

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 1168

FILED OF RECORD

APR 29 2009

K.B.M.L.

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF
KENTUCKY HELD BY HAMID SHEIKH, M.D., LICENSE NO. 17538,
PHYSICIANS MALL, 715 SHAKER DRIVE, SUITE 139, LEXINGTON,
KENTUCKY 40504

ORDER OF REVOCATION

At its April 16, 2009, meeting, the Kentucky Board of Medical Licensure (hereafter "the Board"), acting by and through its Hearing Panel B, took up this case for final action. The members of Panel B reviewed a memorandum prepared by the Board's Assistant General Counsel dated March 25, 2009; the Recommended Order Finding Hamid H. Sheikh, M.D., in Default filed of record March 4, 2009; the Complaint filed of record June 6, 2008; the licensee's Exceptions filed of record March 17, 2009, along with correspondence from the licensee dated November 6, 2008, March 25 and April 7, 2009, numerous articles from internet websites, and numerous letters of recommendation. The Panel members also heard and considered oral remarks by Hamid Sheikh, M.D. and the Board's Assistant General Counsel.

Having considered all available information and being sufficiently advised, Hearing Panel B ACCEPTS the recommended Order issued by the Hearing Officer, FULLY INCORPORATES the recommended Order by reference into this Order as Attachment 1, and ADOPTS the recommended Order as the Panel's final order in this matter. As provided by KRS 13B.080(6), Hearing Panel B FINDS AND CONCLUDES that the licensee has defaulted by refusing to continue his participation in the hearing, which had been in session for one day and had previously been scheduled to continue uninterrupted. Accordingly, Hearing Panel B FINDS that, by his default, the licensee has

ADMITTED each of the allegations included in the Complaint; accordingly, the Complaint is ADOPTED and FULLY INCORPORATED BY REFERENCE into this final order as Attachment 2. Based upon his default and admissions, Hearing Panel B expressly FINDS that each of the allegations set out in the Complaint are true and accurate.

Based upon those FINDINGS OF FACT, Hearing Panel B CONCLUDES that the licensee has engaged in conduct which violates the provisions of KRS 311.595(3) and (9), as illustrated by KRS 311.597(3) and (4). Hearing Panel B ACCEPTS and ADOPTS the recommendation of the Hearing Officer to DISMISS the charges relating to violations of KRS 311.595(10) based upon allegations of Medicaid fraud, and those charges are DISMISSED WITHOUT PREJUDICE, and with leave for the Board to refile those charges or to address them in an appropriate manner following conclusion of the criminal trial of those allegations.

Having considered its FINDINGS OF FACT and CONCLUSIONS OF LAW, and having considered all available options, Hearing Panel B ORDERS that:

1. The license to practice medicine in the Commonwealth of Kentucky held by Hamid H. Sheikh, M.D., is hereby **REVOKED**, with that revocation becoming effective immediately upon the date of filing of this Order of Revocation and continuing for an indefinite period;
2. During the effective period of this Order of Revocation, the licensee SHALL NOT perform any act which constitutes "the practice of medicine," as that term is defined by KRS 311.550(10) – the diagnosis, treatment, or correction of any and

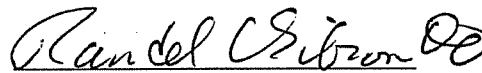
all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices, or instrumentalities;

3. The licensee SHALL pay the costs of this proceeding, \$2,847.70, in full within twelve (12) months of the date of filing of this Order of Revocation;

4. The provisions of KRS 311.607 SHALL apply to any petition for reinstatement.

The Panel will not consider any petition for reinstatement while criminal charges are pending against the licensee and unless he has fully complied with all conditions of this Order of Revocation.

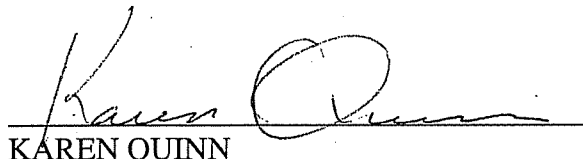
SO ORDERED on this 29th day of April, 2009.



RANDEL C. GIBSON, D.O.
CHAIR, HEARING PANEL B

Certificate of Service

I certify that the original of the foregoing Order of Revocation was delivered to Mr. C. William Schmidt, Executive Director, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222 and a copy was mailed to Thomas J. Hellmann, Esq., Hearing Officer, 810 Hickman Hill Road, Frankfort, Kentucky 40601; and mailed via certified-mail return receipt requested to Hamid Sheikh, M.D., 715 Shaker Drive, #139, Lexington, Kentucky 40504; and Hamid Sheikh, M.D., 556 South Fox Hill, Bloomfield, Michigan 48304 on this 29th day of April, 2009.



KAREN QUINN
Assistant General Counsel
Kentucky Board of Medical Licensure
310 Whittington Parkway, Suite 1B
Louisville, Kentucky 40222
502/429-7150

EFFECTIVE DATE AND APPEAL RIGHTS

Pursuant to KRS 311.593(1) and 13B.120, the effective date of this Order of Revocation will be immediately upon receipt by the licensee.

The licensee may appeal from this Order, pursuant to KRS 311.593 and 13B.140-.150, by filing a Petition for Judicial Review in Jefferson Circuit Court within thirty (30) days after this Order is mailed or delivered by personal service. Copies of the petition shall be served by the licensee upon the Board and its General Counsel. The Petition shall include the names and addresses of all parties to the proceeding and the agency involved, and a statement of the grounds on which the review is requested, along with a copy of this Order.

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 1168

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MAR 04 2009

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IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY HAMID H. SHEIKH, M.D., LICENSE NO. 17538, PHYSICIANS MALL, 715 SHAKER DRIVE, SUITE 139, LEXINGTON, KENTUCKY 40504

**RECOMMENDED ORDER FINDING
HAMID H. SHEIKH, M.D., IN DEFAULT**

On November 5 and 6, 2008, the hearing officer conducted the administrative hearing in this action. Hon. Karen Quinn represented the Kentucky Board of Medical Licensure, and Hamid H. Sheikh, M.D., represented himself. On the first day of the hearing several witnesses testified in support of the Board's allegations of misconduct by Sheikh, but at the beginning of the second day of the hearing, Dr. Sheikh announced that he would no longer participate in the administrative hearing process. After the hearing officer informed Sheikh of the potential consequences on his ability to practice medicine due to his announced decision, Sheikh reaffirmed his decision not to participate in the hearing. Therefore, the hearing officer concluded the hearing. Due to Sheikh's refusal to participate in the administrative hearing process, the hearing officer recommends pursuant to KRS 13B.080(6) that the Board find Sheikh in default, find the allegations as set forth in the *Complaint* to be true, and take whatever action is appropriate against Sheikh's license based upon the statutory violations set forth in the *Complaint*.

Dr. Sheikh's medical specialty is Obstetrics/Gynecology, and as part of his medical practice located in Lexington, Kentucky, he provided abortion services to patients. In the

Complaint the Board stated that the Director of the Medicaid Fraud and Abuse Control Division in the Office of Attorney General, filed a grievance with the Board. The grievance stated that the division had conducted an investigation of Sheikh's medical practice for Medicaid fraud and that numerous other issues had been uncovered related to "quality of care, health and safety standards, and regulatory compliance." *Complaint*, page 1-2. Specifically, the director stated that the division had "identified concerns with expired medications, un-sterile equipment, unsanitary conditions, missing or inoperable equipment necessary for either general medical and/or emergency situations, concerns with improper counseling/instruction standards prior to the performance of certain medical procedures, etc." *Id*, page 2.

The *Complaint* stated that a Board investigator interviewed the nurse/investigator for the Medicaid division who had been present at Sheikh's office, and she confirmed to the Board investigator the many deficiencies in Sheikh's medical office that were the basis for her director's grievance to the Board. *Complaint*, pages 2-3. The Board's investigator conducted his own inspection of Sheikh's medical office and found many of the same deficiencies. *Complaint*, pages 3-4.

In addition, the *Complaint* set forth allegations involving seven patients, identified as Patients A-G, who asserted misconduct by Sheikh in the medical care he provided to them at his office. *Complaint*, pages 4-10, 11-13. Patients B, C, D, and E testified at the administrative hearing on November 5, 2008, and each supported the allegations of misconduct as set forth in the *Complaint*.

The Board had a consultant review twenty-two of Sheikh's patient charts, and the *Complaint* noted that the consultant's overall opinion of Sheikh's medical practice was that it

was “clearly below minimum standards” and that Sheikh had committed gross negligence. The consultant stated that Sheikh “constitutes a danger to health, welfare, and safety of the physician’s practice. The dirty and disorganized office coupled with the finding [of gross negligence] puts his patients at risk.” *Complaint*, page 11.

The *Compliant* also alleged that on November 14, 2007, Sheikh had been served with a four count indictment charging him with devising or engaging in a scheme to defraud the Kentucky Medicaid Assistance Program. *Complaint*, first page. After the hearing officer concluded the hearing, the Board requested that he not issue his recommendation until completion of Sheikh’s trial on those charges that was scheduled for mid-December 2008. That trial was continued, however, and consequently, the Board requested that the hearing officer issue a recommendation based upon the remaining allegations and to dismiss the Medicaid fraud charge without prejudice to the Board’s right to reinstate that charge if Sheikh is later convicted of that offense.

Based upon the allegations contained in the *Complaint* the Board charged Sheikh with violating KRS 311.595(3), (10), and (9), as illustrated by KRS 311.597(3) and (4). *Complaint*, page 14.

In support of his refusal to participate in the administrative hearing process Sheikh asserted on November 6, 2008, that he has retired from the practice of medicine, that he has received threats as a result of publicity surrounding his conduct and the actions against him, and that it is too stressful on himself, his wife, and his family to continue to defend his actions. Sheikh also asserted that all of his conduct was legal and conformed with the statutes and regulations governing the practice of medicine. Exhibit 4.

In light of the evidence admitted at the hearing and based upon his refusal to defend against the charges contained in the *Complaint*, Sheikh's assertion that his conduct did not violate the statutes and regulations governing the practice of medicine is not credible.

Therefore, the hearing officer recommends that the Board find Sheikh in default, find that the allegations contained in the *Complaint* are true (except those regarding Medicaid fraud), and that the Board find Sheikh guilty of violating KRS 311.595(3) and (9), as illustrated by KRS 311.597(3) and (4). The hearing officer also recommends that the Board dismiss without prejudice the allegations of Medicaid fraud and the associated statutory violation of KRS 311.595(10). Based upon the finding that Sheikh has violated the statutes governing the practice of medicine, the hearing officer recommends that the Board take whatever action is appropriate against Sheikh's license to practice medicine as a result of those violations.

NOTICE OF EXCEPTION AND APPEAL RIGHTS

Pursuant to KRS 13B.110(4) a party has the right to file exceptions to this recommended decision:

A copy of the hearing officer's recommended order shall also be sent to each party in the hearing and each party shall have fifteen (15) days from the date the recommended order is mailed within which to file exceptions to the recommendations with the agency head.

