of Petitioner's Ohio conviction, arguing the sealment should bar the Department from using said conviction as a basis for denial of Petitioner's Petition for Restoration. The Department later, on October 31, 2018 filed a Motion to Strike Petitioner's Supplement to Exceptions and Motion for Rehearing and Reconsideration incorrectly stating that the Exhibit (Entry Sealing Entry of Conviction) referenced in the Supplement filed by Petitioner had not been admitted into evidence during the June 5, 2018 formal hearing and was therefore, outside the scope of the record. (Ref: ALJ Rep. 2). Nonetheless, the Exhibit was admitted, and proper weight was given to the Entry Sealing Entry of Conviction in the determination of the ALJ's Recommendation. *Id.*

The basis for suspending Respondent's Illinois physician and surgeon license was the 2011 Ohio Felony Workers Compensation Fraud Conviction where Petitioner submitted a series of fraudulent overcharges with knowledge and intent while defrauding the people of the state of Ohio. (ALJ pg. 14). Therefore, the Conviction must be considered to determine whether the Petitioner has proven that he has sufficiently rehabilitated since the offense. Petitioner held the burden of showing that he has satisfactorily rehabilitated to warrant the public trust by presenting evidence of rehabilitation. The ALJ found that the mitigating factors advanced by Petitioner did not outweigh the severity of the offense underlying the action and Petitioner failed to prove by a preponderance of the evidence that his physician and surgeon license should be restored.

The Director adopts the Board's Findings of Fact, Conclusions of Law, and Recommendation to deny Petitioner's Petition for Restoration for a physician and surgeon license.

After a review of the record, I, Jessica Baer, Director of the Division of Professional Regulation of the Department of Financial and Professional Regulation of the State of Illinois, DO HEREBY FIND:

1. I have jurisdiction over the parties and the subject matter herein;
2. The Petitioner, has failed to allege facts, errors of law, or new evidence sufficient to warrant a rehearing and
3. Substantial justice has been done in this case.

THEREFORE, IT IS ORDERED that Petitioner's Motion for Rehearing is DENIED.

IT IS FURTHER ORDERED that Petitioner's Petition for Restoration is DENIED.

DATED THIS 14 DAY OF January, 2019.

DEPARTMENT OF FINANCIAL AND  
PROFESSIONAL REGULATION of the  
State of Illinois; Bryan A. Schneider, Secretary  
Division of Professional Regulation



JESSICA BAER  
Director

License No. 036.081407  
Case No. 2011-9632

ILL. DEPT. OF FINANCIAL AND PROFESSIONAL REGULATION  
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STATE OF ILLINOIS  
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION  
DIVISION OF PROFESSIONAL REGULATION

IN RE: THE PETITION FOR RESTORATION OF )  
)  
) No. 2011-09632  
)  
MUHAMMAD S. CHOUDHRY, )  
License No. 036.081407, )  
Petitioner. )

**ADMINISTRATIVE LAW JUDGE'S REPORT AND RECOMMENDATION**

This report is being filed with the Illinois Medical Disciplinary Board by Administrative Law Judge Ian Brenson pursuant to 225 ILCS 60/35.

**BACKGROUND OF CASE**

Muhammad S. Choudhry (hereinafter "Petitioner") has been the holder of a license as a Physician and Surgeon License in Illinois since May 4, 2011. Petitioner is seeking to restore his license, which was placed upon indefinite suspension for minimum of three years, pursuant to a Consent Order effective December 14, 2012. The Consent Order arose from Petitioner's 2011 conviction for Felony Workers' Compensation Fraud in the Court of Common Pleas, Franklin County, Ohio.

On December 23, 2015, the Department directed Petitioner to appear for a preliminary hearing. The case proceeded to a formal evidentiary hearing on June 5, 2018 before Administrative Law Judge Ian Brenson. There was no board member present on behalf of the Illinois Medical Disciplinary Board. The Department was represented by attorney Vladimir Lozovskiy. Petitioner was represented by Michael K. Goldberg of the Goldberg Law Group, LLC.

