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**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

5 In the Matter of the Case Against:) MBC Case No. 16-2009-203953
6 Andrew S. Zabiega, M.D.)
7 1834 Raes Creek Drive)
8 Bolingbrook, IL 60490-2082)
9 Physician's and Surgeon's)
10 Certificate No. AFE-40331)
11 Respondent.)

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DECISION AND ORDER

15 The surrender of Physician's and Surgeon's Certificate No. AFE-40331, by
16 respondent, Andrew S. Zabiega M.D., is accepted by the Medical Board of California,
17 Department of Consumer Affairs.

18 This Decision shall become effective at 5:00 p.m. on the 24th day of
19 June, 2010.

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21 Ordered: June 24, 2010

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**LINDA K. WHITNEY
EXECUTIVE DIRECTOR
MEDICAL BOARD OF CALIFORNIA**

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**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Case Against:)	MBC Case No. 16-2009-203953
)	
Andrew S. Zabiega, M.D.)	
1834 Raes Creek Drive)	
Bolingbrook, IL 60490-2082)	STIPULATION FOR
)	SURRENDER OF LICENSE
Physician's and Surgeon's)	
Certificate No. AFE-40331)	
)	
Respondent.)	

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings, that the following matters are true:

1. Complainant, Linda K. Whitney, is the Executive Director of the Medical Board of California, Department of Consumer Affairs ("Board").
2. Andrew S. Zabiega, M.D. has carefully read and fully understands the effect of this Stipulation.
3. Respondent agrees that based on the action taken by the Medical Licensing Board of Indiana, (Exhibit A) cause exists to discipline his California Physician's and Surgeon's certificate pursuant to Business and Professions Code sections 141(a) and 2305.
4. Respondent understands that, if proven at hearing, the charges and allegations under investigation would constitute cause for imposing discipline upon respondent's license issued by the Board.
5. Respondent is aware of each of his rights, including the right to a hearing, the right to confront and cross-examine witnesses who would testify against respondent, the right to testify and present evidence on his own behalf, as well as to the issuance of subpoenas to compel the attendance of witnesses and the production of

1 documents, the right to contest any charges and allegations, and other rights which are
2 accorded respondent pursuant to the California Administrative Procedure Act (Gov. Code, §
3 11500 et seq.) and other applicable laws, including the right to seek reconsideration, review
4 by the superior court, and appellate review.

5 6. In order to avoid the expense and uncertainty of a hearing, respondent
6 freely and voluntarily waives each and every one of these rights set forth above. Respondent
7 hereby agrees to surrender Physician's and Surgeon's Certificate No. AFE-40331.

8 7. Respondent understands that by signing this Stipulation he is enabling
9 the Board to accept the surrender of his license without further process, as provided by
10 section 11415.60(b) of the Government Code.

11 8. Upon acceptance of the Stipulation by the Board, respondent
12 understands that he will no longer be permitted to practice as a physician and surgeon in
13 California, and also agrees to surrender and cause to be delivered to the Board both his
14 license and wallet certificate before the effective date of the Decision.

15 9. Respondent hereby represents that he does not intend to seek
16 relicensure or reinstatement as a Physician and Surgeon. Respondent fully understands and
17 agrees, however, that if respondent ever files an application for relicensure or reinstatement
18 in the State of California, the Division shall treat it as a Petition for Reinstatement, and the
19 respondent must comply with all the laws, regulations and procedures for reinstatement of a
20 revoked license in effect at the time the petition is filed. Case Report No. 16-2009-203953,
21 including all referenced attachments and other exhibits, and any additional attachments, and
22 other exhibits, that may be generated subsequent to the filing of the surrender of license, shall
23 be admissible as direct evidence, and any time based defenses, such as laches or any
24 applicable statute of limitations, shall be waived when the Board determines whether to grant
25 or deny the Petition.

26 10. Respondent understands that this document may be disclosed to the
27 public, and/or the National Practitioner Data Bank and/or the Federation of State Medical
Boards.