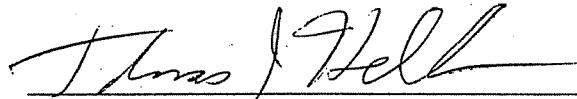
A party also has a right to appeal the Final Order of the agency pursuant to KRS 13B.140(1) which states:

All final orders of an agency shall be subject to judicial review in accordance with the provisions of this chapter. A party shall institute an appeal by filing a petition in the Circuit Court of venue, as provided in the agency's enabling statutes, within thirty (30) days after the final order of the agency is mailed or delivered by

personal service. If venue for appeal is not stated in the enabling statutes, a party may appeal to Franklin Circuit Court or the Circuit Court of the county in which the appealing party resides or operates a place of business. Copies of the petition shall be served by the petitioner upon the agency and all parties of record. The petition shall include the names and addresses of all parties to the proceeding and the agency involved, and a statement of the grounds on which the review is requested. The petition shall be accompanied by a copy of the final order.

Pursuant to KRS 23A.010(4), "Such review [by the circuit court] shall not constitute an appeal but an original action." Some courts have interpreted this language to mean that summons must be served upon filing an appeal in circuit court.

SO RECOMMENDED this 3rd day of March, 2009.



THOMAS J. HELLMANN
HEARING OFFICER
810 HICKMAN HILL RD.
FRANKFORT, KY 40601
(502) 330-7338
thellmann@mac.com

CERTIFICATE OF SERVICE

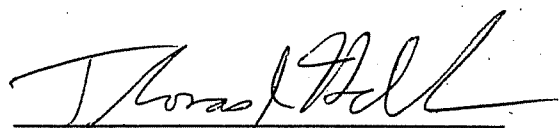
I hereby certify that the original of this RECOMMENDATION was mailed this 3rd day of March, 2009, by first-class mail, postage prepaid, to:

JILL LUN
KY BOARD OF MEDICAL LICENSURE
HURSTBOURNE OFFICE PARK STE 1B
310 WHITTINGTON PKWY
LOUISVILLE KY 40222

for filing; and a true copy was sent by first-class mail, postage prepaid, to:

HAMID H SHEIKH MD
PHYSICIANS MALL
715 SHAKER DRIVE SUITE 139
LEXINGTON KY 40504

KAREN QUINN
ASSISTANT GENERAL COUNSEL
KY BOARD OF MEDICAL LICENSURE
HURSTBOURNE OFFICE PARK STE 1B
310 WHITTINGTON PKWY
LOUISVILLE KY 40222



THOMAS J. HELLMANN

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JUN 06 2008

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IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY HAMID H. SHEIKH, M.D., LICENSE NO. 17538, PHYSICIANS MALL, 715 SHAKER DRIVE, SUITE 139, LEXINGTON, KENTUCKY 40504

COMPLAINT

Comes now the Complainant Donald J. Swikert, M.D., Chair of the Kentucky Board of Medical Licensure's Inquiry Panel A, and on behalf of the Panel which met on May 15, 2008, states for its Complaint against the licensee, HAMID H. SHEIKH, M.D., as follows:

1. At all relevant times, HAMID H. SHEIKH, M.D., was licensed by the Kentucky Board of Medical Licensure (hereafter "the Board") to practice medicine in the Commonwealth of Kentucky.
2. The licensee's medical specialty is Obstetrics/Gynecology.
3. On November 14, 2007, the Franklin Circuit Court in Frankfort, Kentucky served a four count indictment on the licensee for devising or engaging in a scheme to defraud the Kentucky Medical Assistance Program (billing Medicaid for non-approved procedures).
4. On December 4, 2007, the Board received a grievance from Pamela J. Murphy, Director of the Medicaid Fraud and Abuse Control Division in the Attorney General's Office, indicating that while her agency was investigating the licensee concerning allegations of Medicaid fraud, they uncovered additional issues of concern which were "numerous and relate to quality of care, health and safety

standards, and regulatory compliance.” Specifically, she stated: “We have identified concerns with expired medications, un-sterile equipment, unsanitary conditions, missing or inoperable equipment necessary for either general medical and/or emergency situations, concerns with improper counseling/instruction standards prior to the performance of certain medical procedures, etc.”

5. A Board investigator interviewed Isabelle Sherer, RN, Medicaid Fraud & Abuse Control Division, who stated that while assisting with the search of Dr. Sheikh’s medical office she made the following observations; the office was unclean and disorganized. The treatment rooms did not demonstrate by appearance, equipment, or supplies minimal adherence to reasonable standards of care for medical exams and surgical procedures.
6. RN Sherer stated that there are numerous laws and regulations specific to the provisions of an abortion in Kentucky. 902 Kentucky Administrative Regulation 20:360 lists the numerous requirements applying to a Kentucky Abortion Facility. Providers of any abortion at any stage of pregnancy-including private physicians-must comply with administrative, physical plant and employee testing requirements. Every abortion facility must enter into a written agreement with a hospital and an ambulance service in which the hospital and ambulance service each agree in advance to accept and treat the abortion provider’s patients if complications arise. Dr. Sheikh was unable to produce state required printed materials about abortion, which is mandated by KRS 311.725.
7. RN Sherer provided a written report of her observations of each exam room in Dr. Sheikh’s office. She noted: Room #7, no blood pressure cuffs, stethoscopes,

thermometers, towels at the sink for hand washing, biohazard box, sharps box, and Nitrous Oxide tank hook up gauge or mask. Exam table drawer contained visible debris particles/solid towel and two boxes of expired gloves (expired 10/20/06 and August 2007). The oxygen tank had no cannula. Ambu Bag with mask and cannula was not sealed. The following medications were expired, 3 vials Aminophylline, 3 vials Methergine, 11 vials Epinehrine, 4 vials Diphendyramine, 1 vial Pitocin, 2 vials Diazepam (expiration dates ranging from March 2002 to March 2006) and 1 liter bag of IV fluid, D5 Lactated Ringers Solution (expired June 1998). No bio waste pickup or lab pickup cabinets were found. Room #8, no towels for hand washing. The following were found to be expired, four boxes of Lidocaine expired October 2002, Solar Biologicals expired August 17, 2005, and Anti D, Anti Rh. Bioclone expired May 17, 2007. Room #9, no towels for hand washing, soap or sharps box could be found. RN Sherer stated that the only medication on the premises not outdated was birth control pills. Rho gam was located in the refrigerator in the front office. RN Sherer stated that the number of health violations noted during the search of Dr. Sheikh's office is indicative of medical care standards dramatically out of compliance with what can be reasonable expected in a health care facility.

8. The Board investigator inspected the licensee's office on January 11, 2008. The investigator agreed with the findings of Nurse Sherer but "during my visit there were paper towels and soap at the sinks. A wrist blood pressure cuff was located in Dr. Sheikh's office. A five gallon red bucket with no biohazard markings inside or out was in the refrigerator in the washer/dryer room. Dr. Sheikh stated

that the last pickup for biohazard was approximately twelve weeks ago, there is no regular pickup schedule and he calls for pickup. One full case and a half case of rubber gloves (expiration dates could not be found) were located in the room with the couch. No disposable/paper gowns or coverings were found and Dr. Shiekh stated that he uses cloth. The cloth gowns/coverings/towels appeared to be worn and some stained with bleach. Dr. Sheikh stated that no lab work is performed on sight therefore no lab pickup is needed.”

9. Agent Keith Howard, Medicaid Fraud and Abuse Control Division provided the Board investigator with a list of seven of the licensee’s patients who reported highly negative experiences with the licensee, commonly involving a lack of medication, and being told by the licensee not to scream during the procedure.
10. Patient A stated that she contacted Dr. Sheikh’s office in reference to an abortion, which was scheduled in June of 2003. No history or vitals were obtained and no 24-hour wait or state mandated information on abortion was provided. A Valium was given prior to the procedure, a vaginal ultrasound was performed, and no pain medication was offered. She was in “major pain” during the procedure; she was “messed up physically and emotionally”; she was in no condition to drive home and she found Dr. Sheikh and his staff uncaring. No one informed her that someone should accompany her. A follow up was scheduled and during the follow up a pap smear was obtained, which she did not request. After the procedure nothing was offered to clean her off with, therefore she asked for something. Dr. Sheikh informed her that the pap results were abnormal, but she had received a pap smear a month prior and those results were normal. She was

required to pay \$400.00 cash up front and her insurance was also billed. She received several bills from Dr. Sheikh for lab work and the pap smear test due to her insurance refusing to pay. She confronted him and he refunded \$40.00 or \$50.00. In retrospect, she felt the follow up and pap smear test were so Dr. Sheikh could charge her insurance additionally. She believes he was compensated twice: the \$400.00 he received from her and the insurance reimbursements.

11. Patient B stated that she contacted two other facilities in Louisville & Cincinnati before deciding to have her abortion performed by Dr. Sheikh. She decided to have Dr. Sheikh perform the procedure because 1) the other facilities required a counseling session, Dr. Sheikh did not, a fact which alleviated two trips, and 2) Dr. Sheikh communicated with her over the telephone upon her first contact. During her initial phone contact Dr. Sheikh wanted to know how far along she was. She thought she was 10-12 weeks, but was not sure. She believed Dr. Sheikh could sense she was hesitant in having the abortion, but he was reassuring stating that the procedure would only take 5-10 minutes. Therefore she scheduled an appointment within a week for June 1, 2006. There were cobwebs and a broken tree coat rack in the office. She paid \$400.00 up front and her Medicaid card was copied. She was informed her Medicaid card was obtained for the follow up visit, which she did not keep. While she was waiting, a patient came in upset due to continued bills received after her insurance had reimbursed Dr. Sheikh. Dr. Sheikh took no history, vitals, nor did he verify her pregnancy. The ultrasound machine was never turned on. She was given a Valium for the pain,

which did nothing. During the procedure the pain was unbearable and she fought them and kicked over a tray. After the procedure she was given a stained sheet to cover with and taken to another room. She was not instructed to have someone accompany her, but she did bring someone with her. There was no 24-hour wait or state mandated information on abortion provided. She later learned that Medicaid was charged for her visit.

12. Patient C stated that she contacted Dr. Sheikh's office by telephone and an appointment was set within two weeks, May 25, 2007. She was seventeen at the time. Her attorney and the court provided her with all information regarding the state mandated information on abortions and Dr. Sheikh provided none. She arrived at Dr. Sheikh's office at approximately 8:00 a.m. with her boyfriend even though Dr. Sheikh did not instruct her to have someone accompany her. No medical history or vitals signs were taken. She did not know her blood type, therefore blood was taken and Valium was given. An ultrasound was performed. Dr. Sheikh informed her that she was thirteen weeks along and therefore the procedure would cost an additional \$200.00. An ultrasound was performed approximately one week prior to her visit with Dr. Sheikh, and she had been informed then that she was nine to ten weeks. She paid \$400.00 up front and they had to leave to obtain the additional money. Dr. Sheikh took her insurance, but she was unable to say if he submitted charges for the abortion. She returned to his office with the additional money at approximately 2:00 or 3:00 p.m. and she had to wait. Another patient was unsure if she wanted to have the abortion and Dr. Sheikh was visibly upset with her saying to her that she was wasting his time,

money, other patients were waiting and she needed to leave. During the procedure the pain was nothing she had experienced before. It was unbearable and Dr. Sheikh kept saying over and over, "no noise no one needs to hear you". When the procedure was complete she was given a towel to cover herself and was taken to another room where she waited for a short time with her boyfriend. A follow up was scheduled due to Dr. Sheikh finding eight cysts. Dr. Sheikh prescribed birth control pills stating that this should take care of the cysts. Dr. Sheikh required money up front for the Gardasil treatments she received and charged her insurance company. After several calls and arguing he eventually refunded the cash payment for the Gardasil treatment. Paula Groves, M.D., stated that she performed a follow-up and ultrasound on December 14, 2007 and the information Dr. Sheikh provided Patient C was consistent with her findings.