The Administrative Law Judge received the complete record of the proceedings on July 10, 2018.

## SUMMARY OF EVIDENCE

### Exhibits

The following exhibits of Petitioner were admitted into evidence:

- Exhibit A:** Entry Sealing Entry of Conviction Pursuant to R.C. 2953.32, dated September 16, 2015
- Exhibit B:** SPEX Official Score Report for October 24, 2017.
- Exhibit C:** Medscape Activity Tracker showing 2018 CME Credits.

The following exhibits of the Department were admitted into evidence:

- Exhibit 1:** Judgment Entry, Entry of No Contest Plea, and Indictment for Case No. 10CR08-4921.
- Exhibit 2:** IDFPR 2012 Consent Order.
- Exhibit 3:** Decision of Department of Health and Human Services, Departmental Appeals Board, dated November 5, 2014.
- Exhibit 4:** Letter from the State Medical Board of Ohio to Petitioner, dated April 11, 2012.
- Exhibit 5:** Decision of the Court of Common Pleas, Franklin County, Ohio dated September 17, 2012.
- Exhibit 6:** SPEX Official Score Report for April 16, 2016.
- Exhibit 7:** SPEX Official Score Report for August 10, 2016.

### Witnesses

Dr. Zafeer Berki, Dr. Aqeel Khan, and Petitioner testified in Petitioner's case-in-chief. The Department did not call any witnesses.

## FINDINGS OF FACT

The Administrative Law Judge makes the following Findings of Fact, based upon the evidence presented at the hearing. Petitioner called three witnesses in his case-in-chief and relied upon the three admitted Exhibits, referenced above.

### 1. Dr. Zafeer Berki

Dr. Zafeer Berki testified that he has been licensed as a psychiatrist in Illinois since 1994. (Tr. 19). He is also currently licensed in Michigan, and formerly held licenses in Alabama and Virginia. (Tr. 20). He has never been disciplined. (*Id.*). He moved to the United States from Pakistan, after attending medical school at King Edward Medical College and passing his USMLE exams. (*Id.*). In this country, the witness did his residency in psychiatry at Rush Medical Center, and then one-year of fellowship in geriatric psychiatry at UAB in Birmingham, Alabama. (*Id.*). He is going to be Board Certified in General Psychiatry, Geriatric Psychiatry, and Psychosomatic Medicine. (*Id.*).

The witness testified that he is in individual practice, seeing in-patients at Lexington Behavior Health Hospital and working with a company on a contractual basis to provide psychiatric services to inmates in the State of Michigan. (Tr. 21). He has recently resigned from the Department of Veteran Affairs after fourteen years. (*Id.*).

The witness knows Petitioner in a personal capacity. (*Id.*). Petitioner's son and the witness' son attended the same school, and the families have socialized at least once a month since then. (*Id.*). The social events have included other friends, some of whom are also doctors. (Tr. 22).

His understanding of Petitioner's reputation in the community is that he is well-respected, very honest and always willing to help other people. (*Id.*). The witness' personal experience is much the same, that he is very supportive of the witness and his family. (*Id.*).

Dr. Berki understands that Petitioner does not currently have an Illinois license, and that he is asking that it be restored. (*Id.*) He knows that the license was taken away due to a billing fraud conviction. (*Id.*) He learned this directly from Petitioner. (Tr. 22-23). The witness knows that Petitioner's Ohio license was also revoked. (Tr. 23). However, this does not change his opinion of Petitioner because, in the eleven years that he has known him, Petitioner has always found him to be honorable, helpful in family interactions, and "he comes across as a true gentleman." (*Id.*)

In response to questioning by the Department, the witness stated that the family interactions were mostly at his home and that of Petitioner. (*Id.*) He has never seen Petitioner in a hospital setting. (*Id.*) The witness doesn't know how many years Petitioner was committing fraud, but knew that he was "upcoding," which he should not have been doing. (Tr. 23-24). He testified that he knew that Petitioner's license had been revoked and that he had paid a fine close to \$18,000, but was unaware how much the Worker's Compensation Commission of Ohio had lost as a result of Petitioner's actions. (Tr. 24). The witness believed that Petitioner had made a mistake, had paid for it, and was still paying for it. (Tr. 26).