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ACCEPTANCE

I, Andrew S. Zabiega, M.D., have carefully read the above Stipulation and enter into it freely and voluntarily, with the full knowledge of its force and effect, do hereby surrender Physician's and Surgeon's Certificate No. AFE-40331, to the Medical Board of California. By signing this Stipulation for Surrender of License, I recognize that upon its formal acceptance by the Board, I will lose all rights and privileges to practice as a Physician and Surgeon in the State of California and I also will cause to be delivered to the Board both my license and wallet certificate before the effective date of the Decision.

DATED: 6/11/10

Andrew S. Zabiega
Andrew S. Zabiega, M.D.
Respondent

DATED: 6/11/10

Andrew S. Zabiega
WITNESS

EXHIBIT A



Medical Licensing Board of Indiana

402 West Washington Street, Room W072

Indianapolis, Indiana 46204

Telephone: (317) 234-2060

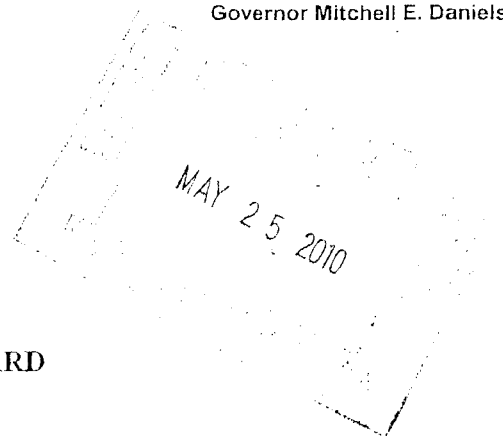
Fax: (317) 233-4236

Website: www.PLA.IN.gov

Governor Mitchell E. Daniels, Jr.

May 18, 2010

Pamela L. Mosher
MD BD of CA, Discipline Coordination Unit
2005 Evergreen ST., Suite 1200
Sacramento, CA 95815



MEDICAL LICENSING BOARD CERTIFICATION

I, Kristen Kelley, Director of the Medical Licensing Board of Indiana, being duly sworn upon my oath, depose and say:

I certify that the Professional Licensing Agency is the record-keeping agency for the Medical Licensing Board, which is responsible for licensing physicians in the State of Indiana. As Assistant Director, I am the keeper of the records of administrative proceedings before the Medical Licensing Board.


I further certify that the following documents are a true and accurate copy of the in the matter of Andrew S. Zabiega, M.D.

EXHIBITS:

- A. COMPLAINT
FILED: NOVEMBER 2, 2009

- B. STIPULATED FINDINGS OF FACT, STIPULATED CONCLUSIONS OF LAW,
ULTIMATE CONCLUSIONS OF LAW AND ORDER
FILED: DECEMBER 17, 2009

MEDICAL LICENSING BOARD OF INDIANA



Kristen Kelley, Director

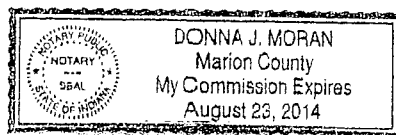
Page 2.

STATE OF INDIANA)
) SS
COUNTY OF MARION)

Kristen Kelley, personally appeared before me, Donna J. Moran acknowledged the foregoing statements as true this 18th day of May 2010.

Donna J. Moran

Donna J. Moran, Notary Public
County of Residence: Marion
Commission Expires: August 23, 2014



BEFORE THE MEDICAL LICENSING BOARD OF INDIANA
CAUSE NO.: 2009 MLB 0033

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)
IN THE MATTER OF THE LICENSE OF)
)
ANDREW ZABIEGA, M.D.)
)
)
LICENSE NO: 01058596A)
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)



COMPLAINT

The State of Indiana, by counsel, Deputy Attorney General, Thomas P. McGee, on behalf of the Office of the Attorney General (“Petitioner”), and pursuant to Indiana Code § 25-1-7-7, Ind. Code §25-1-5-3, Ind. Code §25-22.5 et seq., the Administrative Orders and Procedures Act, Ind. Code § 4-21.5-3 et seq. and Ind. Code § 25-1-9-1 et seq., files its Complaint against the Medical License of Andrew Zabiega M.D. (“Respondent”), and in support alleges and states:

FACTS

1. Respondent’s address on file with the Indiana Medical Licensing Board (“Board”) is 1834 Raes Creek Dr., Bolingbrook IL 60490 and he is a licensed medical doctor holding Indiana license number 01058596.