13. Patient D stated that she contacted Dr. Sheikh's office the first of March 1991 due to pregnancy complications and an appointment was scheduled for an abortion at the end of that month. During the initial phone conversation she was asked how far along she was, she was told the procedure would cost \$400.00 and she would need her medical card. The day of the procedure she paid \$400.00 up front, her medical card was taken, waiver papers were signed, no vitals or history were obtained, and she was given four to five pills. No ultrasound was performed and during the procedure she was not covered. The pain she experienced was "major"; "worse than any labor pain". She yelled out, "Oh my god", and Dr. Sheikh instructed her to "shut up", he did not want the women in the waiting room to hear. She thought she passed out for a short time. She was crying, upset,

and weak after the procedure and her mother helped her dress. Dr. Sheikh was rude and nasty about everything, making her feel as if she were a "piece of meat".

No follow up was scheduled and she left.

14. Patient E stated that she was referred to Dr. Sheikh through Just Benefits, a medical discount network and she was treated on September 21, 2007. She sought treatment for uterus problems associated with endometriosis and was charged \$230.00 for a pelvic ultrasound. After she undressed Dr. Sheikh's assistant attempted to place a metallic blue blanket over her, which was blood stained. She asked for a paper gown, none was available, and therefore she remained uncovered. Dr. Sheikh and his assistant were ungloved and she was informed there would be no contact so none was needed. A machine in the exam room, which she thought was used for abortions, was not clean. It was bloody, as was the cart it was on. Dr. Sheikh attempted to insert the ultrasound wand without a protective cover and she stopped him. He removed a cover from his pocket and applied it to the wand. After the exam she was placed into another room to wait. Another patient was taken into the exam room, where she could hear her scream. When the other patient came out, she was wrapped in the metallic blue blanket. Blood was running down her legs and, it was evident she was in pain. Dr. Sheikh had a large blood stain on his knee. She met with Dr. Sheikh in his office for the results of the ultrasound. Dr. Sheikh informed her that her uterus was retroverted, pressing against her spine causing back pain. He recommended that she have sex with her husband four to five times a day "doggie style", stating, "that will fix it". A day or two after her visit with Dr. Sheikh she

returned to her OB/GYN she was seeing before the Just Benefits referral and was informed she had no retroversion.

Curtis High, M.D., stated that April 17, 2007 he diagnosed Patient E with a retroverted uterus. Dr. High has seen no literature for correcting retroversion as described by Dr. Sheikh. Dr. High stated that Patient E was in his office October 2, 2007 for a follow-up shot and he did not treat her.

15. Patient F stated that in October or November, 2007, she sought treatment for spotting due to a miscarriage and a DNC was scheduled a few days later at 9:00 a.m. Her sister accompanied her even though she was not instructed to bring someone. When she arrived at Dr. Sheikh's office it was closed and she contacted him by phone. He did not understand why an appointment was made on a Friday and he rescheduled the appointment for that afternoon at 4:00 p.m. She filled out paperwork, which asked very little or no questions regarding her medical history. The paperwork referred to abortions, so she questioned this due to her being there for a DNC. She was reassured no abortions were performed and that was a standard question. She was given half of a blue pill, which she thought to be a valium, to calm her nerves. No vitals were obtained nor ultrasound performed before the procedure. Her sister opened a drawer in the exam room and in it was a blood stained blanket. Dr. Sheikh diagnosed her with a sexually transmitted disease (warts). He wanted to remove them before performing the DNC and she refused. During the procedure no pain medication was given and she had never experienced such severe pain. Her sister saw her face go white, her lips become pasty and thought she was going to pass out. She asked Dr. Sheikh to stop several

times, but he continued. At approximately five days post operatively she expelled a large amount of blood clots. Dr. Sheikh informed her that was normal, bleeding was part of the side effects. He offered to prescribe more pain medication, but she declined it. The next night she expelled more blood and sought a second opinion. She has been treated by two other medical professionals (ARNPs) and no STDs have been found. She had no insurance and Dr. Sheikh charged her \$1000.00 for the procedure.

16. Julianne Uewn, ARNP, stated that she treated Patient F on October 6, 2006 due to a pelvic infection. Nurse Uewn could not determine if the infection was the result of a recent DNC performed by Dr. Sheikh. Patient F provided her with a history of bleeding and there was no mention of venereal warts. Nurse Uewn noted none externally and it would be more difficult to diagnose internally.
17. Megain Harlan, ARNP, stated that on January 3, 2008, Patient F was seen for her annual exam and a small bump on her buttocks was noted. She could not determine if it was venereal warts. Patient F did provide her with a history of a DNC approximately three months ago, which was performed in Memphis.
18. A Board consultant reviewed twenty-two of the licensee's patient charts, including that of Patient B. The consultant concluded that the licensee's treatment fell below minimum standards:

Inspection of Dr. Shikh's office by investigation found it to be dirty and disorganized. No stethoscopes, thermometers, biohazard containers, or sharp containers were found in either exam room. Many of the medications in the office were grossly outdated. The lone log of I.V. fluids expired in 1998. Oxygen cylinders located in the exam rooms had no regulator. Counter tops were dirty and rusty. Patients were not offered local anesthetic for the procedure and did not receive any as indicated in the record.

19. The consultant concluded that the licensee's record-keeping was below minimum standards of care:

The maintenance of medical records were abysmal. One record of the 22 records had one pre-procedure blood pressure recorded. No other record had either pre-operative, intra-operative or post-operative blood pressure records. No record of pre-operative laboratory results were present on the chart. No documentation of the anesthetic used was present. The only pre-operative medication given was valium in 2/22 patients. Patients on anti-hypertensive drugs, no blood pressure recording was done. There was no operative record of the abortion. Each patient was given Percocet or Lortabs as post partum pain meds, but no documentation of other prescriptions given to patient was recorded in the chart.

In 8/22 patients the authorization for the procedure and a certification by the patient were recorded in the same day without a 24 hour waiting period.

In all patients; the dosages, quantity, and number of refills for prescriptions was not recorded in the record. For all patients with the exception of Percocet or Lortab, the names of medication, strengths, dosages, quantity, and number of refills was not recorded.

20. The consultant's overall opinion was that the licensee was "clearly below minimal standards" and that the licensee had committed gross negligence. He concluded that the licensee "constitutes a danger to health, welfare, and safety of the physician's practice. The dirty and disorganized office coupled with the finding [of gross negligence] put his patients at risk."
21. The allegations of Patients A - F were similar to the allegations contained in a grievance filed on April 16, 2007, by Patient G with the Medical Board. Patient G was interviewed and stated that she contacted Dr. Sheikh's office December 2, 2006 and an appointment was set for December the 9th. On December the 2nd Patient G asked several questions and Dr. Sheikh informed her that the procedure would take 5 to 10 minutes, she would not need to have anyone accompany her,

and she would be able to drive home. The procedure was conducted on the 9th with no offer of state mandated materials on abortion or a 24 hour wait. No vitals were obtained and the only inquiry into her medical history was when her last menstrual cycle occurred. A vaginal ultrasound was conducted without a protective cover over the wand and she contracted a postoperative infection. No medication other than a Valium was given to alleviate the pain. She had to be held down and she passed out during the procedure. Dr. Sheikh must have encountered some type of difficulties during the procedure due to the fact he left the room and returned with other instruments, which appeared to be like a knitting needle. Dr. Sheikh instructed her not to scream during the procedure and requested that she leave via the back door in order not to upset the other patients. A follow up appointment was scheduled due to an ovarian cyst and Dr. Sheikh discouraged her from seeking follow up treatment with another physician claiming they would be judgmental due to her having an abortion. She paid \$400.00 cash up front but believed the money would be refunded if her insurance paid. Her insurance was billed for lab work, two surgeries and radiology totaling \$1600.00 and the insurance company paid Dr. Sheikh \$145.00. She stated that no lab work was ordered and only one surgery occurred. Therefore Dr. Sheikh fraudulently charged her insurance company and she was charged an additional \$254.00. A Board consultant (different from the consultant who had reviewed the November, 2007 grievance) had reviewed the records of Patient G's case and had concluded that the licensee had not violated accepted standards of medical care and presented no threat to the general public. Upon reviewing Patient G's

grievance and the consultant report at its August 16, 2007, meeting, Panel A voted to issue a Letter of Concern to the licensee.

22. The Board consultant who reviewed the November, 2007, grievance also reviewed the records of Patient G and indicated that he was in disagreement with the first consultant and that he had the same conclusions regarding the licensee's care of Patient G as he did concerning the licensee's care of Patients A through F.
23. The licensee was interviewed and stated that he charged Medicaid for office visits and ultrasounds associated or leading up to, but not the surgical procedure of the abortion. Dr. Sheikh stated that he requires payment up front and obtains the patient's insurance information. If the patient's insurance makes a payment the patient is reimbursed the difference if an over payment is made or the deductible is met. Patients are counseled per state requirement and a form is signed by the patient certifying that if the patient decided to read the information provided there will be a 24 hour wait. Dr. Sheikh stated that he was unable to produce the information required by the state due to it being confiscated during the search warrant. Dr. Sheikh has made arrangements with the local hospitals and ambulance services to provide services to patients receiving abortions. Dr. Sheikh was not able to produce said written agreement, but stated that it would be provided. Dr. Sheikh stated that all patients are given Diazepam to relax them prior to the procedure/abortion, Lidocaine is used to numb/localize the area, and no narcotics are kept on sight. A spot check of medication revealed several with expired dates and no Lidocaine was found. Dr. Sheikh produced a bottle of Diazepam 10mg 500 tablets with approximately 25-50 tablets remaining with an

expiration date of 2005. Dr. Sheikh stated that the medication in said bottle was not expired; he places a few tablets in the smaller bottle for convenience and secures it and the stock bottle in separate locations. The stock bottle of Diazepam, 1000 tablets, was half full, and revealed an expiration date of May 2008. Dr. Sheikh stated that the last vial of Lidocaine was used the day before and he was going to restock. He stated that he was cleaning the day before due to this pending interview and discovered the Lidocaine in stock was expired, therefore he placed it in his vehicle. Dr. Sheikh produced seventy-eight vials of Lidocaine, three boxes of twenty-five and one box of twenty-five with three remaining, all with an expiration date of 2002. Dr. Sheikh stated that it was his professional opinion that Lidocaine was effective regardless of the expiration date. When asked if this opinion is applicable with the other expired medications he stated no and the other expired in stock medication is not given to patients.

24. On January 14, 2008, the Board's investigator contacted Agent Howard regarding items taken into evidence during the execution of the search warrant. He reported no information or books regarding abortions were confiscated.