2. Dr. Aqeel Khan.

Dr. Aqeel Khan testified that he has been a psychiatrist for about 28 years. (Tr. 28). He has an active license in Illinois, and has never been disciplined. (*Id.*) His basic education is from Pakistan where he did the MBBS in medical college at the University of Karachi. (*Id.*) He then came to the United States, where he took the USMLE and did his residency in psychiatry and fellowship in geriatric psychiatry. (*Id.*) He obtained Board Certification in adult psychiatry, geriatric psychiatry and addictive medicine. (*Id.*)

He is the main psychiatrist in a group practice. (Tr. 28-29). The practice has two offices, one in Bloomingdale, the other in Naperville. (Tr. 29). He also works in

Northwest Community Hospital, Bolingbrook Hospital and other hospitals. (*Id.*). At present, he works for himself. (Tr. 29-30).

The witness has known Petitioner for the last ten years. (Tr. 30). Years ago, they worked together at the hospital, in Hickory Hills Nursing Home and Chicago Ridge Nursing Home. (*Id.*). He also knows Petitioner as a family friend. (*Id.*). They have seen each other socially four to five times a year over the past five years, and have been to each other's homes. (*Id.*).

Dr. Khan understands that Petitioner has a good reputation in the community. (Tr. 30-31). He has never heard about any issues with Petitioner in the community, personally or with the restaurant business that Petitioner owned in Downers Grove. (Tr. 31).

The witness has known Petitioner since before he lost his Illinois physician's license. (*Id.*). The witness is aware that Petitioner's Ohio license was suspended, because he had a "billing issue," and that Petitioner had pled guilty to billing fraud: he had been charging 40-45 minutes for a 20-minute appointment. (Tr. 32-33, 36). He learned about this a few years ago from Petitioner and was concerned about it. (Tr. 33-34). Petitioner made a mistake, which has caused him to suffer for many years. (Tr. 34). If Petitioner regained his license, the witness would offer him a position, but would closely monitor and supervise him. (*Id.*). The witness testified that Petitioner was a "wonderful physician," that he treated his patients well and was very well-liked in the nursing home, where they had worked together. (Tr. 34-35).

In response to questioning by the Department, the witness testified that Petitioner had shared with him that he had seen patients for medication management for 20 minutes and that this had been billed out by his secretary as 40-45 minutes. (Tr. 35). He accepted the mistake, which led to him overbilling about \$18,000. (*Id.*). He repaid about \$78,000. (*Id.*). As a result, his Ohio license was suspended. (*Id.*). The witness testified that he was unaware how many instances of fraudulent billing took place, but it apparently took place over a long period of



time and involved many patients. (Tr. 36). He doesn't know how many years of criminal probation Petitioner faced, and was hearing for the first time during this formal hearing that the Petitioner's license was permanently revoked in the State of Ohio. (Tr. 37-40).

3. Petitioner.

Petitioner testified that he entered into a consent order in 2012 with the Department which resulted in an indefinite suspension for a minimum three-year period. (Tr. 42). This was based upon his pleading guilty to a felony charge in Ohio for billing fraud, specifically "upcoding." (*Id.*). "Upcoding" means using a higher code for the services that were provided. (Tr. 43). As a result, his license was revoked in Ohio, and this led to the Department filing a Complaint against him. (*Id.*). He did not fight the criminal charges in Ohio, because he realized he had made a mistake, and he took responsibility for it. (Tr. 43-44, 46). Although he originally appealed his Ohio discipline, he did not contest the Board's motion for judgment on the record after his time for briefing a response had passed. (Tr. 55-56). He didn't think it was a good idea to keep prolonging the appeal as he just wanted to move on. (Tr. 55).

