

IN THE MATTER OF	*	BEFORE THE
PEARSON SUNDERLAND, III, M.D.	*	MARYLAND STATE BOARD
Petitioner for Reinstatement	*	OF PHYSICIANS
License No. D22662	*	Case No. 2007-0392
* * * * *	*	* * * * *

BOARD DECISION AND ORDER ON PETITION FOR REINSTATEMENT

On December 22, 2006, in the United States District Court for the District of Maryland, Dr. Sunderland was criminally convicted of 18 U.S.C. § 208(a) for engaging in a conflict of interest. On March 30, 2009, the Maryland State Board of Physicians (the "Board") revoked Dr. Sunderland's medical license because his conviction was for a crime involving moral turpitude, Md. Code Ann., Health Occ. § 14-404(b)(2). On April 5, 2010, Dr. Sunderland filed with the Board an Application for Reinstatement of Medical Licensure ("Petition for Reinstatement").

Upon receiving the Petition for Reinstatement, the Board requested that Dr. Sunderland answer the following questions:

- (1) What is your understanding of the circumstances, which resulted in the revocation of your Maryland medical license, and what is your understanding of the concerns of the Board with respect to your conduct?
- (2) Have you accepted responsibility for the action(s) resulting in the revocation of your license, and what steps have you taken to lessen the likelihood of recurrence?
- (3) What are your plans for returning to the practice of medicine in the State of Maryland and what are the circumstances of your proposed practice setting?
- (4) What efforts have you made to maintain your competency to practice in your area of specialty (i.e. CMEs)?

On June 11, 2010, Dr. Sunderland submitted his answers. The administrative prosecutor responded to Dr. Sunderland's answers and indicated that he opposed Dr. Sunderland's

reinstatement. On September 22, 2010, Dr. Sunderland, in a letter, replied to the administrative prosecutor. On October 6, 2010, the Board's Reinstatement Inquiry Panel met and heard arguments from Dr. Sunderland and the administrative prosecutor. Dr. Sunderland did not appear with legal counsel. The panel then recommended to the full Board that the Board deny his Petition for Reinstatement. On November 17, 2010, the full Board met and ruled on the matter after considering the material that Dr. Sunderland submitted, the administrative prosecutor's response, the Reinstatement Inquiry Panel's recommendation, and the record concerning the revocation of his license.

CRIMINAL OFFENSE

From 1997 to 2004, Dr. Sunderland was the Chief of the Geriatric Psychiatric Branch of the National Institute of Mental Health ("NIMH"), an institute of the National Institutes of Health ("NIH"). He was responsible for overseeing geriatric research, including managing collaborations with outside partners, which included private corporations. The research conducted by his branch focused on Alzheimer's disease.

In May 1998, NIMH entered into collaboration agreements with two private companies, Pfizer, Inc., a pharmaceutical corporation, and Oxford Glycosciences Limited, to study biomarkers from Alzheimer's patients. Dr. Sunderland arranged two separate studies with these companies, one with "unknown" biomarkers and the other with "known" biomarkers. NIMH had collected human tissue, cerebrospinal fluid, and blood samples from Alzheimer's patients and from patients at risk for the disease. The parties arranged for the transfer of these samples to the private companies, who would then identify the biomarkers from these samples. NIMH also agreed to provide scientific expertise, staffing, and data analysis. The transfer of the samples was arranged through official Material Transfer Agreements. On behalf of NIMH, these official

agreements were negotiated, arranged, and signed by Dr. Sunderland, in his official capacity, as well as negotiated and signed by other officials from NIMH.

In June 1998, shortly after these official agreements were executed, Dr. Sunderland, in his personal capacity, negotiated private agreements with Pfizer in which he would be paid to be a consultant for them on the same biomarker projects that he had arranged for and would participate in on behalf of NIMH. Dr. Sunderland negotiated these agreements by himself and did not notify anyone from NIMH about these agreements. Dr. Sunderland also falsely represented to Pfizer that he had authority to enter into these agreements.

Dr. Sunderland and Pfizer initially entered into two two-year consultant contracts, one for the unknown biomarker project and the other for the known biomarker project. Under the terms of Dr. Sunderland's personal "unknown" biomarker project contract, Pfizer agreed to pay Dr. Sunderland \$25,000 for each of the two years, also \$2,500 per day for one day meetings, and reimbursement for travel expenses. In October 1998, Dr. Sunderland and Pfizer entered into the two-year consultant contract for the "known" biomarker project. In this personal agreement, Pfizer agreed to pay Dr. Sunderland \$25,000 per year and reimburse him for his travel expenses. Both of the personal consultant contracts were renewed for a second two year term, and then renewed again for an additional year. The period that the consultant contracts were in effect paralleled the period of the official Alzheimer's biomarker research project involving NIMH, Pfizer, and Glycosciences: 1998-2003. Dr. Sunderland never disclosed the agreements he personally had with Pfizer to his NIMH supervisors, and he never obtained or sought approval from the U.S. Department of Health and Human Services ("DHHS"),¹ NIH, or NIMH, to consult for Pfizer.

¹ DHHS oversees NIH.