25. By his conduct, the licensee has violated KRS 311.595(3), (10), and (9), as illustrated by KRS 311.597(3) and (4). Accordingly, legal grounds exist for disciplinary action against his/her Kentucky medical license.

26. The licensee is directed to respond to the allegations delineated in the Complaint within thirty (30) days of service thereof and is further given notice that:

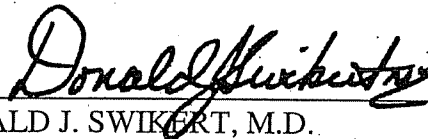
(a) His failure to respond may be taken as an admission of the charges;

(b) He may appear alone or with counsel, may cross-examine all prosecution witnesses and offer evidence in his defense.

27. NOTICE IS HEREBY GIVEN that a hearing on this Complaint is scheduled for November 5, 6 and 7, 2008 at 9:00 a.m., Eastern Standard Time, at the Kentucky Board of Medical Licensure, Hurstbourne Office Park, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222. Said hearing shall be held pursuant to the Rules and Regulations of the Kentucky Board of Medical Licensure and pursuant to KRS Chapter 13B. This hearing shall proceed as scheduled and the hearing date shall only be modified by leave of the Hearing Officer upon a showing of good cause.

WHEREFORE, Complainant prays that appropriate disciplinary action be taken against the license to practice medicine/osteopathy held by HAMID J. SHEIKH, M.D.

This 6th day of June, 2008.



DONALD J. SWIKERT, M.D.
CHAIR, INQUIRY PANEL A

CERTIFICATE OF SERVICE

I certify that the original of this Complaint was delivered to Mr. C. William Schmidt, Executive Director, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222; was delivered to Mr. C. William Schmidt, Executive Director, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222; and copies were mailed via certified mail return-receipt requested to Hamid H. Sheikh, M.D., Physicians Mall, 715 Shaker Drive, Suite 139, Lexington, KY 40504 and L. Chad Elder, Esq., Valenti, Hanley & Robinson, PLLC, One Riverfront Plaza, Ste. 1950, 401 West Main Street, Louisville, KY 40202 on this 6th day of June, 2008.



KAREN QUINN
Assistant General Counsel
Kentucky Board of Medical Licensure
310 Whittington Parkway, Suite 1B
Louisville, Kentucky 40222
502/429-7150

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 1168

FILED OF RECORD

JUN 06 2008

K.B.M.L.

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY HAMID H. SHEIKH, M.D., LICENSE NO. 17538, PHYSICIANS MALL, 715 SHAKER DRIVE, SUITE 139, LEXINGTON, KENTUCKY 40504

EMERGENCY ORDER OF SUSPENSION

The Kentucky Board of Medical Licensure (hereafter "the Board"), acting by and through its Inquiry Panel A, considered this matter at its May 15, 2008, meeting. At that meeting, Inquiry Panel A considered a memorandum prepared by Eric Tout, Medical Investigator, a press release from the Kentucky Attorney General's Office dated November 20, 2007 along with a copy of licensee's Indictment filed of record date November 14, 2007; a letter of concern from Pamela J. Murphy, Director Medicaid Fraud and Abuse Control Division dated November 30, 2007; observations and issues regarding the medical files reviewed by Isabelle Sherer, RN dated September 27, 2007; a copy of the panel memorandum prepared by Eric Tout, Medical Investigator, and reviewed by Panel A on August 16, 2007; licensee's response dated January 31, 2008; and an Expert Review Worksheet prepared by the Board's Consultant.

Having considered all of this information and being sufficiently advised, Inquiry Panel A ENTERS the following EMERGENCY ORDER OF SUSPENSION, in accordance with KRS 311.592(1) and 13B.125(1):

FINDINGS OF FACT

Pursuant to KRS 13B.125(2) and based upon the information available to it, Inquiry Panel A concludes there is probable cause to make the following Findings of Fact, which support its Emergency Order of Suspension:

1. At all relevant times, Hamid H. Sheikh, M.D., was licensed by the Board to practice medicine within the Commonwealth of Kentucky.
2. The licensee's medical specialty is Obstetrics/Gynecology.
3. On November 14, 2007, the Franklin Circuit Court in Frankfort, Kentucky served a four count indictment on the licensee for devising or engaging in a scheme to defraud the Kentucky Medical Assistance Program (billing Medicaid for non-approved procedures).
4. On December 4, 2007, the Board received a grievance from Pamela J. Murphy, Director of the Medicaid Fraud and Abuse Control Division in the Attorney General's Office, indicating that while her agency was investigating the licensee concerning allegations of Medicaid fraud, they uncovered additional issues of concern which were "numerous and relate to quality of care, health and safety standards, and regulatory compliance." Specifically, she stated: "We have identified concerns with expired medications, un-sterile equipment, unsanitary conditions, missing or inoperable equipment necessary for either general medical and/or emergency situations, concerns with improper counseling/instruction standards prior to the performance of certain medical procedures, etc."
5. A Board investigator interviewed Isabelle Sherer, RN, Medicaid Fraud & Abuse Control Division, who stated that while assisting with the search of Dr. Sheikh's

medical office she made the following observations; the office was unclean and disorganized. The treatment rooms did not demonstrate by appearance, equipment, or supplies minimal adherence to reasonable standards of care for medical exams and surgical procedures.

6. RN Sherer stated that there are numerous laws and regulations specific to the provisions of an abortion in Kentucky. 902 Kentucky Administrative Regulation 20:360 lists the numerous requirements applying to a Kentucky Abortion Facility. Providers of any abortion at any stage of pregnancy-including private physicians-must comply with administrative, physical plant and employee testing requirements. Every abortion facility must enter into a written agreement with a hospital and an ambulance service in which the hospital and ambulance service each agree in advance to accept and treat the abortion provider's patients if complications arise. Dr. Sheikh was unable to produce state required printed materials about abortion, which is mandated by KRS 311.725.
7. RN Sherer provided a written report of her observations of each exam room in Dr. Sheikh's office. She noted: Room #7, no blood pressure cuffs, stethoscopes, thermometers, towels at the sink for hand washing, biohazard box, sharps box, and Nitrous Oxide tank hook up gauge or mask. Exam table drawer contained visible debris particles/solid towel and two boxes of expired gloves (expired 10/20/06 and August 2007). The oxygen tank had no cannula. Ambu Bag with mask and cannula was not sealed. The following medications were expired, 3 vials Aminophylline, 3 vials Methergine, 11 vials Epinehrine, 4 vials Diphendryamine, 1 vial Pitocin, 2 vials Diazepam (expiration dates ranging from

March 2002 to March 2006) and 1 liter bag of IV fluid, D5 Lactated Ringers Solution (expired June 1998). No bio waste pickup or lab pickup cabinets were found. Room #8, no towels for hand washing. The following were found to be expired, four boxes of Lidocaine expired October 2002, Solar Biologicals expired August 17, 2005, and Anti D, Anti Rh. Bioclone expired May 17, 2007. Room #9, no towels for hand washing, soap or sharps box could be found. RN Sherer stated that the only medication on the premises not outdated was birth control pills. Rho gam was located in the refrigerator in the front office. RN Sherer stated that the number of health violations noted during the search of Dr. Sheikh's office is indicative of medical care standards dramatically out of compliance with what can be reasonable expected in a health care facility.

8. The Board investigator inspected the licensee's office on January 11, 2008. The investigator agreed with the findings of Nurse Sherer but "during my visit there were paper towels and soap at the sinks. A wrist blood pressure cuff was located in Dr. Sheikh's office. A five gallon red bucket with no biohazard markings inside or out was in the refrigerator in the washer/dryer room. Dr. Sheikh stated that the last pickup for biohazard was approximately twelve weeks ago, there is no regular pickup schedule and he calls for pickup. One full case and a half case of rubber gloves (expiration dates could not be found) were located in the room with the couch. No disposable/paper gowns or coverings were found and Dr. Sheikh stated that he uses cloth. The cloth gowns/coverings/towels appeared to be worn and some stained with bleach. Dr. Sheikh stated that no lab work is performed on sight therefore no lab pickup is needed."

9. Agent Keith Howard, Medicaid Fraud and Abuse Control Division provided the Board investigator with a list of seven of the licensee's patients who reported highly negative experiences with the licensee, commonly involving a lack of medication, and being told by the licensee not to scream during the procedure.
10. Patient A stated that she contacted Dr. Sheikh's office in reference to an abortion, which was scheduled in June of 2003. No history or vitals were obtained and no 24-hour wait or state mandated information on abortion was provided. A Valium was given prior to the procedure, a vaginal ultrasound was performed, and no pain medication was offered. She was in "major pain" during the procedure; she was "messed up physically and emotionally"; she was in no condition to drive home and she found Dr. Sheikh and his staff uncaring. No one informed her that someone should accompany her. A follow up was scheduled and during the follow up a pap smear was obtained, which she did not request. After the procedure nothing was offered to clean her off with, therefore she asked for something. Dr. Sheikh informed her that the pap results were abnormal, but she had received a pap smear a month prior and those results were normal. She was required to pay \$400.00 cash up front and her insurance was also billed. She received several bills from Dr. Sheikh for lab work and the pap smear test due to her insurance refusing to pay. She confronted him and he refunded \$40.00 or \$50.00. In retrospect, she felt the follow up and pap smear test were so Dr. Sheikh could charge her insurance additionally. She believes he was compensated twice: the \$400.00 he received from her and the insurance reimbursements.

11. Patient B stated that she contacted two other facilities in Louisville & Cincinnati before deciding to have her abortion performed by Dr. Sheikh. She decided to have Dr. Sheikh perform the procedure because 1) the other facilities required a counseling session, Dr. Sheikh did not, a fact which alleviated two trips, and 2) Dr. Sheikh communicated with her over the telephone upon her first contact. During her initial phone contact Dr. Sheikh wanted to know how far along she was. She thought she was 10-12 weeks, but was not sure. She believed Dr. Sheikh could sense she was hesitant in having the abortion, but he was reassuring stating that the procedure would only take 5-10 minutes. Therefore she scheduled an appointment within a week for June 1, 2006. There were cobwebs and a broken tree coat rack in the office. She paid \$400.00 up front and her Medicaid card was copied. She was informed her Medicaid card was obtained for the follow up visit, which she did not keep. While she was waiting, a patient came in upset due to continued bills received after her insurance had reimbursed Dr. Sheikh. Dr. Sheikh took no history, vitals, nor did he verify her pregnancy. The ultrasound machine was never turned on. She was given a Valium for the pain, which did nothing. During the procedure the pain was unbearable and she fought them and kicked over a tray. After the procedure she was given a stained sheet to cover with and taken to another room. She was not instructed to have someone accompany her, but she did bring someone with her. There was no 24-hour wait or state mandated information on abortion provided. She later learned that Medicaid was charged for her visit.