Petitioner testified that he should have been more vigilant in monitoring the billing practices of his staff. (Tr. 44, 47). He was too busy seeing patients, running back and forth. (Tr. 47). He didn't take time to pay attention to that aspect of his practice. (*Id.*). When asked to describe the issue in detail, Petitioner testified that there were

worker's compensation patients that I used to see in Ohio. I moved -- in about 1999 or 2000 I moved to Illinois, my family moved. I still had a practice in Ohio. So some of the patients of the worker's compensation who I was following up, they were like my like long-term patients and I had a good relationship with them. So I didn't want to just drop them, you know, because I moved to -- my family moved to Illinois. So I kept going back to Ohio one week out of a month. I was, my family was here. So I started practice over here gradually, but I kept some of the patients over there. So I

would go over there, fly over there, stay in a motel or hotel, see those patients for a week, then come back here. Three weeks here, one week over there. So some of those patients, I saw them over eight or ten years period of time. So the worker's compensation would authorize those patients for a certain type of session, for a follow-up session. Some were authorized for a 45-minute visit, longer visit, some were authorized for a shorter visit, which is medication management. So I would see them accordingly. Then I would submit the charge to my secretary for billing purposes. Then I would -- most of the time I would leave and come back here. In my absence they would do the billing and collect the money and deposit it in the bank, all that stuff. So I did not pay attention, that was my mistake, that I ignored that part of the practice. I should have monitored the billing practice of my staff. Some of the patients who were authorized for 20-minute visits, they billed for 45-minute visits. It went on for a number of sessions. The worker's comp would authorize a bulk of sessions at a time and then we had to re-certify it and all that kind of stuff. So at no point it dawned to me that there was something wrong going on until it was too late. The worker's comp somehow figured it out or ordered it or whatever and when I found out, obviously it was too late, you know, for me to do anything but to accept the mistake, the responsibility. Yes, there was an error, there was a problem, and then I was responsible for that." (Tr. 45-46, *verbatim*).

He was placed on criminal probation for five years or until he paid the restitution, but, since he paid all of the money right away, the probation was terminated within four to six weeks. (Tr. 53). Petitioner testified that he had wanted to pay back the money he had received due to his fraudulent actions, and he had in fact done so, some \$78,000. (Tr. 44).

When addressing the fact that he had needed three attempts to pass the SPEX exam, he acknowledged that he had failed the first two times (with scores of [REDACTED] because the last time he had taken a similar medical examination was some 25 to 30 years before. (Tr. 48-49; Ex. 6, 7). As a psychiatrist, he was not equipped to take such a general medical examination. (Tr. 49). Also, because he was owning and managing the restaurant and otherwise running around, earning money to support his family, he didn't have enough time to study, and he underestimated how difficult it was. (Tr. 50). He testified that he thought he had done his best, but it wasn't good enough. (Tr. 49). The third time he took the

examination on October 24, 2017, he passed with a score of [REDACTED] (Tr. 49-50; Ex. B). On that occasion, Petitioner had studied hard, and was able to focus on the examination, having sold the restaurant. (Tr. 50). Petitioner has taken continuing medical education courses and credits. (Tr. 52-53; Ex. C). This year so far, Petitioner has taken 151.25 CME credits. (Ex. C).

Petitioner testified that, following the permanent revocation of his Ohio license, he hasn't had a license to practice medicine in Illinois since 2012. (Tr. 50). Petitioner has supported himself and his family since then by starting a small restaurant, and by going to some of the medical offices, because his younger brother was a medical doctor, and he knew a few other doctors. (Tr. 51). He did not perform clinical work, did not see any patients, but helped out the doctors in other ways. (*Id.*). By doing this, he could stay in touch with the medical community and keep current with the new trends and developments, including medication. (*Id.*).