Before engaging in any outside employment including any consultative services Dr. Sunderland was required to file with DHHS and NIH ethics officials a Request for Approval of Outside Activity, known as a Form 520. This form required him to list the organization for whom he anticipated working, the nature of the proposed work, and the basis of any compensation. Further, as a senior NIH employee, Dr. Sunderland was also required to annually file an Executive Branch Confidential Financial Disclosure Report, known as a Form 450. This form required a list of all assets and sources of income acquired during the reporting period, including outside activities, including consulting services, the identification of all consultant positions, all outside employment arrangement and activities, and all travel expenses reimbursed over \$260.

As part of a yearly review, NIH and DHHS ethics officials relied upon the accuracy of the Forms 520 and 450 to ensure that NIH employees did not participate in official matters in which they had a personal financial interest. Thus, each year between 1998 and 2004, Dr. Sunderland received training from ethics officials at NIH and DHHS about the requirements relating to activities with outside organizations. Nevertheless, Dr. Sunderland did not file a Form 520 requesting that he be allowed to consult for Pfizer. And he filed a Form 450 for each of the five years he consulted for Pfizer and certified that the forms were complete and accurate, but he did not mention in any of these Form 450's that he worked for Pfizer as a consultant or that Pfizer had compensated him. In total, between 1998 and 2003, Pfizer paid Dr. Sunderland approximately \$300,000 under his personal agreements.

In December 2006, in the United States District Court for the District of Maryland, Dr. Sunderland, based upon the conduct described above, pled guilty to and was convicted of violating the federal conflict of interest statute. 18 U.S.C. § 208(a). The statute prohibits federal

government officers and employees from engaging in official work in which they also have a personal financial interest. He received two years probation, was ordered to perform 400 hours of community service, and was ordered to forfeit \$300,000. Because the crime for which he was convicted involved moral turpitude, the Board, on March 30, 2009, revoked Dr. Sunderland's license to practice medicine in Maryland. *See* Health Occ. § 14-404(b)(2).

DECISION

The essence of the moral turpitude finding, through which Dr. Sunderland's license was revoked, was that he engaged in deceit. He submitted disclosure statements to NIH and DHHS on an annual basis while he was paid as a consultant for Pfizer. The disclosure forms asked for information on any consultant work he was involved in, but he did not disclose his personal agreements with Pfizer. He also hid his personal Pfizer agreements from his supervisors at NIMH. He conducted research for five years while hiding from his government supervisors the fact that he was receiving a salary from a corporation that was also involved in the research. And he misled Pfizer by falsely representing to them that he had the full right and authority to enter into the personal agreements.

Dr. Sunderland has asked the Board to reinstate his medical license, yet he has not acknowledged, or demonstrated that he understands, the role that his deceit played in his scheme. Dr. Sunderland does acknowledge that he had a duty to disclose his personal contracts and that he failed to disclose them, but he characterizes his actions as a failure to obtain authorization for his work. This case, however, goes far beyond his "failure to submit the proper financial forms for [his] outside activities." (Dr. Sunderland's letter, September 22, 2010, to Robert Gilbert, administrative prosecutor.) He did submit the Form 450's. He submitted them on an annual basis. But the information he provided on the forms was false. His conflict of interest arose only

because he was willing to deceive NIMH, NIH, and DHHS. The Board's concerns in his case are manifold, but certainly one major concern is the dishonesty Dr. Sunderland displayed in order to get compensated by Pfizer for five years. He has not convinced the Board that he fully understands the deceitful characteristics of his conduct.

Dr. Sunderland also has not convinced the Board that he understands the nature or the seriousness of the crime for which he was convicted. Dr. Sunderland describes his misconduct in terms of failing to obtain proper authorization for his outside activity. In describing his conduct this way, he implies that getting paid by Pfizer while, for the same research project, getting paid by the federal government was appropriate. In other words, Dr. Sunderland appears to believe that his mistake was just that he did not obtain permission to get paid as a consultant for Pfizer. The Board does not agree. His errors went beyond simply not seeking authorization and not disclosing his private agreements. The actual conflict of interest that Dr. Sunderland pursued and engaged in was inappropriate, unacceptable, and obvious. Dr. Sunderland failed to submit the authorization forms and submitted false disclosure forms to hide the fact that he was being paid by Pfizer.

Dr. Sunderland has not established sufficient grounds for reinstatement. Without a full understanding of the nature and the seriousness of the conduct that resulted in his revocation, the Board cannot be assured that he will refrain from similar conduct if his license is reinstated. The Board will, therefore, exercise its discretion and deny his Petition for Reinstatement.

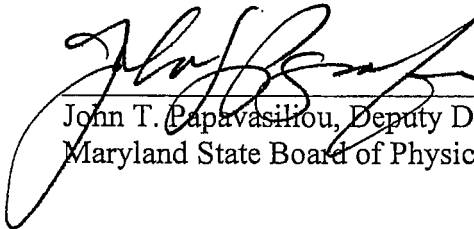
ORDER

It is therefore

ORDERED by the Maryland State Board of Physicians that Pearson Sunderland, III, M.D.'s Petition for Reinstatement be, and hereby is, **DENIED**, and, thus, his license to practice medicine in Maryland is not reinstated; and it is further

ORDERED that this is a public order.

12/20/10
Date


John T. Papavasiliou, Deputy Director
Maryland State Board of Physicians