

BEFORE THE MEDICAL LICENSING
BOARD OF INDIANA
CAUSE NO.: 2007 MLB 0006

STATE OF INDIANA,)

Petitioner,)

v.)

BRION A. BERTSCH, M.D.)
LICENSE NUMBERS: 01031910A,)
01031910B,)
Respondent)



COMPLAINT

The State of Indiana, by counsel, Deputy Attorney General, Tracy A. Fitz, 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 Brion A. Bertsch, M.D. (“Respondent”), and in support alleges and states:

1. The Attorney General of Indiana is empowered to bring disciplinary complaints in the name of the State of Indiana before the Medical Licensing Board of Indiana (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 25-22.5-1 *et. seq.*

3. The Board is empowered to hold disciplinary hearings pursuant to the authority of Ind. Code 4-21.5-3 *et. seq.*

FACTS

1. Respondent's address on file with the Indiana Medical Licensing Board is 9260 East 1125 South, Fairmount, IN 46928 and he is a licensed medical doctor holding Indiana license numbers 01031910A and 01031910B.

2. On or about October 1992, Respondent voluntarily entered into treatment at Shepherd Hill Treatment Center in Ohio for chemical dependency. Said program was completed successfully in January 1993.

3. On or about December 22, 1992, Respondent signed a recovery monitoring agreement with the Indiana State Medical Association (ISMA). At that time Respondent was diagnosed with chemical dependency and depression.

4. On or about October 1996, Respondent admitted to a relapse and entered into treatment at Rush.

5. On or about January 1997, Respondent had several dilute urine screens and eventually admitted to another relapse. Respondent re-entered Rush at that time and was successfully discharged in March 1997. It was recommended at that time that Respondent modify his family practice, however he decided to enter a 2 year psychiatric residency. Upon completion, he began work at a hospital in August 2000.

6. In May 2001, Respondent was terminated from the hospital. On or about June 2001 Respondent had a positive screen for benzodiazepines. At that time his ISMA contract was changed to increase monitoring.

7. On or about June 2004, Respondent was terminated from a mental health center. At that time he was re-evaluated at Rush. It was recommended that he refrain from practice for one year, attend an Intensive Out Patient Program and increase monitoring.

8. On or about June 2005, Respondent was re-evaluated at Rush and admitted to taking Dextromethorphan. It was also reported that he had missed several psychiatrist appointments and changed his medications without his psychiatrist's consent. At that time it was recommended that Respondent have one full year of recovery prior to returning to work.

9. On or about March/April 2006 Respondent began working as a staff psychiatrist at the Veteran's Administration Hospital in Marion, Indiana.

10. Respondent missed several urine screens over the summer of 2006. A subsequent hair screen was negative but it did not test for benzodiazepines.

11. On or about October 14, 2006, Respondent gave a urine drug screen which tested positive for Ultram. Respondent also stated to ISMA that he had taken an Ativan without a prescription. He was subsequently closed from ISMA monitoring for non-compliance.

COUNT I

Averments 1 through 11 are repeated and incorporated herein by reference.

The afore-mentioned conduct on the part of the Respondent constitutes a violation of Ind. Code 25-1-9-4(a)(4)(D) in that the Respondent has continued to practice although becoming unfit to practice due to addiction to, abuse of, or severe dependency upon alcohol or other drugs that endanger the public by impairing a practitioner's ability to practice safely.

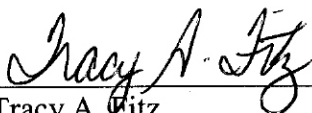
Respondent's failure to comply with the above referenced standards is cause for disciplinary sanctions which may be imposed singly or in combination such as a censure, a letter of reprimand, probation, suspension, or a revocation of license, and a fine up to the amount of \$1000.00 per violation, as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

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,


STEVE CARTER
Attorney General of Indiana

By: 
Tracy A. Fitz
Deputy Attorney General
Attorney Number: 17611-53

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 28th day of February, 2007

Brion A. Bertsch, M.D.
9260 East 1125 South
Fairmount, IN 46928



Tracy A. Fitz
Deputy Attorney General

Office of the Attorney General
Indiana Government Center South, Fifth Floor
302 West Washington Street
Indianapolis, Indiana 46204-2770
(317) 232-0171

BEFORE THE MEDICAL LICENSING
BOARD OF INDIANA
CAUSE NO.: 2007 MLB 0006

STATE OF INDIANA,)
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Petitioner,)
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v.)
)
BRION A. BERTSCH, M.D.,)
LICENSE NUMBER: 01031910,)
)
Respondent)
)



FINDINGS OF FACT, ULTIMATE FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

The Petitioner, the State of Indiana, by Deputy Attorney General Elizabeth E. Kiefner, Division of Consumer Protection (“Petitioner”), and the Respondent, Brion A. Bertsch M.D., (“Respondent”), by counsel Beth Ann Compton, signed an Agreement that purports to resolve all issues involved in the action by the Petitioner before the Medical Licensing Board of Indiana (“Board”) regarding Respondent’s license, and which Agreement has been submitted to the Board for approval.