Addressing his personal circumstances, Petitioner testified that he has been married to his wife (present at the hearing) for about 25 years. (*Id.*). They have four children, two boys and two girls. (*Id.*). Two are in college. (*Id.*). His son has recently graduated from Benedictine University, and is applying to go to dental college. (Tr. 51-52). His daughter also graduated from college. (Tr. 52). The two younger children are still in school. (*Id.*). His son is in eighth grade, his younger daughter is in tenth grade. (*Id.*). Petitioner testified that he had told his two testifying witnesses about the criminal conduct in Ohio a few years ago when he first found out that his license in Illinois was going to be suspended. (*Id.*). He stated that they were shocked to hear this. (*Id.*).

Petitioner testified that he feels sorry for what had happened before. (Tr. 54). If he was fortunate enough to get his license reinstated, he would be very grateful to everybody for trusting him again. (*Id.*). He would want to go back into the medical profession again, and would like to work in a situation where, in the beginning he could feel more comfortable and not do any billing. (*Id.*). Before his license was suspended, he had worked in the south side of Chicago with homeless

people. (*Id.*) He stated that they have not had a psychiatrist since he left the area, so he might go back there. (*Id.*)

Under cross-examination, Petitioner testified that he didn't know how many years he had submitted fraudulent bills in Ohio for worker's compensation. (Tr. 56). He agreed that the length of the conduct was at least from 2004 to 2008. (Tr. 58). It was possible that he submitted over one hundred bills containing fraudulent information; however, he believes that there were only a few dozen repeat cases. (Tr. 58-59). He saw 15 to 20 patients each day for the week he spent in Ohio every month. (Tr. 59). There was no scheme to the billing: "it was just a sporadic few cases, which were billed wrongly. So there is no way of telling which week we billed wrong and which week we didn't bill wrong. There may be a period of time when bills was not billed wrong, but there may be a period of time that they were billed wrong. So it was an overall situation." (Tr. 60). He believed that perhaps 8-10 patients were incorrectly billed during the week in Ohio. (*Id.*)

Petitioner testified that he went to a hearing in Ohio which resulted in the permanent revocation of his license for failing to oversee his billing. (Tr. 62). He pled guilty to Count I of his indictment, which concerned the billing code errors, which he knew was the wrong thing to do. (Tr. 63). He should have monitored carefully what his secretary was billing, which he failed to do. (*Id.*) He did not admit to anything else in the indictment. (*Id.*)

About a year or so after his license was suspended in Illinois, Petitioner learned that his Medicare, Medicaid and other privileges were suspended as a consequence of the Ohio discipline. (Tr. 67; Ex. 3). He was afforded the right to appeal, which he did, because his license had already been suspended for three years, and he had an additional five years imposed. (Tr. 68). Among the documents that he submitted to Medicare was the Ohio Worker's Compensation Bureau's investigation report, which stated that Petitioner had submitted claims for over 16 hours of psychotherapy services in one day and had submitted over 24 hours a day of billing for psychotherapy sessions. (Tr. 68-69, 70-71).

Petitioner acknowledged that none of the continuing medical education credits in Exhibit C directly related to the conduct that led to his permanent revocation in Ohio, indefinite suspension in Illinois, and five-year criminal probation. (Tr. 72).

Petitioner acknowledged that a Department formal complaint was filed in January 2012, which led to the entry of a Consent Order with the Department in December 2012, and that he received a discipline of permanent revocation of his Ohio license while the formal complaint was pending. (Tr. 72-73). He did not recall whether he informed the Department of that discipline when it was imposed. (Tr. 73-74).

