

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE  
IN THE MATTER OF THE APPLICATION FOR LICENSURE

OF

SETH LEIGH YOSER, M.D.

ORDER TO SHOW CAUSE

TO: **Seth Leigh Yoser, M.D.**  
**2553 Woodhurst Cove**  
**Germantown, TN 38139**

YOU ARE HEREBY SUMMONED to appear before the Mississippi State Board of Medical Licensure in its executive conference room, 1867 Crane Ridge Drive, Suite 200B, Hinds County, Jackson, Mississippi on July 25, 2019, at 10:00 A.M., to show cause why your application for a license to practice medicine in the state of Mississippi should not be denied. The Mississippi State Board of Medical Licensure, charged by law with the licensing of medical doctors in the state, under Title 73, Chapter 25, Miss. Code Ann., as amended, charges that you, an applicant for a license to practice medicine in the state of Mississippi, are guilty of voluntarily entering a plea of guilty related to a federal indictment, which would constitute conviction of a felony or misdemeanor involving moral turpitude that is directly related to the practice of medicine; and are guilty of unprofessional conduct, which includes, but in not limited to, any dishonorable or unethical conduct likely to deceive, defraud, or harm the public.

Pursuant to Subsections (6) and (8)(d) of §73-25-29 and §73-25-83(a), Miss. Code Ann., as amended, such acts constitute grounds for which the Mississippi State Board of Medical Licensure may deny your application for a Mississippi license to practice

medicine, or take any other action in relation to your application as the Board may deem proper under the circumstances.

The Mississippi State Board of Medical Licensure further advises that you have the right to be present at the hearing, to be represented by counsel, to produce witnesses or evidence on your behalf, to cross-examine witnesses and to have subpoenas issued on your behalf by this Board. A full text of the Board's Rules of Procedure can be found at the Board's website [www.msbl.ms.gov](http://www.msbl.ms.gov) or can be obtained from the Board office. By service of this Order to Show Cause and attached Rules, you are deemed to be fully advised of the same.

You are further advised that, pursuant to the Board's Rules of Procedure, you must file an answer or response to this Order to Show Cause/Affidavit within fifteen (15) days of the date you receive the same or all matters asserted therein shall be deemed admitted.

**GIVEN UNDER MY HAND AND SEAL OF OFFICE**, this the 11<sup>th</sup> day of  
June, 2019.



Kenneth E. Cleveland, M.D.  
Executive Director  
Mississippi State Board of Medical Licensure

**BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE**  
**IN THE MATTER OF THE APPLICATION FOR LICENSURE**  
**OF**  
**SETH LEIGH YOSER, M.D.**

**AFFIDAVIT**

**STATE OF MISSISSIPPI**  
**COUNTY OF HINDS**

I, JONATHAN DALTON, Supervisor of the Investigations Division, Mississippi State Board of Medical Licensure, do hereby make oath that I have reason to believe and do believe:

1. That on or about December 28, 2018, Seth Leigh Yoser, M.D., hereinafter referred to as "Applicant," submitted or caused to be submitted his application for a license to practice medicine in the state of Mississippi.

2. That Applicant reported on his licensure application certain adverse information. Question number seven (7) of the Application for Certificate To Practice Medicine (hereinafter "the application") reads as follows:

*Has your certificate of qualification or license to practice medicine in any state been suspended, revoked, restricted, conditioned, curtailed, or voluntarily surrendered under threat of suspension or revocation?*

Applicant responded "Yes" in answer to this question, among other related questions answered in the positive, and provided a written explanation. The explanation reads, in part:

*In openly cooperating with authorities, I pled to information in July 2009 and in February 2010 was sentenced for mail and wire fraud in connection with the unlicensed sale of non-narcotic prescription medication.*

## APPLICANT HISTORY

3. That on July 15, 2009, the U.S. Government filed what is known as a Bill of Information, hereinafter referred to as the "Information", but more commonly known as an Indictment, against Applicant setting forth certain allegations related to fraud in the practice of medicine. The Information, in part, lays out certain schemes and artifices to defraud Medicare. As an example of said schemes and artifices, the Information states the following in Section 3, (a) and (b):