2. On or about July 17, 2003, Respondent submitted an “Application for License to Practice Medicine in Indiana” (“Indiana Application”) with the Medical Licensing Board of Indiana (“Board”).

3. On his Indiana Application, Respondent stated that he completed a fellowship in psychiatry from December 8, 1983 through May 1, 1985 at Atascadero State Hospital ("Atascadero") in Atascadero, California.

4. On his Indiana Application, Respondent answered "no" to question 7 which asks, "Have you ever been admonished, censured, reprimanded or requested to withdraw, resign or retire from any hospital or health care facility in which you have trained, held staff membership or privileges or acted as a consultant?"

5. On the basis of his responses, the Board granted Respondent an unrestricted license to practice medicine in Indiana on August 6, 2003.

6. On or about January 25, 2005, Respondent applied for clinical privileges at Ball Memorial Hospital ("Ball Memorial") located at 2401 University Avenue, Muncie, IN 47303.

7. On the Respondent's application for clinical privileges at Ball Memorial, he stated the following:

(a) He had a fellowship at Atascadero from January 1983 through May 1985. He further stated the fellowship at Atascadero was in the field of Forensic Psychiatry, Neurology, and Emergency Medicine. He also stated that the fellowship was successfully completed and provided Ball Memorial with a certificate of completion from Atascadero.

(b) He stated that he completed a residency at Foster G. McGaw Hospital, Loyola University of Chicago ("Loyola") in Maywood, Illinois from May 15, 1972 through August 14, 1972. He stated that the residency was successfully completed

and provided Ball Memorial with a letter indicating he had been a resident from May 15, 1972 through August 14, 1972.

(c) He stated that he completed a residency in psychiatry at Warren State Hospital ("Warren") in North Warren, Pennsylvania from August 23, 1979 through February 22, 1981. Respondent stated that the residency was successfully completed and wrote "Retired" next to the question.

8. On the Resume submitted by the Respondent along with his application for clinical privileges at Ball Memorial, Respondent stated that he had a fellowship in medicine from October 1963 through February 1964 at the Mayo Clinic Foundation ("Mayo") in Rochester, Minnesota.

9. On or about March 1, 2005, Ball Memorial received correspondence from Ronald Lapp, M.D., the former Chief Physician and Surgeon at Atascadero. Dr. Lapp indicated that he has no knowledge of the Respondent having any training in psychiatry at Atascadero. He also indicated Respondent worked at Atascadero for a little over a year in general medicine during the period from December 1983 through March 1985. Respondent was dismissed from employment for falsification of his initial application and altering medical records while employed at Atascadero.

10. On or about March 1, 2005, Ball Memorial received correspondence from Rebecca Waara, an administrative assistant at Mayo. Ms. Waara indicated that Mayo has no record of the Respondent completing training there. She also indicates Respondent was appointed to an Internal Medicine resident to begin in 1963, but Respondent withdrew his application.

11. On or about March 1, 2005, Ball Memorial received correspondence from Linda Reed, Medical Staff Secretary at Warren. Ms. Reed indicated that Respondent was a psychiatric resident at Warren from August 23, 1979 through February 22, 1980. She also stated he had to leave at that time as he did not pass the FLEX examination.

12. On or about March 11, 2005, Ball Memorial received correspondence from Jose Biller, M.D., Professor of Neurology and Neurological Surgery and Acting Chair of Neurology at Loyola. Dr. Biller indicates that Respondent participated in the Neurology Residency Training Program from May 5, 1972 to August 14, 1972, at which time he was terminated from the program.