The Department's case-in-chief consisted of the testimony adduced in the hearing thus far and the admitted exhibits. The documentary evidence showed that, on June 8, 2011, Petitioner entered a plea of no contest to a stipulated lesser included offense of Workers' Compensation Fraud (Count I of the Indictment).<sup>1</sup> Counts 2 through 5 of the Indictment were *nolle prosequi*'d. Among other things, Count I recited that from approximately August 2, 2004 through May 18, 2006, Petitioner made or presented a false or misleading statement with the purpose to secure payment for goods or services or workers' compensation benefits and/or altered, falsified, destroyed, concealed or removed any record or document necessary to establish the validity of any claim for reimbursement filed with the bureau of workers' compensation, and the value of the services rendered was between \$5,000 and \$100,000.<sup>2</sup> Petitioner was sentenced to five years of Community Control, with eight months incarceration, if violated. He was

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<sup>1</sup>While both parties characterized Petitioner's actions as pleading guilty to Workers' Compensation Fraud, the "Entry of No Contest Plea" recites that Petitioner did not plead guilty, but admitted the truth of the facts alleged in the indictment. (Ex. 1). The federal government and Ohio authorities have understood this to mean that the original court adjudged Petitioner guilty. (See, e.g. Ex. 3, p. 4)

<sup>2</sup>Count I was subsequently amended to reduce the value of the services rendered to between \$1,000 and \$7,000.

further ordered to pay court costs and restitution to the Workers' Compensation Bureau in the amount of \$78, 573.16. (Ex. 1).

On April 11, 2012, following an evidentiary hearing, the State Medical Board of Ohio adopted the Hearing Examiner's Report and Recommendation, and ordered that Petitioner's certificate to practice medicine and surgery in Ohio be permanently revoked. (Ex. 4). On September 17, 2012, the Court of Common Pleas in Franklin, Ohio, affirmed the State Medical Board's Order dated April 11, 2012, granting the Board's motion for judgment on the pleadings, after Petitioner failed to file any papers in support of his appeal. (Ex. 5).

Following the filing of a formal Complaint in 2011, the Department and Petitioner entered into a Consent Order dated December 14, 2012, pursuant to which Petitioner's physician and surgeon license was indefinitely suspended for a minimum of three years. (Ex. 2).

On March 31, 2014, the Inspector General of the U.S. Department of Health and Human Services notified Petitioner that he was being excluded from participation in Medicare, Medicaid and all federal health programs for a minimum period of five years as a result of his Ohio criminal conviction. After Petitioner appealed, the decision was affirmed by the Department of Health and Human Services Departmental Appeals Board on November 5, 2014. (Ex. 3). The Appeals Board specifically referenced facts revealed by the Ohio Bureau of Workers' Compensation investigation. "[P]etitioner treated workers' compensation patients and routinely billed [the Bureau] for psychotherapy services in excess of the time he actually spent with the patient. According to the investigative report, Petitioner submitted claims to [the Bureau] for over 16 hours' worth of psychotherapy services provided in one day, and, at times, billed [the Bureau] for over 24 hours' worth of psychotherapy services purportedly provided in one day. The investigation also found that, in addition to upcoding services, Petitioner falsified treatment and progress notes . . . . Further, the record

shows that Petitioner admitted to having overbilled [the Bureau] by \$19,643.29 from August 2004 through May 2006 for his medical services.” (Ex. 3).

### ANALYSIS

Pursuant to the Illinois Civil Administrative Code, 20 ILCS 2105/2105-10, the practice of the regulated professions, trades, and occupations in Illinois is hereby declared to affect the public health, safety, and welfare of the People of this State and in the public interest is subject to regulation and control by the Department of Professional Regulation. It is further declared to be a matter of public interest and concern that standards of competency and stringent penalties for those who violate the public trust be established to protect the public from unauthorized or unqualified persons representing one of the regulated professions, trades, or occupations.

It is a general purpose of the Medical Practice Act of 1987 to protect the public health and welfare from those not qualified to practice medicine. *Vine Street Clinic v. HealthLink, Inc.*, 222 Ill. 2d 276, 295 (2006) (citing *Ikpoh v. Department of Professional Regulation*, 338 Ill. App. 3d 918, 926 (1st Dist. 2003)).

The practice of medicine, in addition to skill and knowledge, requires honesty and integrity of the highest degree, and inherent in the State's power is the right to revoke the license of those who violate the standards it set. *Kaplan v. Department of Registration and Ed.*, 46 Ill. App. 3d 968, 975 (1st Dist. 1977).