*a. It was part of said scheme that the defendant, Yoser, would use a single dose vial of Lucentis to treat two patients and indicate on the internal <sup>1</sup>ESG documents that two vials of Lucentis were used in order to divert one unopened vial to his possession for every two patients.*

*b. It was part of said scheme that Yoser would use the residual in the vials of Visudyne to treat multiple patients in order to divert roughly one unopened vial for every five to six patients.*

Further allegations set forth in the Information state that Applicant illegally distributed the diverted medications to several eye centers or other retinal consulting groups, leading to an approximate seven-figure profit for Applicant. The aforementioned practices also caused false billings submitted to Medicare on Applicant's behalf, all totaling approximately \$1.6 million.

4. That the Information charged Applicant with thirty-five (35) counts in total, ranging from federal statutes involving Frauds and Swindles (Counts 1-10) [18 U.S.C. §1341], to Prohibited Acts-Distribution of Drugs (Counts 11-33) [21 U.S.C. §§331(t), 333(b)(1)(D) and 352(e)(2)(A)], and Fraud by Wire, Radio, or Television (Counts 34 & 35) [21 U.S.C. §1343].

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<sup>1</sup> The term "ESG" is short for Eye Specialty Group, a former employer of Licensee.

5. That, pursuant to the aforementioned Information, Applicant entered into a Plea Agreement, pleading guilty to all thirty-five (35) counts of the Information. As provided by Applicant, the Redacted Amended Judgment In A Criminal Case indicates Applicant was committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 42 months. Subsequent to his imprisonment, Applicant was subject to supervised release for a term of 2 years. Applicant was also assessed a monetary assessment of \$3,500, a total fine of \$10,000, and total restitution of \$400,000.

6. That, in response to Applicant's Plea Agreement, on August 20, 2009, the Board issued a Summons with supporting Affidavit charging Applicant, who was then a licensee of the Board, with violations of Mississippi statute. In lieu of a formal hearing, Applicant chose to execute an Agreed Order of Surrender of Medical License, which was executed on November 16, 2009.

#### CURRENT MATTER

7. That the "Now, Therefore" paragraph of the aforementioned Agreed Order of Surrender of Medical License states the following, in part:

*In the event Licensee later decides to practice medicine in the State of Mississippi, it will be necessary for his<SIC> to submit a new application with the Board. **At such time, the Board reserves the right to utilize all evidence, including all facts developed during the current investigation, as part of the consideration of any application.***  
<Emphasis Added>

8. That entry and/or filing of the May 12, 2009, Information against Applicant culminated an investigation conducted by the United States Food & Drug Administration, hereinafter "FDA". Prior to entry and/or filing of the May 12, 2009, Information, Applicant was made aware of the investigation and, on at least one occasion, was interviewed by agents for the FDA.

9. That on or about June 7, 2009, Applicant, then a licensee, submitted to the Board his on-line Renewal Application for the licensing period July 1, 2009 – June 30, 2010. In the Affidavit Questions section of the Renewal Application, Applicant answered “N” or “No” to Question 1, which states:

*From July 1, 2007, to the present, have you been the subject of any disciplinary action or investigation by any licensing authority . . . or other governmental agency?*

At the conclusion of the aforementioned on-line license renewal application, Applicant indicated “Yes, I acknowledge the above statement” in the “Certification of Submitted Information” portion of the application, which states:

*In utilizing the MSBML's physician license web renewal process, the licensee acknowledges that all information contained in the renewal application has been either directly submitted by the licensee or caused to be submitted by the licensee. The licensee acknowledges that all information submitted is true and correct to the best of licensee's knowledge. Any information erroneously submitted either directly by licensee or at licensee's direction is licensee's responsibility. Investigation and disciplinary action may result from the knowing or willful failure of licensee to submit information, either directly or indirectly, to the Board or from the submission of incorrect information to the Board.*

#### **COUNT I**

**Based upon the foregoing, Applicant has been convicted of a felony or misdemeanor involving moral turpitude, said crimes being directly related to the practice of medicine, all in violation of Miss. Code Ann., §73-25-29(6).**

#### **COUNT II**


**Based upon the foregoing, Applicant knowingly or willfully submitted false information to the Board on his 2009 Renewal Application for a license, at a time when he was a licensee of the Board, and therefore is guilty of unprofessional conduct, including dishonorable or unethical conduct likely to deceive, defraud or harm the public, all in violation of Miss. Code Ann., §§73-25-29(8)(d) and 73-25-83(a).**

10. That for the reasons and counts noted above, the undersigned has reason to believe, and does believe, that sufficient grounds exist to deny Applicant's application for a license to practice medicine in the state of Mississippi.