12. Patient C stated that she contacted Dr. Sheikh's office by telephone and an appointment was set within two weeks, May 25, 2007. She was seventeen at the time. Her attorney and the court provided her with all information regarding the state mandated information on abortions and Dr. Sheikh provided none. She arrived at Dr. Sheikh's office at approximately 8:00 a.m. with her boyfriend even though Dr. Sheikh did not instruct her to have someone accompany her. No medical history or vitals signs were taken. She did not know her blood type, therefore blood was taken and Valium was given. An ultrasound was performed. Dr. Sheikh informed her that she was thirteen weeks along and therefore the procedure would cost an additional \$200.00. An ultrasound was performed approximately one week prior to her visit with Dr. Sheikh, and she had been informed then that she was nine to ten weeks. She paid \$400.00 up front and they had to leave to obtain the additional money. Dr. Sheikh took her insurance, but she was unable to say if he submitted charges for the abortion. She returned to his office with the additional money at approximately 2:00 or 3:00 p.m. and she had to wait. Another patient was unsure if she wanted to have the abortion and Dr. Sheikh was visibly upset with her saying to her that she was wasting his time, money, other patients were waiting and she needed to leave. During the procedure the pain was nothing she had experienced before. It was unbearable and Dr. Sheikh kept saying over and over, "no noise no one needs to hear you". When the procedure was complete she was given a towel to cover herself and was taken to another room where she waited for a short time with her boyfriend. A follow up was scheduled due to Dr. Sheikh finding eight cysts. Dr. Sheikh

prescribed birth control pills stating that this should take care of the cysts. Dr. Sheikh required money up front for the Gardasil treatments she received and charged her insurance company. After several calls and arguing he eventually refunded the cash payment for the Gardasil treatment. Paula Groves, M.D., stated that she performed a follow-up and ultrasound on December 14, 2007 and the information Dr. Sheikh provided Patient C was consistent with her findings.

13. Patient D stated that she contacted Dr. Sheikh's office the first of March 1991 due to pregnancy complications and an appointment was scheduled for an abortion at the end of that month. During the initial phone conversation she was asked how far along she was, she was told the procedure would cost \$400.00 and she would need her medical card. The day of the procedure she paid \$400.00 up front, her medical card was taken, waiver papers were signed, no vitals or history were obtained, and she was given four to five pills. No ultrasound was performed and, during the procedure she was not covered. The pain she experienced was "major"; "worse than any labor pain". She yelled out, "Oh my god", and Dr. Sheikh instructed her to "shut up", he did not want the women in the waiting room to hear. She thought she passed out for a short time. She was crying, upset, and weak after the procedure and her mother helped her dress. Dr. Sheikh was rude and nasty about everything, making her feel as if she were a "piece of meat". No follow up was scheduled and she left.

14. Patient E stated that she was referred to Dr. Sheikh through Just Benefits, a medical discount network and she was treated on September 21, 2007. She sought treatment for uterus problems associated with endometriosis and was

charged \$230.00 for a pelvic ultrasound. After she undressed Dr. Sheikh's assistant attempted to place a metallic blue blanket over her, which was blood stained. She asked for a paper gown, none was available, and therefore she remained uncovered. Dr. Sheikh and his assistant were ungloved and she was informed there would be no contact so none was needed. A machine in the exam room, which she thought was used for abortions, was not clean. It was bloody, as was the cart it was on. Dr. Sheikh attempted to insert the ultrasound wand without a protective cover and she stopped him. He removed a cover from his pocket and applied it to the wand. After the exam she was placed into another room to wait. Another patient was taken into the exam room, where she could hear her scream. When the other patient came out, she was wrapped in the metallic blue blanket. Blood was running down her legs and, it was evident she was in pain. Dr. Sheikh had a large blood stain on his knee. She met with Dr. Sheikh in his office for the results of the ultrasound. Dr. Sheikh informed her that her uterus was retroverted, pressing against her spine causing back pain. He recommended that she have sex with her husband four to five times a day "doggie style", stating, "that will fix it". A day or two after her visit with Dr. Sheikh she returned to her OB/GYN she was seeing before the Just Benefits referral and was informed she had no retroversion.

15. Curtis High, M.D., stated that April 17, 2007 he diagnosed Patient E with a retroverted uterus. Dr. High has seen no literature for correcting retroversion as described by Dr. Sheikh. Dr. High stated that Patient E was in his office October 2, 2007 for a follow-up shot and he did not treat her.

16. Patient F stated that in October or November, 2007, she sought treatment for spotting due to a miscarriage and a DNC was scheduled a few days later at 9:00 a.m. Her sister accompanied her even though she was not instructed to bring someone. When she arrived at Dr. Sheikh's office it was closed and she contacted him by phone. He did not understand why an appointment was made on a Friday and he rescheduled the appointment for that afternoon at 4:00 p.m. She filled out paperwork, which asked very little or no questions regarding her medical history. The paperwork referred to abortions, so she questioned this due to her being there for a DNC. She was reassured no abortions were performed and that was a standard question. She was given half of a blue pill, which she thought to be a valium, to calm her nerves. No vitals were obtained nor ultrasound performed before the procedure. Her sister opened a drawer in the exam room and in it was a blood stained blanket. Dr. Sheikh diagnosed her with a sexually transmitted disease (warts). He wanted to remove them before performing the DNC and she refused. During the procedure no pain medication was given and she had never experienced such severe pain. Her sister saw her face go white, her lips become pasty and thought she was going to pass out. She asked Dr. Sheikh to stop several times, but he continued. At approximately five days post operatively she expelled a large amount of blood clots. Dr. Sheikh informed her that was normal, bleeding was part of the side effects. He offered to prescribe more pain medication, but she declined it. The next night she expelled more blood and sought a second opinion. She has been treated by two other medical professionals (ARNPs) and

no STDs have been found. She had no insurance and Dr. Sheikh charged her \$1000.00 for the procedure.

17. Julianne Uewn, ARNP, stated that she treated Patient F on October 6, 2006 due to a pelvic infection. Nurse Uewn could not determine if the infection was the result of a recent DNC performed by Dr. Sheikh. Patient F provided her with a history of bleeding and there was no mention of venereal warts. Nurse Uewn noted none externally and it would be more difficult to diagnose internally.
18. Megain Harlan, ARNP, stated that on January 3, 2008, Patient F was seen for her annual exam and a small bump on her buttocks was noted. She could not determine if it was venereal warts. Patient F did provide her with a history of a DNC approximately three months ago, which was performed in Memphis.
19. A Board consultant reviewed twenty-two of the licensee's patient charts, including that of Patient B. The consultant concluded that the licensee's treatment fell below minimum standards:

Inspection of Dr. Shikh's office by investigation found it to be dirty and disorganized. No stethoscopes, thermometers, biohazard containers, or sharp containers were found in either exam room. Many of the medications in the office were grossly outdated. The lone log of I.V. fluids expired in 1998. Oxygen cylinders located in the exam rooms had no regulator. Counter tops were dirty and rusty. Patients were not offered local anesthetic for the procedure and did not receive any as indicated in the record.

The consultant's report is attached here as Exhibit 1 and incorporated in its entirety

20. The consultant concluded that the licensee's record-keeping was below minimum standards of care:

The maintenance of medical records were abysmal. One record of the 22 records had one pre-procedure blood pressure recorded. No other record had either pre-operative, intra-operative or post-operative blood pressure records. No record of pre-operative laboratory results were present on the chart. No documentation of the anesthetic used was present. The only pre-operative medication given was valium in 2/22 patients. Patients on anti-hypertensive drugs, no blood pressure recording was done. There was no operative record of the abortion. Each patient was given Percocet or Lortabs as post partum pain meds, but no documentation of other prescriptions given to patient was recorded in the chart.

In 8/22 patients the authorization for the procedure and a certification by the patient were recorded in the same day without a 24 hour waiting period.

In all patients; the dosages, quantity, and number of refills for prescriptions was not recorded in the record. For all patients with the exception of Percocet or Lortab, the names of medication, strengths, dosages, quantity, and number of refills was not recorded.

21. The consultant's overall opinion was that the licensee was "clearly below minimal standards" and that the licensee had committed gross negligence. He concluded that the licensee "constitutes a danger to health, welfare, and safety of the physician's practice. The dirty and disorganized office coupled with the finding [of gross negligence] put his patients at risk."
22. The allegations of Patients A - F were similar to the allegations contained in a grievance filed on April 16, 2007, by Patient G with the Medical Board. Patient G was interviewed and stated that she contacted Dr. Sheikh's office December 2, 2006 and an appointment was set for December the 9th. On December the 2nd Patient G asked several questions and Dr. Sheikh informed her that the procedure would take 5 to 10 minutes, she would not need to have anyone accompany her, and she would be able to drive home. The procedure was conducted on the 9th with no offer of state mandated materials on abortion or a 24 hour wait. No vitals were obtained and the only inquiry into her medical history was when her last

menstrual cycle occurred. A vaginal ultrasound was conducted without a protective cover over the wand and she contracted a postoperative infection. No medication other than a Valium was given to alleviate the pain. She had to be held down and she passed out during the procedure. Dr. Sheikh must have encountered some type of difficulties during the procedure due to the fact he left the room and returned with other instruments, which appeared to be like a knitting needle. Dr. Sheikh instructed her not to scream during the procedure and requested that she leave via the back door in order not to upset the other patients.

23. A follow up appointment was scheduled due to an ovarian cyst and Dr. Sheikh discouraged her from seeking follow up treatment with another physician claiming they would be judgmental due to her having an abortion. She paid \$400.00 cash up front but believed the money would be refunded if her insurance paid. Her insurance was billed for lab work, two surgeries and radiology totaling \$1600.00 and the insurance company paid Dr. Sheikh \$145.00. She stated that no lab work was ordered and only one surgery occurred. Therefore Dr. Sheikh fraudulently charged her insurance company and she was charged an additional \$254.00. A Board consultant (different from the consultant who had reviewed the November, 2007 grievance) had reviewed the records of Patient G's case and had concluded that the licensee had not violated accepted standards of medical care and presented no threat to the general public. Upon reviewing Patient G's grievance and the consultant report at its August 16, 2007, meeting, Panel A voted to issue a Letter of Concern to the licensee.

24. The Board consultant who reviewed the November, 2007, grievance also reviewed the records of Patient G and indicated that he was in disagreement with the first consultant and that he had the same conclusions regarding the licensee's care of Patient G as he did concerning the licensee's care of Patients A through F.

25. The licensee was interviewed and stated that he charged Medicaid for office visits and ultrasounds associated or leading up to, but not the surgical procedure of the abortion. Dr. Sheikh stated that he requires payment up front and obtains the patient's insurance information. If the patient's insurance makes a payment the patient is reimbursed the difference if an over payment is made or the deductible is met. Patients are counseled per state requirement and a form is signed by the patient certifying that if the patient decided to read the information provided there will be a 24 hour wait. Dr. Sheikh stated that he was unable to produce the information required by the state due to it being confiscated during the search warrant. Dr. Sheikh has made arrangements with the local hospitals and ambulance services to provide services to patients receiving abortions. Dr. Sheikh was not able to produce said written agreement, but stated that it would be provided. Dr. Sheikh stated that all patients are given Diazepam to relax them prior to the procedure/abortion, Lidocaine is used to numb/localize the area, and no narcotics are kept on sight. A spot check of medication revealed several with expired dates and no Lidocaine was found. Dr. Sheikh produced a bottle of Diazepam 10mg 500 tablets with approximately 25-50 tablets remaining with an expiration date of 2005. Dr. Sheikh stated that the medication in said bottle was not expired; he places a few tablets in the smaller bottle for convenience and

secures it and the stock bottle in separate locations. The stock bottle of Diazepam, 1000 tablets, was half full, and revealed an expiration date of May 2008. Dr. Sheikh stated that the last vial of Lidocaine was used the day before and he was going to restock. He stated that he was cleaning the day before due to this pending interview and discovered the Lidocaine in stock was expired, therefore he placed it in his vehicle. Dr. Sheikh produced seventy-eight vials of Lidocaine, three boxes of twenty-five and one box of twenty-five with three remaining, all with an expiration date of 2002. Dr. Sheikh stated that it was his professional opinion that Lidocaine was effective regardless of the expiration date. When asked if this opinion is applicable with the other expired medications he stated no and the other expired in stock medication is not given to patients.