The Medical Practice Act of 1987 provides that, at any time after the suspension or revocation of any license, the Department may restore it to the accused person unless, after an investigation and a hearing, the Department determines that restoration is not in the public interest. 225 ILCS 60/43.

The Department has shown that Petitioner's license was indefinitely suspended for a minimum of three years in 2012. Petitioner is therefore eligible for restoration pursuant to the standard set forth above in that his petition was filed over three years following the indefinite suspension. Section 1285.255 of the

Illinois Administrative Code as applicable to the Medical Practice Act provides certain factors, some of which are relevant to this case, which shall be considered by the Administrative Law Judge to determine if Petitioner is to be deemed sufficiently rehabilitated to warrant the public trust. 68 Ill. Admin. Code 1285.255. Discussion of the relevant factors follows below.

The criminal offense committed by Petitioner in Ohio was serious and constituted a felony. It consisted of defrauding the Ohio Workers' Compensation Bureau over a period of two to four years and implicating several patients, usually on a repeat basis. This was not an isolated incident, but a series of overbillings which defrauded the Ohio agency of \$19,643.29 and caused investigation costs of \$58,929.87. While Petitioner, on several occasions, stated that he was sorry and appeared to show contrition for his past actions, his character witnesses (social friends who happened to be physicians) consistently characterized the events as "mistakes," and Petitioner sought to pass the blame on to his administrative staff, who he claims he should have monitored more effectively, Petitioner admitted the truth of the allegations and was adjudged guilty by the Ohio criminal court. For these reasons, this factor weighs heavily against the Petitioner. 68 Ill. Admin. Code 1285.255(a)(1).

Petitioner has complied with the terms of his sentence, by obtaining employment (he ran a restaurant and worked with his physician brother in a non-clinical setting), and by making restitution in the court-ordered amount of \$78,573.16. (*Id.* at (a)(8)). His prompt compliance with the terms of the sentence is to be recognized; however, had he not complied, Petitioner knew he was facing a jail term of eight months. (Ex. 1).

In his favor, Petitioner had the benefit of two character witnesses who testified as to his reputation in the community and their family and other social interactions with the Petitioner and his family. They were aware in general terms of the nature of the Petitioner's crimes, if not the precise details and extent of his fraudulent conduct. However, given their awareness of Petitioner's criminal



fraudulent activities, the Administrative Law Judge found it odd that Dr. Berki still considered Petitioner to be "very honest, "honorable" and "a true gentleman," and that Dr. Aqeel would offer to trust Petitioner with a position (albeit with "close" monitoring and supervision). (Tr. 22, 23, 34). Significantly, the quality of the psychiatric care provided to patients by Petitioner has never been raised as an issue in this case. 68 Ill. Admin. Code 1285.255(a)(7).

As for future plans, Petitioner testified that, if he was fortunate enough to get his license reinstated, he would want to return to practicing medicine again. He had previously worked in the south side of Chicago with homeless people and might want to return there, since no psychiatrist had been available since he was suspended. He did not want to be involved in doing any billing. (*Id.* at 9).

Other factors to be considered include the fact that six years have passed since Petitioner's Illinois license was indefinitely suspended; he provided proof of over 150 CME credits - although none of these was related to "the grounds for the disciplinary action . . . having been taken;" Petitioner had passed the SPEX examination, albeit at the third attempt; and Petitioner's family was involved in his life, although no evidence was provided to show that they were involved in his "rehabilitation process." (*Id.* at (a)(2), (5), (6), and (10)). None of these factors is determinative.

The Administrative Law Judge is not convinced that the mitigating factors advanced by Petitioner outweigh the severity of the offense underlying this action. Petitioner submitted a series of fraudulent overcharges ("upcoding"), with knowledge and intent, and defrauded the people of the State of Ohio of a significant amount of money.