The Board, after reviewing the Agreement at the August 23, 2007 meeting, now finds it has been entered into fairly and without fraud, duress or undue influence, and is fair and equitable between the parties. The Board hereby incorporates the Agreement as if fully set forth herein and approves and adopts in full the Agreement as a resolution of this matter. The Board approved this Agreement by a vote of 4 in favor, 0 against, and 0

abstaining. The Board hereby issues the following Findings of Fact, Ultimate Findings of Fact, Conclusions of Law and Order:

STIPULATED FINDINGS OF FACT

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 Indiana 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. The Board is empowered to hold disciplinary hearings pursuant to the authority of Ind. Code § 4-21.5-3 *et seq.*

4. Respondent's address on file with the Board is 9260 East 1125 South, Fairmount, IN 46928 and he is a licensed medical doctor holding Indiana license number 01031910.

5. In approximately October 1992, Respondent voluntarily entered into treatment at Shepherd Hill Treatment Center in Ohio for chemical dependency. Said program was completed successfully in January 1993.

6. On or about December 22, 1992, Respondent signed a recovery monitoring agreement with the Indiana State Medical Association ("ISMA"). At that time, Respondent was diagnosed with chemical dependency and depression.

7. On or about October 1996, Respondent admitted to a relapse and entered into treatment at Rush Memorial Hospital ("Rush") in Chicago, Illinois.

8. On or about January 1997, Respondent had several diluted urine screens and eventually admitted to another relapse. Respondent re-entered Rush at that time and

was successfully discharged in March 1997. It was recommended at that time that Respondent modify his family practice; however, he decided to enter a 2 year psychiatric residency. Upon completion, he began work at a hospital in August 2000.

9. In May 2001, the hospital closed the Respondent's practice. The next month Respondent had a positive screen for a benzodiazepine. At that time, his ISMA contract was changed to increase monitoring.

10. On or about June 2004, Respondent's employment at a mental health center was terminated. At that time, he was re-evaluated at Rush. Respondent admitted that he had relapsed several times in the past year by drinking alcohol and using Dextromethorphan. It was recommended that he refrain from practice for one year, attend an Intensive Outpatient Program, and increase monitoring.

11. On or about June 2005, Respondent was re-evaluated at Rush and admitted to taking Dextromethorphan. It was also reported that he had missed two psychiatrist appointments and changed the dosage of his medications without his psychiatrist's consent. At that time, it was recommended that Respondent have one full year of recovery prior to returning to work.

12. In March/April 2006, Respondent began working as a staff psychiatrist at the Veteran's Administration Hospital in Marion, Indiana.

13. Respondent missed several urine drug screens over the summer and fall of 2006. A subsequent hair screen was negative but it did not test for benzodiazepines.

14. On or about October 14, 2006, Respondent gave a urine drug screen that tested positive for Ultram. Respondent also stated to ISMA that he had taken an Ativan

without a prescription. His file for monitoring was subsequently closed by ISMA for non-compliance.

15. In March 2007, Respondent was hospitalized for several days. Respondent was diagnosed with severe sleep apnea and began using a CPAP machine.

16. Respondent began Intensive Outpatient Therapy at Community Health Network on March 12, 2007 with Timothy McCarty, a licensed mental health counselor and master's addiction counselor. The Respondent continues counseling with Maxine Cook, a licensed mental health counselor with Gallahue Medical Health in Anderson, Indiana.

17. Respondent also sought care from psychiatrist Maria Poor, M.D. ("Dr. Poor"). Dr. Poor has subsequently retired her practice and Respondent is seeing Steven Conant, M.D., at Gallahue Mental Health Center on a monthly basis.

18. Respondent signed a new five year recovery monitoring agreement ("RMA") with IMSA in May 2007. Respondent is in compliance with his RMA at the time of the presentation of this Agreement.

19. Respondent continued to work as a staff psychiatrist at Veteran's Administration Hospital from October 2006 through June 2007. Respondent's employment with the Veteran's Administration Hospital was terminated on June 7, 2007 due to the pending litigation against his Indiana medical license.

STIPULATED CONCLUSIONS OF LAW

Respondent is in violation of Ind. Code 25-1-9-4(a)(4)(D) in that the Respondent has continued to practice although becoming unfit to practice due to addiction to,

abuse of, or severe dependency upon alcohol or other drugs that endanger the public by impairing a practitioner's ability to practice safely.