26. On January 14, 2008, the Board's investigator contacted Agent Howard regarding items taken into evidence during the execution of the search warrant. He reported no information or books regarding abortions were confiscated.

CONCLUSIONS OF LAW

Pursuant to KRS 13B.125(2) and based upon the information available to it, Inquiry Panel A finds there is probable cause to support the following Conclusions of Law, which serve as the legal bases for this Emergency Order of Suspension:

1. The licensee's Kentucky medical license is subject to regulation and discipline by this Board.
2. KRS 311.592(1) provides that the Board may issue an emergency order suspending, limiting, or restricting a physician's license at any time an inquiry panel has probable

cause to believe that a) the physician has violated the terms of an order placing him on probation; or b) a physician's practice constitutes a danger to the health, welfare and safety of his patients or the general public.

3. There is probable cause to believe that the licensee has violated KRS 311.595(3), (10) and (9) as illustrated by KRS 311.597(3) and (4).

4. The Panel concludes there is probable cause to believe this physician's practice constitutes a danger to the health, welfare and safety of his patients or the general public.

5. The Board may draw logical and reasonable inferences about a physician's practice by considering certain facts about a physician's practice. If there is proof that a physician has violated a provision of the Kentucky Medical Practice Act in one set of circumstances, the Board may infer that the physician will similarly violate the Medical Practice Act when presented with a similar set of circumstances. Similarly, the Board concludes that proof of a set of facts about a physician's practice presents representative proof of the nature of that physician's practice in general.

Accordingly, probable cause to believe that the physician has committed certain violations in the recent past presents probable cause to believe that the physician will commit similar violations in the near future, during the course of the physician's medical practice.

6. The United States Supreme Court has ruled that it is no violation of the federal Due Process Clause for a state agency to temporarily suspend a license, without a prior evidentiary hearing, so long as 1) the immediate action is based upon a probable cause finding that there is a present danger to the public safety; and, 2) the statute

provides for a prompt post-deprivation hearing. Barry v. Barchi, 443 U.S. 55, 61 L.Ed.2d 365, 99 S.Ct. 2642 (1979); FDIC v. Mallen, 486 U.S. 230, 100 L.Ed.2d 265, 108 S.Ct. 1780 (1988) and Gilbert v. Homar, 117 S.Ct. 1807 (1997). Cf. KRS 13B.125(1).

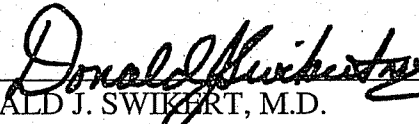
KRS 13B.125(3) provides that the Board shall conduct an emergency hearing on this emergency order within ten (10) working days of a request for such a hearing by the licensee. The licensee has been advised of his right to a prompt post-deprivation hearing under this statute.

EMERGENCY ORDER OF SUSPENSION

Based upon the foregoing Findings of Fact and Conclusions of Law, Inquiry Panel A hereby ORDERS that the license to practice medicine in the Commonwealth of Kentucky held by HAMID H. SHEIKH, M.D., is SUSPENDED and Dr. Hamid H. Sheikh is prohibited from performing any act which constitutes the "practice of medicine," as that term is defined by KRS 311.550(10) – the diagnosis, treatment, or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices, or instrumentalities - until the resolution of the Complaint setting forth the allegations discussed in this pleading or until such further Order of the Board.

Inquiry Panel A further declares that this is an EMERGENCY ORDER, effective upon receipt by the licensee.

SO ORDERED this 6th day of June, 2008.


DONALD J. SWIKERT, M.D.
CHAIR, INQUIRY PANEL A

CERTIFICATE OF SERVICE

I certify that the original of this Emergency Order of Suspension was delivered to Mr. C. William Schmidt, Executive Director, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222; and copies were mailed via certified mail return-receipt requested to Hamid H. Sheikh, M.D., Physicians Mall, 715 Shaker Drive, Suite 139, Lexington, KY 40504 and L. Chad Elder, Esq., Valenti, Hanley & Robinson, PLLC, One Riverfront Plaza, Ste. 1950, 401 West Main Street, Louisville, KY 40202 on this 6th day of June, 2008.



KAREN QUINN
Assistant General Counsel
Kentucky Board of Medical Licensure
310 Whittington Parkway, Suite 1B
Louisville, Kentucky 40222
(502) 429-7150

KENTUCKY BOARD OF MEDICAL LICENSURE

EXPERT REVIEW WORKSHEET

(Please type)

Case No. 08111
Licensee Name
Expert's Name

Patient Name: [REDACTED]
Dr. Hamid Hussain Shikh
[REDACTED]

1. Brief description of symptom, dx and course of treatment:

Grievance of [REDACTED] led investigation to review additional medical records of persons coming to Dr. Hamid Hussain Shikh for purpose of pregnancy termination.

2. Can you form an opinion? Based on your background and experience and review of all information provided you, and assuming that the treatment as documented was provided, can you form an opinion as to whether the care rendered by the care provider, including diagnosis, treatment or record keeping, departed from or failed to conform to the minimal standards of acceptable and prevailing medical practice (in the medical community at large)?

Yes, I can form an opinion.

No, I cannot form an opinion.

I need more information (specify): _____

3. What is your opinion? Please use the definitions below as "guidelines" to be used in defining standard of practice. You are not limited to these guidelines in forming your opinion, but please state your own additional criteria if applicable.

a. Diagnosis. Evaluation of a medical problem using means such as history, physical examination, laboratory, and radiographic studies, when applicable.

Below minimum standards

Within minimum standards

The diagnosis of pregnancy and length of pregnancy including use of ultrasound techniques was within minimum standards. However, several patients were quoted as

noting that Dr. Shikh failed to cover the ultrasound wand with a rubber glove when doing vaginal probe ultrasounds which is below standard of care.

- b. **Treatment. Use of medications and other modalities based on generally accepted and approved indications, with proper precautions to avoid adverse physical reactions, habituation or addiction.**

Below minimum standards

Within minimum standards

Inspection of Dr. Shikh's office by investigation found it to be dirty and disorganized. No stethoscopes, thermometers, biohazard containers, or sharp containers were found in either exam room. Many of the medications in the office were grossly outdated. The lone log of I.V. fluids expired in 1998. Oxygen cylinders located in the exam rooms had no regulator. Counter tops were dirty and rusty. Patients were not offered local anesthetic for the procedure and did not receive any as indicated in the record.

- c. **Records.**

Maintenance of records which should contain, at a minimum, the following: (1) appropriate history and physical and/or mental examination for the patient's chief complaint relevant to the physician's specialty; (2) results of diagnostic tests (when indicated); (3) a working diagnosis; (4) notes on treatment(s) undertaken; (5) a record by date of all prescriptions for drugs, with names of medications, strengths, dosages, quantity, and number of refills; and (6) a record of billings.

Below minimum standards

Within minimum standards

The maintenance of medical records were abysmal. One record of the 22 records had one pre-procedure blood pressure recorded. No other record had either pre-operative, intra-operative or post-operative blood pressure records. No record of pre-operative laboratory results were present on the chart. No documentation of the anesthetic used was present. The only pre-operative medication given was valium in 2/22 patients. Patients on anti-hypertensive drugs, no blood pressure recording was done. There was no operative record of the abortion. Each patient was given Percocet or Lortabs as post partum pain meds, but no documentation of other prescriptions given to patient was recorded in the chart.

In 8/22 patients the authorization for the procedure and a certification by the patient were recorded in the same day without a 24 hour waiting period.

In all patients; the dosages, quantity, and number of refills for prescriptions was not recorded in the record. For all patients with the exception of Percocet or Lortab, the

names of medication, strengths, dosages, quantity, and number of refills was not recorded.

The recording of personal and family history was essentially absent. Follow-up examination was done in only three of 72 patients.

d. Overall Opinion. Based on the foregoing, what is your overall opinion?

- Clearly below minimum standards.
- Clearly within minimum standards
- Borderline Case

e. Gross Ignorance, Gross Negligence, Gross Incompetence. If you found that this physician did not meet the minimum standards of care in treating a patient(s), did you also conclude that any of these departures from the minimum standards of care were so serious that you consider them to exhibit gross ignorance, gross negligence, and/or gross incompetence on the physician's part. If "yes," please identify each of these instances, classify it appropriately and explain your reasoning in reaching that conclusion(s). If "yes," please also indicate whether you found a pattern of gross ignorance, gross negligence and/or gross incompetence in this physician's practice as evidenced by the records reviewed and explain your conclusion(s).

Gross Negligence

The following chart information was reviewed.

1. [REDACTED]
2. [REDACTED]
3. [REDACTED]
4. [REDACTED]
5. [REDACTED]
6. [REDACTED]
7. [REDACTED]
8. [REDACTED]
9. [REDACTED]
10. [REDACTED]
11. [REDACTED]
12. [REDACTED]
13. [REDACTED]
14. [REDACTED]
15. [REDACTED]
16. [REDACTED]
17. [REDACTED]
18. [REDACTED]
19. [REDACTED]
20. [REDACTED]
21. [REDACTED]

22. [REDACTED]

1. Not taking and recording an appropriate personal and family history.
2. Maintaining lidocaine that was grossly outdated back to 2002.
3. Having only one bag of IV fluid dated 1998.
4. Failure to monitor blood pressure and pulse pre-operative, and post-operative.
5. No documentation of anesthetic used and if no anesthetic used, why the lack of humane treatment.
6. Failure to record prescriptions given to patient to include name of prescriptions, strengths, dosages, quantity, and number of refills.
7. Failure to use pre-operative medication.
8. Failure of follow-up examinations.

4. Other questions from the Medical Board (ignore if blank):

5. Explain your opinion. If you opined that practice was below minimum standard for any of the above reasons, state the correct minimal standard of practice (NOTE: It is not sufficient to say "I would have..., or I would have not...", you should be able to testify that "the minimal standard of practice in the medical community at large would be to...") Use extra sheets as necessary to explain your opinion and complete this report.

3/14/08

Date of Review

Substandard Care

1= The named physician has engaged in conduct which fails to conform to standards of acceptable and prevailing medical practice. Please see 3e gross negligence.

2. See 3e= gross negligence

3. This physician constitutes a danger to health, welfare, and safety of the physician's practice. The dirty and disorganized office coupled with the finding was 3e put each of his patients at risk.