13. On or about June 21, 2005, the Board of Directors of Ball Memorial denied the Respondent clinical privileges due to "falsification of educational records."

14. On or about May 21, 2007, Respondent submitted his Renewal Questionnaire to the Indiana Professional Licensing Agency. The Respondent answered "no" to all questions, including question 5 which asks, "Since you last renewed, have you been denied staff membership or privileges in any hospital or health care facility or have staff membership or privileges been revoked, suspended, or subject to any restriction, probation, or other type of discipline?"

COUNT I

Respondent's conduct as described above constitutes a violation of Indiana Code §25-1-9-4(a)(1)(b) in that he has engaged in material deception in the course of professional services or activities as evidenced by his numerous misrepresentations on his application for clinical privileges to Ball Memorial Hospital.

COUNT II

Respondent's conduct as described above constitutes a violation of Indiana Code §25-1-9-4(a)(1)(b) in that he has engaged in material deception in order to obtain a license to practice as evidenced by his misrepresentation of his residency at Atascadero and his failure to reveal his termination from Atascadero and Warren in response to question 7 on his initial application.

COUNT III

Respondent's conduct as described above constitutes a violation of Indiana Code § 25-1-9-4(A)(1)(a) in that Respondent has engaged in or knowingly cooperated in material deception in order to obtain a license to practice as evidenced by the Respondent's failure to disclose his denial of clinical privileges at Ball Memorial Hospital on his May 21, 2007 renewal.

WHEREFORE, Petitioner demands an order against the Respondent, that:

1. Imposes the appropriate disciplinary sanction;
2. Directs Respondent to immediately pay all the cost incurred in the prosecution of this case;
3. Provides any other relief the Board deems just and proper.

Respectfully submitted,

GREGORY F. ZOELLER
Attorney General of Indiana

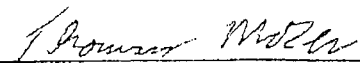
By: Thomas McGee
Thomas P. McGee
Deputy Attorney General
Attorney Number: 27247-49

Office of the Attorney General
Indiana Government Center South, Fifth Floor
302 West Washington Street
Indianapolis, Indiana 46204-2770
(317) 233-4075

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing "Complaint" has been served upon the Respondent listed below, by United States mail, first class postage prepaid, on this 2nd day of November, 2009:

Andrew Zabiega, M.D.
1834 Raes Creek Dr.
Bolingbrook IL 60490



Thomas P. McGee
Deputy Attorney General

1. The Attorney General of Indiana is empowered to bring disciplinary complaints in the name of the State of Indiana before the Board pursuant to Ind. Code § 25-1-7 *et seq.*
2. The Board is charged with the duty and responsibility of regulating the practice of medicine pursuant to Ind. Code § 25-22.5-2-7.
3. Respondent's address on file with the Board is 1834 Raes Creek Dr., Bolingbrook IL 60490 and he is a physician holding Indiana license number 01058596A.
4. On or about July 17, 2003, Respondent submitted an "Application for License to Practice Medicine in Indiana" ("Indiana Application") with the Medical Licensing Board of Indiana ("Board").
5. On his Indiana Application, Respondent stated that he completed a fellowship in psychiatry from December 8, 1983 through May 1, 1985 at Atascadero State Hospital ("Atascadero") in Atascadero, California.
6. On his Indiana Application, Respondent answered "no" to question 7 which asks, "Have you ever been admonished, censured, reprimanded or requested to withdraw, resign or retire from any hospital or health care facility in which you have trained, held staff membership or privileges or acted as a consultant?"
7. On the basis of his responses, the Board granted Respondent an unrestricted license to practice medicine in Indiana on August 6, 2003.
8. On or about January 25, 2005, Respondent applied for clinical privileges at Ball Memorial Hospital ("Ball Memorial") located at 2401 University Avenue, Muncie, IN 47303.
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for falsification of his initial application and altering medical records while employed at Atascadero.