Petitioner has failed to show by a preponderance of the evidence that the public interest would be served by the restoration of his Illinois Physician and Surgeon License, or that he has been sufficiently rehabilitated to warrant the public trust.

**CONCLUSIONS OF LAW**

Based on the above Findings of Fact, the Administrative Law Judge concludes as a matter of law the following:

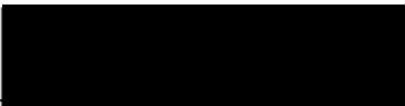
1. The Illinois Medical Disciplinary Board has jurisdiction over the subject matter and the parties in this case.
2. Petitioner has failed to prove by a preponderance of the evidence that his Physician and Surgeon License should be restored.

**RECOMMENDATION**

Based on the above Findings of Fact and the Conclusions of Law, and consideration of the factors of rehabilitation in 68 Ill. Admin. Code 1285.255, the Administrative Law Judge recommends to the Illinois Medical Disciplinary Board that MUHAMMAD S. CHOUDHRY's Petition for Restoration of his license as a Physician and Surgeon, No. 036.081407, be DENIED.

Dated: August 7, 2018

Respectfully submitted:



Ian Brenson  
Administrative Law Judge

2011-09632  
Muhammad S. Choudhry  
License No. 036.081407

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

STATE OF OHIO, : SEALING CASE NO. 15EP-583  
Plaintiff, :  
 : CRIMINAL CASE NO 10CR-4921  
Vs. : JUDGE SCHNEIDER  
Muhammad S. Choudhry :  
Defendant, :

ENTRY SEALING RECORD OF CONVICTION PURSUANT TO R.C. 2953.32

In accordance with Section 2953.32, Ohio Revised Code, the Court finds that there are no criminal proceedings pending against the applicant, **Muhammad S. Choudhry**, and that the sealing of the record of the applicant's CONVICTION, in Criminal Case number **10CR-4921** is consistent with the public interest.

In accordance with Section 2953.32(C)(1)(c), Ohio Revised Code, the Court determines by clear and convincing evidence that the applicant has been rehabilitated to the Court's satisfaction.

It is therefore **ORDERED** that all official records pertaining to the applicant's conviction in Case number **10CR-4921**, be sealed and, except as provided in R.C. 2953.32(F), all index references be deleted. This order does not exempt from use records and work product in this case in any civil litigation arising out of, or related to, the facts in this case, and such records and work product will be available for inspection and use for such purposes if necessary.

With the exceptions noted above, it is **FURTHER ORDERED** that no officer or employee of the State, or political subdivision thereof, except as authorized by Division (D), (E) and (G) of Section 2953.32 of the Ohio Revised Code, shall release, disseminate, or make available for any purpose involving employment, bonding, licensing, or education to any person or to any department agency, or other instrumentality of the State, or any political subdivision thereof, any information or other data concerning the: arrest, complaint, indictment, dismissal, nolle, motion hearings, trial, adjudication or correctional supervision associated with Criminal Case **10CR-4921**.

For purposes of identification, the following information is provided for the arresting agency and any custodians of arrest and adjudication data:

APPLICANT'S FULL NAME: Muhammad S. Choudhry  
ADDRESS: 687 Anne Lane  
CITY: Bolingbrook STATE: IL ZIP: 60440  
SEX: Male RACE: Unknown DATE OF BIRTH: 11/07/1960 SSN: 302-84-7932  
CHARGE: Workers Compensation Fraud 2 cts. (F4); Theft 2 cts.(F4); Tamper with Records (F3)  
CONVICTED OF: Workers Compensation Fraud 1 ct.(F5)  
DATE OF ARREST: 9/2010  
ARRESTING AGENCY: FCSO  
MUNICIPAL COURT CASE NUMBER:  
OHIO B.C.I. NUMBER: C662875  
F.B.I.: 918356JD4

JUDGE

*W. J. O'Brien, Franklin County Prosecutor*

*Assistant Attorney General*

EXHIBIT

A