My review is at odds with panel memorandum #07156 reviewed previously. I reviewed the records sent to [REDACTED] and the only difference in the records [REDACTED] reviewed was that blood pressure was recorded pre-operative. I would have opined that the six records [REDACTED] reviewed would have led me to the same conclusion as I reached in reviewing the recent 22 records.

JUN 06 2008

K.B.M.L.

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 1168

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY HAMID H. SHEIKH, M.D., LICENSE NO. 17538, PHYSICIANS MALL, 715 SHAKER DRIVE, SUITE 139, LEXINGTON, KENTUCKY 40504

COMPLAINT

Comes now the Complainant Donald J. Swikert, M.D., Chair of the Kentucky Board of Medical Licensure's Inquiry Panel A, and on behalf of the Panel which met on May 15, 2008, states for its Complaint against the licensee, HAMID H. SHEIKH, M.D., as follows:

1. At all relevant times, HAMID H. SHEIKH, M.D., was licensed by the Kentucky Board of Medical Licensure (hereafter "the Board") to practice medicine in the Commonwealth of Kentucky.
2. The licensee's medical specialty is Obstetrics/Gynecology.
3. On November 14, 2007, the Franklin Circuit Court in Frankfort, Kentucky served a four count indictment on the licensee for devising or engaging in a scheme to defraud the Kentucky Medical Assistance Program (billing Medicaid for non-approved procedures).
4. On December 4, 2007, the Board received a grievance from Pamela J. Murphy, Director of the Medicaid Fraud and Abuse Control Division in the Attorney General's Office, indicating that while her agency was investigating the licensee concerning allegations of Medicaid fraud, they uncovered additional issues of concern which were "numerous and relate to quality of care, health and safety

standards, and regulatory compliance.” Specifically, she stated: “We have identified concerns with expired medications, un-sterile equipment, unsanitary conditions, missing or inoperable equipment necessary for either general medical and/or emergency situations, concerns with improper counseling/instruction standards prior to the performance of certain medical procedures, etc.”

5. A Board investigator interviewed Isabelle Sherer, RN, Medicaid Fraud & Abuse Control Division, who stated that while assisting with the search of Dr. Sheikh’s medical office she made the following observations; the office was unclean and disorganized. The treatment rooms did not demonstrate by appearance, equipment, or supplies minimal adherence to reasonable standards of care for medical exams and surgical procedures.
6. RN Sherer stated that there are numerous laws and regulations specific to the provisions of an abortion in Kentucky. 902 Kentucky Administrative Regulation 20:360 lists the numerous requirements applying to a Kentucky Abortion Facility. Providers of any abortion at any stage of pregnancy-including private physicians-must comply with administrative, physical plant and employee testing requirements. Every abortion facility must enter into a written agreement with a hospital and an ambulance service in which the hospital and ambulance service each agree in advance to accept and treat the abortion provider’s patients if complications arise. Dr. Sheikh was unable to produce state required printed materials about abortion, which is mandated by KRS 311.725.
7. RN Sherer provided a written report of her observations of each exam room in Dr. Sheikh’s office. She noted: Room #7, no blood pressure cuffs, stethoscopes,

thermometers, towels at the sink for hand washing, biohazard box, sharps box, and Nitrous Oxide tank hook up gauge or mask. Exam table drawer contained visible debris particles/solid towel and two boxes of expired gloves (expired 10/20/06 and August 2007). The oxygen tank had no cannula. Ambu Bag with mask and cannula was not sealed. The following medications were expired, 3 vials Aminophylline, 3 vials Methergine, 11 vials Epinehrine, 4 vials Diphenhydramine, 1 vial Pitocin, 2 vials Diazepam (expiration dates ranging from March 2002 to March 2006) and 1 liter bag of IV fluid, D5 Lactated Ringers Solution (expired June 1998). No bio waste pickup or lab pickup cabinets were found. Room #8, no towels for hand washing. The following were found to be expired, four boxes of Lidocaine expired October 2002, Solar Biologicals expired August 17, 2005, and Anti D, Anti Rh. Bioclone expired May 17, 2007. Room #9, no towels for hand washing, soap or sharps box could be found. RN Sherer stated that the only medication on the premises not outdated was birth control pills. Rho gam was located in the refrigerator in the front office. RN Sherer stated that the number of health violations noted during the search of Dr. Sheikh's office is indicative of medical care standards dramatically out of compliance with what can be reasonable expected in a health care facility.

8. The Board investigator inspected the licensee's office on January 11, 2008. The investigator agreed with the findings of Nurse Sherer but "during my visit there were paper towels and soap at the sinks. A wrist blood pressure cuff was located in Dr. Sheikh's office. A five gallon red bucket with no biohazard markings inside or out was in the refrigerator in the washer/dryer room. Dr. Sheikh stated

that the last pickup for biohazard was approximately twelve weeks ago, there is no regular pickup schedule and he calls for pickup. One full case and a half case of rubber gloves (expiration dates could not be found) were located in the room with the couch. No disposable/paper gowns or coverings were found and Dr. Shiekh stated that he uses cloth. The cloth gowns/coverings/towels appeared to be worn and some stained with bleach. Dr. Sheikh stated that no lab work is performed on sight therefore no lab pickup is needed.”

9. Agent Keith Howard, Medicaid Fraud and Abuse Control Division provided the Board investigator with a list of seven of the licensee’s patients who reported highly negative experiences with the licensee, commonly involving a lack of medication, and being told by the licensee not to scream during the procedure.
10. Patient A stated that she contacted Dr. Sheikh’s office in reference to an abortion, which was scheduled in June of 2003. No history or vitals were obtained and no 24-hour wait or state mandated information on abortion was provided. A Valium was given prior to the procedure, a vaginal ultrasound was performed, and no pain medication was offered. She was in “major pain” during the procedure; she was “messed up physically and emotionally”; she was in no condition to drive home and she found Dr. Sheikh and his staff uncaring. No one informed her that someone should accompany her. A follow up was scheduled and during the follow up a pap smear was obtained, which she did not request. After the procedure nothing was offered to clean her off with, therefore she asked for something. Dr. Sheikh informed her that the pap results were abnormal, but she had received a pap smear a month prior and those results were normal. She was

required to pay \$400.00 cash up front and her insurance was also billed. She received several bills from Dr. Sheikh for lab work and the pap smear test due to her insurance refusing to pay. She confronted him and he refunded \$40.00 or \$50.00. In retrospect, she felt the follow up and pap smear test were so Dr. Sheikh could charge her insurance additionally. She believes he was compensated twice: the \$400.00 he received from her and the insurance reimbursements.

11. Patient B stated that she contacted two other facilities in Louisville & Cincinnati before deciding to have her abortion performed by Dr. Sheikh. She decided to have Dr. Sheikh perform the procedure because 1) the other facilities required a counseling session, Dr. Sheikh did not, a fact which alleviated two trips, and 2) Dr. Sheikh communicated with her over the telephone upon her first contact. During her initial phone contact Dr. Sheikh wanted to know how far along she was. She thought she was 10-12 weeks, but was not sure. She believed Dr. Sheikh could sense she was hesitant in having the abortion, but he was reassuring stating that the procedure would only take 5-10 minutes. Therefore she scheduled an appointment within a week for June 1, 2006. There were cobwebs and a broken tree coat rack in the office. She paid \$400.00 up front and her Medicaid card was copied. She was informed her Medicaid card was obtained for the follow up visit, which she did not keep. While she was waiting, a patient came in upset due to continued bills received after her insurance had reimbursed Dr. Sheikh. Dr. Sheikh took no history, vitals, nor did he verify her pregnancy. The ultrasound machine was never turned on. She was given a Valium for the pain,

which did nothing. During the procedure the pain was unbearable and she fought them and kicked over a tray. After the procedure she was given a stained sheet to cover with and taken to another room. She was not instructed to have someone accompany her, but she did bring someone with her. There was no 24-hour wait or state mandated information on abortion provided. She later learned that Medicaid was charged for her visit.

12. Patient C stated that she contacted Dr. Sheikh's office by telephone and an appointment was set within two weeks, May 25, 2007. She was seventeen at the time. Her attorney and the court provided her with all information regarding the state mandated information on abortions and Dr. Sheikh provided none. She arrived at Dr. Sheikh's office at approximately 8:00 a.m. with her boyfriend even though Dr. Sheikh did not instruct her to have someone accompany her. No medical history or vitals signs were taken. She did not know her blood type, therefore blood was taken and Valium was given. An ultrasound was performed. Dr. Sheikh informed her that she was thirteen weeks along and therefore the procedure would cost an additional \$200.00. An ultrasound was performed approximately one week prior to her visit with Dr. Sheikh, and she had been informed then that she was nine to ten weeks. She paid \$400.00 up front and they had to leave to obtain the additional money. Dr. Sheikh took her insurance, but she was unable to say if he submitted charges for the abortion. She returned to his office with the additional money at approximately 2:00 or 3:00 p.m. and she had to wait. Another patient was unsure if she wanted to have the abortion and Dr. Sheikh was visibly upset with her saying to her that she was wasting his time,

money, other patients were waiting and she needed to leave. During the procedure the pain was nothing she had experienced before. It was unbearable and Dr. Sheikh kept saying over and over, "no noise no one needs to hear you". When the procedure was complete she was given a towel to cover herself and was taken to another room where she waited for a short time with her boyfriend. A follow up was scheduled due to Dr. Sheikh finding eight cysts. Dr. Sheikh prescribed birth control pills stating that this should take care of the cysts. Dr. Sheikh required money up front for the Gardasil treatments she received and charged her insurance company. After several calls and arguing he eventually refunded the cash payment for the Gardasil treatment. Paula Groves, M.D., stated that she performed a follow-up and ultrasound on December 14, 2007 and the information Dr. Sheikh provided Patient C was consistent with her findings.

13. Patient D stated that she contacted Dr. Sheikh's office the first of March 1991 due to pregnancy complications and an appointment was scheduled for an abortion at the end of that month. During the initial phone conversation she was asked how far along she was, she was told the procedure would cost \$400.00 and she would need her medical card. The day of the procedure she paid \$400.00 up front, her medical card was taken, waiver papers were signed, no vitals or history were obtained, and she was given four to five pills. No ultrasound was performed and, during the procedure she was not covered. The pain she experienced was "major"; "worse than any labor pain". She yelled out, "Oh my god", and Dr. Sheikh instructed her to "shut up", he did not want the women in the waiting room to hear. She thought she passed out for a short time. She was crying, upset,

and weak after the procedure and her mother helped her dress. Dr. Sheikh was rude and nasty about everything, making her feel as if she were a "piece of meat". No follow up was scheduled and she left.