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15. On or about June 21, 2005, the Board of Directors of Ball Memorial denied the Respondent clinical privileges due to "falsification of educational records."

16. On or about May 21, 2007, Respondent submitted his Renewal Questionnaire to the Indiana Professional Licensing Agency. The Respondent answered "no" to all questions, including question 5 which asks, "Since you last renewed, have you been denied staff membership or privileges in any hospital or health care facility or have staff membership or

privileges been revoked, suspended, or subject to any restriction, probation, or other type of discipline?"

STIPULATED CONCLUSIONS OF LAW

1. Respondent's conduct as described above constitutes a violation of Ind. Code § 25-1-9-4(a)(1)(b) in that he has engaged in material deception in the course of professional services or activities as evidenced by his numerous misrepresentations on his application for clinical privileges to Ball Memorial Hospital.

2. Respondent's conduct as described above constitutes a violation of Ind. Code § 25-1-9-4(a)(1)(b) in that he has engaged in material deception in order to obtain a license to practice as evidenced by his misrepresentation of his residency at Atascadero and his failure to reveal his termination from Atascadero and Warren in response to question 7 on his initial application.

3. Respondent's conduct as described above constitutes a violation of Ind. Code § 25-1-9-4(A)(1)(a) in that Respondent has engaged in or knowingly cooperated in material deception in order to obtain a license to practice as evidenced by the Respondent's failure to disclose his denial of clinical privileges at Ball Memorial Hospital on his May 21, 2007 renewal.

ULTIMATE CONCLUSIONS OF LAW

Respondent's failure to comply with the above referenced standard is cause for disciplinary sanctions which may be imposed singly or in combination such as censure, a letter of reprimand, probation, suspension, or a revocation of license, and a fine up to the amount of \$1000.00 per violation, as detailed at Ind. Code § 25-1-9-9 and Ind. Code § 25-23-1-7.

ORDER

Based on the foregoing Findings of Fact, Conclusions of Law, and Ultimate Conclusions of Law, the Board hereby issues its final ORDER:

1. The Board has jurisdiction over the Respondent and the subject matter in this disciplinary action commenced on November 2, 2009.

2. Respondent and Petitioner voluntarily waive their rights to a public hearing on the Complaint and all other proceedings in this action to which either party may be entitled by law, including judicial appeal or review.

3. This Agreement will resolve any and all pending claims or allegations relating to disciplinary action against Respondent's Indiana medical license stemming from the Petitioner's Administrative Complaint.

4. Respondent has carefully read and examined this agreement and fully understands its terms and that the Settlement Agreement is a final disposition of all matters and not subject to further review.

5. Respondent's Indiana Medical License is hereby voluntarily and permanently **SURRENDERED**. Respondent shall never again apply for a license to practice medicine in Indiana.

6. Respondent further understands that failure to comply with the Board's order may result in the State requesting an emergency suspension of Respondent's license, as well as possible reinstatement of the initial action giving rise to this resolution, an Order to Show Cause as may be issued by the Board, or a new cause of action being filed pursuant to Ind. Code § 25-1-9-4(a)(10), any or all of which could lead to additional sanctions, up to and including a revocation of Respondent's license.


7. The parties agree to the continuing jurisdiction of the Board.

8. The Respondent shall pay the cost of the transcript for the presentation of the Settlement Agreement to the Board.

ORDERED this 17 day of December, 2009; this Order is effective as of December 3, 2009.

MEDICAL LICENSING BOARD OF INDIANA

By:



Frances L. Kelly
Executive Director
Indiana Professional Licensing Agency

Copies to:

Andrew Zabiega, M.D.
1834 Raes Creek Dr.
Bolingbrook IL 60490
CERTIFIED MAIL # 7008 1830 0003 8055 3753
RETURN RECEIPT REQUESTED

Thomas P. McGee, Deputy Attorney General
Office of the Attorney General
Indiana Government Center South
302 West Washington Street, Fifth Floor
Indianapolis, Indiana 46204-2770