DATED, this the 11<sup>th</sup> day of June, 2019.

  
\_\_\_\_\_  
JONATHAN DALTON, CMBI  
INVESTIGATIONS SUPERVISOR

SWORN TO AND SUBSCRIBED BEFORE ME, this the 11<sup>th</sup> day of June, 2019.

  
\_\_\_\_\_  
NOTARY PUBLIC  
No. 034329  
Commission Expires  
Apr 24, 2021  
STATE OF MISSISSIPPI  
RANKIN COUNTY

RESPONSES BY SETH LEIGH YOSER, MD TO MISSISSIPPI STATE BOARD  
OF MEICAL LICENSURE

The following are my responses to the Mississippi State Board of Medical Licensure (MSBML) in the matter of my application for reinstatement pertaining to: 1) Order To Show Cause and 2) Affidavit I received on June 17, 2019.

I accept the Board's invitation to appear July 25, 2019 at 10 AM to show cause why my application for license reinstatement to practice medicine in the state of Mississippi should not be denied. I endeavor to show cause why my license application should be approved. I do have one question regarding my legal rights. During the interview process, does a candidate have the right to withdraw said application if the Board informs him/her they are denying the application and that action would be reported to the National Practitioner Data Bank (NPBD)? Otherwise, I have been fully advised of my legal rights in the Order To Show Cause signed by Executive Director Kenneth Cleveland, M.D. on June 11, 2019.

Regarding the Affidavit submitted by Jonathan Dalton, Supervisor of the Investigations Division, MSBML, I now provide the following responses.

I concur with Statement 1.

I concur with Statement 2.

For Statement 3, at no time did I ever plead to or was convicted of Medicare fraud. As stipulated in Statement 2, "I pled to information in July 2009 and in February 2010 was sentenced for mail and wire fraud in connection with the unlicensed sale of non-narcotic prescription medication". Additionally, I have no knowledge of and cannot attest to "the aforementioned practices (several eye centers and other retinal consulting groups) also caused false billings submitted to Medicare on Applicant's behalf, all totaling approximately \$1.6 million". I had no involvement with any practice's billing department or procedures. I did illegally sell Visudyne and Lucentis used to treat wet age-related macular degeneration without being licensed to do so as referenced in my narrative.

I concur with Statement 4.

I concur with Statement 5 and have paid all monetary assessments, fines, and restitution.

I concur with Statement 6.

I concur with Statement 7.

I disagree with the date in Statement 8. The date should be July 15, 2009 and not May 12, 2009 for the entry/filing of Information against Applicant.



Regarding Statement 9, I do not recall exactly when, but did renew my license online. My attorney at this time, Dan Warlick, advised me that I could answer “N” or “No” to Question 1 as I had not yet been the subject of any disciplinary action or investigation by any licensing authority. As stated in my narrative, in openly cooperating with authorities I had conversation, but possibly misinterpreted that and did not consider at that time it to be an investigation.

Regardless, referencing Statement 6 of the Affidavit, in response to my Plea Agreement, I received on August 20, 2009 a Summons with supporting Affidavit from MSBML for which I chose to execute an Agreed Order of Surrender of Medical License in lieu of a formal hearing. This was executed on November 16, 2009. I firmly believe surrender of my license at that time was in response to Counts I and II.