14. Patient E stated that she was referred to Dr. Sheikh through Just Benefits, a medical discount network and she was treated on September 21, 2007. She sought treatment for uterus problems associated with endometriosis and was charged \$230.00 for a pelvic ultrasound. After she undressed Dr. Sheikh's assistant attempted to place a metallic blue blanket over her, which was blood stained. She asked for a paper gown, none was available, and therefore she remained uncovered. Dr. Sheikh and his assistant were ungloved and she was informed there would be no contact so none was needed. A machine in the exam room, which she thought was used for abortions, was not clean. It was bloody, as was the cart it was on. Dr. Sheikh attempted to insert the ultrasound wand without a protective cover and she stopped him. He removed a cover from his pocket and applied it to the wand. After the exam she was placed into another room to wait. Another patient was taken into the exam room, where she could hear her scream. When the other patient came out, she was wrapped in the metallic blue blanket. Blood was running down her legs and, it was evident she was in pain. Dr. Sheikh had a large blood stain on his knee. She met with Dr. Sheikh in his office for the results of the ultrasound. Dr. Sheikh informed her that her uterus was retroverted, pressing against her spine causing back pain. He recommended that she have sex with her husband four to five times a day "doggie style", stating, "that will fix it". A day or two after her visit with Dr. Sheikh she

returned to her OB/GYN she was seeing before the Just Benefits referral and was informed she had no retroversion.

Curtis High, M.D., stated that April 17, 2007 he diagnosed Patient E with a retroverted uterus. Dr. High has seen no literature for correcting retroversion as described by Dr. Sheikh. Dr. High stated that Patient E was in his office October 2, 2007 for a follow-up shot and he did not treat her.

15. Patient F stated that in October or November, 2007, she sought treatment for spotting due to a miscarriage and a DNC was scheduled a few days later at 9:00 a.m. Her sister accompanied her even though she was not instructed to bring someone. When she arrived at Dr. Sheikh's office it was closed and she contacted him by phone. He did not understand why an appointment was made on a Friday and he rescheduled the appointment for that afternoon at 4:00 p.m. She filled out paperwork, which asked very little or no questions regarding her medical history. The paperwork referred to abortions, so she questioned this due to her being there for a DNC. She was reassured no abortions were performed and that was a standard question. She was given half of a blue pill, which she thought to be a valium, to calm her nerves. No vitals were obtained nor ultrasound performed before the procedure. Her sister opened a drawer in the exam room and in it was a blood stained blanket. Dr. Sheikh diagnosed her with a sexually transmitted disease (warts). He wanted to remove them before performing the DNC and she refused. During the procedure no pain medication was given and she had never experienced such severe pain. Her sister saw her face go white, her lips become pasty and thought she was going to pass out. She asked Dr. Sheikh to stop several

times, but he continued. At approximately five days post operatively she expelled a large amount of blood clots. Dr. Sheikh informed her that was normal, bleeding was part of the side effects. He offered to prescribe more pain medication, but she declined it. The next night she expelled more blood and sought a second opinion. She has been treated by two other medical professionals (ARNPs) and no STDs have been found. She had no insurance and Dr. Sheikh charged her \$1000.00 for the procedure.

16. Julianne Uewn, ARNP, stated that she treated Patient F on October 6, 2006 due to a pelvic infection. Nurse Uewn could not determine if the infection was the result of a recent DNC performed by Dr. Sheikh. Patient F provided her with a history of bleeding and there was no mention of venereal warts. Nurse Uewn noted none externally and it would be more difficult to diagnose internally.
17. Megain Harlan, ARNP, stated that on January 3, 2008, Patient F was seen for her annual exam and a small bump on her buttocks was noted. She could not determine if it was venereal warts. Patient F did provide her with a history of a DNC approximately three months ago, which was performed in Memphis.
18. A Board consultant reviewed twenty-two of the licensee's patient charts, including that of Patient B. The consultant concluded that the licensee's treatment fell below minimum standards:

Inspection of Dr. Shikh's office by investigation found it to be dirty and disorganized. No stethoscopes, thermometers, biohazard containers, or sharp containers were found in either exam room. Many of the medications in the office were grossly outdated. The lone log of I.V. fluids expired in 1998. Oxygen cylinders located in the exam rooms had no regulator. Counter tops were dirty and rusty. Patients were not offered local anesthetic for the procedure and did not receive any as indicated in the record.

19. The consultant concluded that the licensee's record-keeping was below minimum standards of care:

The maintenance of medical records were abysmal. One record of the 22 records had one pre-procedure blood pressure recorded. No other record had either pre-operative, intra-operative or post-operative blood pressure records. No record of pre-operative laboratory results were present on the chart. No documentation of the anesthetic used was present. The only pre-operative medication given was valium in 2/22 patients. Patients on anti-hypertensive drugs, no blood pressure recording was done. There was no operative record of the abortion. Each patient was given Percocet or Lortabs as post partum pain meds, but no documentation of other prescriptions given to patient was recorded in the chart.

In 8/22 patients the authorization for the procedure and a certification by the patient were recorded in the same day without a 24 hour waiting period.

In all patients; the dosages, quantity, and number of refills for prescriptions was not recorded in the record. For all patients with the exception of Percocet or Lortab, the names of medication, strengths, dosages, quantity, and number of refills was not recorded.

20. The consultant's overall opinion was that the licensee was "clearly below minimal standards" and that the licensee had committed gross negligence. He concluded that the licensee "constitutes a danger to health, welfare, and safety of the physician's practice. The dirty and disorganized office coupled with the finding [of gross negligence] put his patients at risk."
21. The allegations of Patients A - F were similar to the allegations contained in a grievance filed on April 16, 2007, by Patient G with the Medical Board. Patient G was interviewed and stated that she contacted Dr. Sheikh's office December 2, 2006 and an appointment was set for December the 9th. On December the 2nd Patient G asked several questions and Dr. Sheikh informed her that the procedure would take 5 to 10 minutes, she would not need to have anyone accompany her,

and she would be able to drive home. The procedure was conducted on the 9th with no offer of state mandated materials on abortion or a 24 hour wait. No vitals were obtained and the only inquiry into her medical history was when her last menstrual cycle occurred. A vaginal ultrasound was conducted without a protective cover over the wand and she contracted a postoperative infection. No medication other than a Valium was given to alleviate the pain. She had to be held down and she passed out during the procedure. Dr. Sheikh must have encountered some type of difficulties during the procedure due to the fact he left the room and returned with other instruments, which appeared to be like a knitting needle. Dr. Sheikh instructed her not to scream during the procedure and requested that she leave via the back door in order not to upset the other patients. A follow up appointment was scheduled due to an ovarian cyst and Dr. Sheikh discouraged her from seeking follow up treatment with another physician claiming they would be judgmental due to her having an abortion. She paid \$400.00 cash up front but believed the money would be refunded if her insurance paid. Her insurance was billed for lab work, two surgeries and radiology totaling \$1600.00 and the insurance company paid Dr. Sheikh \$145.00. She stated that no lab work was ordered and only one surgery occurred. Therefore Dr. Sheikh fraudulently charged her insurance company and she was charged an additional \$254.00. A Board consultant (different from the consultant who had reviewed the November, 2007 grievance) had reviewed the records of Patient G's case and had concluded that the licensee had not violated accepted standards of medical care and presented no threat to the general public. Upon reviewing Patient G's

grievance and the consultant report at its August 16, 2007, meeting, Panel A voted to issue a Letter of Concern to the licensee.

22. The Board consultant who reviewed the November, 2007, grievance also reviewed the records of Patient G and indicated that he was in disagreement with the first consultant and that he had the same conclusions regarding the licensee's care of Patient G as he did concerning the licensee's care of Patients A through F.
23. The licensee was interviewed and stated that he charged Medicaid for office visits and ultrasounds associated or leading up to, but not the surgical procedure of the abortion. Dr. Sheikh stated that he requires payment up front and obtains the patient's insurance information. If the patient's insurance makes a payment the patient is reimbursed the difference if an over payment is made or the deductible is met. Patients are counseled per state requirement and a form is signed by the patient certifying that if the patient decided to read the information provided there will be a 24 hour wait. Dr. Sheikh stated that he was unable to produce the information required by the state due to it being confiscated during the search warrant. Dr. Sheikh has made arrangements with the local hospitals and ambulance services to provide services to patients receiving abortions. Dr. Sheikh was not able to produce said written agreement, but stated that it would be provided. Dr. Sheikh stated that all patients are given Diazepam to relax them prior to the procedure/abortion, Lidocaine is used to numb/localize the area, and no narcotics are kept on sight. A spot check of medication revealed several with expired dates and no Lidocaine was found. Dr. Sheikh produced a bottle of Diazepam 10mg 500 tablets with approximately 25-50 tablets remaining with an

expiration date of 2005. Dr. Sheikh stated that the medication in said bottle was not expired; he places a few tablets in the smaller bottle for convenience and secures it and the stock bottle in separate locations. The stock bottle of Diazepam, 1000 tablets, was half full, and revealed an expiration date of May 2008. Dr. Sheikh stated that the last vial of Lidocaine was used the day before and he was going to restock. He stated that he was cleaning the day before due to this pending interview and discovered the Lidocaine in stock was expired, therefore he placed it in his vehicle. Dr. Sheikh produced seventy-eight vials of Lidocaine, three boxes of twenty-five and one box of twenty-five with three remaining, all with an expiration date of 2002. Dr. Sheikh stated that it was his professional opinion that Lidocaine was effective regardless of the expiration date. When asked if this opinion is applicable with the other expired medications he stated no and the other expired in stock medication is not given to patients.

24. On January 14, 2008, the Board's investigator contacted Agent Howard regarding items taken into evidence during the execution of the search warrant. He reported no information or books regarding abortions were confiscated.

25. By his conduct, the licensee has violated KRS 311.595(3), (10), and (9), as illustrated by KRS 311.597(3) and (4). Accordingly, legal grounds exist for disciplinary action against his/her Kentucky medical license.

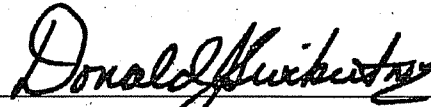
26. The licensee is directed to respond to the allegations delineated in the Complaint within thirty (30) days of service thereof and is further given notice that:

- (a) His failure to respond may be taken as an admission of the charges;
- (b) He may appear alone or with counsel, may cross-examine all prosecution witnesses and offer evidence in his defense.

27. NOTICE IS HEREBY GIVEN that a hearing on this Complaint is scheduled for November 5, 6 and 7, 2008 at 9:00 a.m., Eastern Standard Time, at the Kentucky Board of Medical Licensure, Hurstbourne Office Park, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222. Said hearing shall be held pursuant to the Rules and Regulations of the Kentucky Board of Medical Licensure and pursuant to KRS Chapter 13B. This hearing shall proceed as scheduled and the hearing date shall only be modified by leave of the Hearing Officer upon a showing of good cause.

WHEREFORE, Complainant prays that appropriate disciplinary action be taken against the license to practice medicine/osteopathy held by HAMID J. SHEIKH, M.D.

This 6th day of June, 2008.



DONALD J. SWIKERT, M.D.
CHAIR, INQUIRY PANEL A

CERTIFICATE OF SERVICE

I certify that the original of this Complaint was delivered to Mr. C. William Schmidt, Executive Director, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222; was delivered to Mr. C. William Schmidt, Executive Director, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222; and copies were mailed via certified mail return-receipt requested to Hamid H. Sheikh, M.D., Physicians Mall, 715 Shaker Drive, Suite 139, Lexington, KY 40504 and L. Chad Elder, Esq., Valenti, Hanley & Robinson, PLLC, One Riverfront Plaza, Ste. 1950, 401 West Main Street, Louisville, KY 40202 on this 6th day of June, 2008.



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