

United States Department of Health and Human Services

DEPARTMENTAL APPEALS BOARD

Civil Remedies Division

In the Case of:)	
_____)	
)	Date:
)	
Petitioner,)	
)	Docket No. C- -
- v. -)	
)	
The Inspector General.)	
_____)	

INFORMAL BRIEF OF PETITIONER

The Inspector General (I.G.) argues that he is authorized to exclude you from participating in Medicare, Medicaid, and other federally-funded health care programs, because your license to provide health care was revoked, suspended, or otherwise lost for a reason described at section 1128(b)(4) of the Social Security Act. The length of the exclusion is for a period of time that is not less than the period when your license is revoked, suspended, or otherwise lost plus at least _____ additional years.

The issues in this case are whether:

1. The I.G. is authorized to exclude you; and
2. The length of the exclusion that the I.G. determined to impose is reasonable.

I. Was your license revoked, suspended, or otherwise lost, or did you surrender your license, under the circumstances that are described at section 1128(b)(4)?

_____ Yes _____ No

A. Do you agree that your license to provide health care was revoked, suspended, or otherwise lost as a consequence of action taken by a State licensing authority?

_____ Yes _____ No

If you **disagree**, explain why you disagree. State which exhibits support your argument and explain why they do.

B. Do you agree that your license to provide health care was revoked, suspended, or otherwise lost for reasons bearing on your professional competence, professional performance, or financial integrity?

_____ Yes _____ No

If you **disagree**, explain why you disagree. State which exhibits support your argument and explain why they do.

C. (Answer the following question only if your license to provide health care was lost, suspended, or otherwise revoked based on an agreement reached between you and a State licensing authority). Do you agree that you surrendered your license to provide health care while a State formal disciplinary proceeding was pending against you and the proceeding concerned your professional competence, professional performance, or financial integrity?

_____ Yes _____ No

If you **disagree**, explain why you disagree. State which exhibits support your argument and explain why they do.

II. Is the length of your exclusion unreasonable? The I.G. argues that the length of the exclusion that he determined to impose is reasonable. He argues that there is evidence relating to certain aggravating factors that he says supports the length of the exclusion.

A. Do you disagree with the I.G.'s identification of aggravating factors in your case?

_____ Yes _____ No

If you disagree, state which of the aggravating factors cited by the I.G. you believe are not present. Explain why you disagree. State which exhibits support your argument(s) and explain why they do.

B. If you agree that there is/are an aggravating factor or factors present in your case but believe that the exclusion is nonetheless not justified by the presence of that factor or factors, explain your reasons for your argument. State which exhibits support your arguments and explain why they do.

C. Do you believe that a mitigating factor or factors exist(s) that support(s) reducing the length of your exclusion (before answering this question, read the list of potentially mitigating factors that is set forth at 42 C.F.R. § 1001.501(b)(3))?

_____ Yes _____ No

If you believe that a mitigating factor or factors exist(s), state what it is/they are and explain why the presence of the factor or factors should support reducing the length of your exclusion. State which exhibits support your argument(s) and explain why they do.

III. Do you have any other arguments you wish to make? If so, please state them here. State which exhibits support your argument(s) and explain why they do.

Petitioner or Petitioner's Representative

Date: _____