For Statement 10, while I thoroughly respect Mr. Jonathan Dalton’s role as CMBI Investigations Supervisor and his efforts in behalf of the Board to protect the citizens of Mississippi from deceit, fraud, and harm, I endeavor to show why I might obtain a second chance and achieve reinstatement of my Mississippi medical license by appearing personally in front of the MSBML on July 25, 2019. In respecting Rule of Law and Due Process, I realize and appreciate that every candidate when accepting an invitation to appear presents a unique case for consideration at the MSBML’s discretion. With humble determination over the past decade, I have accepted full responsibility for my actions by openly cooperating with authorities, serving my time diligently, repaying my “debt to society” literally and figuratively, reinstating my Tennessee medical license as unrestricted/unencumbered, acquiring an opportunity to become ophthalmology board certified again, and acquiring an opportunity to practice in Mississippi. I have presented the MSBML with evidence of the above. I have journeyed through redemption for this chance to provide ophthalmic medical care to the esteemed citizens of Mississippi again, G/d and the Board willing.

DATED, this the June 28, 2019.

Seth L. Yoser, MD

SETH LEIGH YOSER, M.D.

SWORN TO AND SUBSCRIBED BEFORE ME, this 6/28, 2019.



Stephanie Crosslin  
NOTARY PUBLIC 4-10-22



**WESSON & MOTHERSHED  
EYE CENTER**

**Matthew B. Wesson, M.D.**

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December 11, 2018

Seth Yoser, M.D.  
2553 Woodhurst Cove  
Germantown, TN 38139

To Whom It May Concern:

Dr. Seth Yoser is a thoroughly qualified retinal specialist who came to our office for a number of years previously. It has come to our attention that he received an unencumbered Tennessee license.

He is presently applying for a Mississippi license, and we would like to support him in this. In fact, once he gets his license, we would consider having him come back to see retina patients.

Should there be any questions concerning this, please feel free to contact me at any time.

Sincerely,

Matthew B. Wesson, M.D.

MBW:lac



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Seth L. Yoser, M.D.  
2553 Woodhurst Cove  
Germantown, TN 38139

Dear Dr. Yoser:

The American Board of Ophthalmology ("ABO") met on June 7, 2019 and reviewed the status of your medical license and your request to restore your ABO board certification. Your previous certificate will not be reinstated; however, you can obtain Board Certification through successful completion of the MOC process described below.

Please note that the letter sent to you dated September 17, 2010 stated in relevant part: "If ABO does issue you a new certificate, it may impose any conditions on reinstatement that it considers appropriate." To have your ABO certificate reinstated, you must complete the maintenance of certification ("MOC") process described below.

MOC enrollment will allow you an application period valid for 3 years from the date of this letter in order to complete the MOC components below. Doing so will provide you with a new time-limited certificate valid for 10 years from the date ABO determines you have completed these MOC requests.

The four parts of the MOC process are as follows:

- **Professionalism and Professional Standing:** You must hold a valid medical license in the United States or Canada and enter that license information into the fields provided on your MOC Status Page.
- **Lifelong Learning and Self-Assessment:** Attest to completion of 250 CME credits.
- **Assessment of Knowledge, Judgment, and Skills:** Successfully complete three (3) years of Quarterly Questions activity.
- **Improvement in Medical Practice:** Completion of one quality improvement focused activity. There are several options available to help diplomates fulfill this requirement:
  - Quarterly Questions Pathway
  - QI-Designated CME Finder Activity
  - Self-Directed Quality Improvement Activity

Additional information about the MOC process is available on the ABO website here <https://abop.org/maintain-certification/getting-started/>.



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If you are interested in participating in the MOC process, please complete the MOC enrollment form, which is accessible by logging on to your Status Page. To get started visit [www.abop.org](http://www.abop.org) and login with your ABO-issued username and password. If you don't have it, click "Retrieve My Login" on the ABO homepage, supply the required identifying information and click "send" to have your login information delivered to your inbox.

More information about the ABO's current MOC process can be found at <https://abop.org/maintain-certification/>. Please contact the Board office if you have any questions. We look forward to your participation in MOC and regaining your status as an ABO Diplomate.

Respectfully,

George B. Bartley, M.D.  
Chief Executive Officer

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George B. Bartley, MD  
Chief Executive Officer  
East 4, Mayo Building  
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