ULTIMATE FINDINGS OF FACT

Respondent's violation is cause for disciplinary sanctions that may be imposed singly or in combination such as censure, a letter of reprimand, probation, suspension, or revocation and a fine up to the amount of \$1,000 per violation as detailed at Ind. Code §25-1-9-9.

ORDER

1. The Board has jurisdiction over the Respondent and the subject matter in this disciplinary action commenced on February 27, 2007.
2. The parties execute this Agreement voluntarily.
3. 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.
4. Petitioner agrees that the terms of this Agreement will resolve any and all outstanding claims or allegations or potential claims or allegations relating to disciplinary action against Respondent's license arising from this Complaint for the period between March 2007 and the date of the Final Order.
5. Respondent has carefully read and examined this Agreement and fully understands its terms and that, subject to a final order issued by the Board, this Agreement is a final disposition of all matters and not subject to further review.

6. Respondent shall be placed on INDEFINITE PROBATION. Respondent shall remain on probation for the entire length of his ISMA contract. Respondent's probation shall be monitored with the following terms and conditions:

A. Respondent shall keep the Board apprised of his current home address, mailing address, and phone number; his place of employment, employment phone number, and name of supervisor; and his occupation title, work schedule, and hours worked per week.

B. Respondent shall provide a copy of all Board orders imposing discipline or limiting practice to his employer who shall sign and return a copy of such orders to the Board within seven days of employment or receipt of the order.

C. Respondent will cause his employer to submit monthly reports to the Board advising of his professional competence, sense of responsibility, work habits, mental attitude, and ability to work with others. Respondent understands it is his responsibility to ensure that these reports are turned in to the Board on the 1st day of the month.

D. Respondent shall work no more than forty hours.

E. Respondent shall not possess, dispense, or have direct access to controlled substances for a minimum of three months. The Respondent may petition to modify this provision and shall demonstrate as a condition precedent to modification that he has submitted satisfactory supervisory reports from his employer for three months, and that he is in full compliance with the ISMA contract.

F. Respondent will continue to see his psychiatrist on a monthly basis and cause his psychiatrist to issue a monthly report to the Board on his progress. Respondent understands it is his responsibility to ensure that these reports are to the Board on the 1st of each month.

G. Respondent shall remain compliant with all terms of his contract with the Indiana State Medical Association's Physician Assistance Program.

H. Respondent has a duty to notify the Board in writing within twenty-four (24) hours of any relapse.

I. Respondent shall continue to attend AA/NA on a monthly basis and submit a log of the same to the Board on the 1st day of every month.

J. The parties agreed to a verbal addition to the proposed settlement agreement that Respondent will attend personal appearances before the Board on a monthly basis.

7. 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 Indiana 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.

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

9. The Respondent agrees to pay \$50.00, payable to Sherri Rutledge & Associates for a copy of the transcript of the presentation of this Agreement to the Board.

The check should be mailed to: Medical Licensing Board of Indiana, C/O Michael Rinebold, Board Director, 402 West Washington Street, Room W072, Indianapolis, IN 46204.

So ORDERED, ADJUDGED, and DECREED, this 30 day of August, 2007.

MEDICAL LICENSING BOARD OF INDIANA

By: 
Frances L. Kelly, Executive Director
Indiana Professional Licensing Agency

Copies To:

Brion Bertsch M.D.
9260 East 1125 South
Fairmount, IN 46928
CERTIFIED MAIL 7005 3110 0002 4933 7357
RETURN RECEIPT REQUESTED

Beth Ann Compton
10 West Market Street Suite 1720
Indianapolis, IN 46204

Elizabeth E. Kiefner, Deputy Attorney General
Office of the Attorney General
Indiana Government Center South
302 West Washington Street, Fifth Floor
Indianapolis, Indiana 46204-2770

BEFORE THE MEDICAL LICENSING
BOARD OF INDIANA
CAUSE NO.: 2007 MLB 0006

STATE OF INDIANA,)

Petitioner,)

v.)

BRION A. BERTSCH, M.D.,)
LICENSE NUMBER: 01031910,)

Respondent)



FINDINGS OF FACT, ULTIMATE FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

The Petitioner, the State of Indiana, by Deputy Attorney General Elizabeth E. Kiefner, Division of Consumer Protection ("Petitioner"), and the Respondent, Brion A. Bertsch M.D., ("Respondent"), by counsel Beth Ann Compton, signed an Agreement that purports to resolve all issues involved in the action by the Petitioner before the Medical Licensing Board of Indiana ("Board") regarding Respondent's license, and which Agreement has been submitted to the Board for approval.

The Board, after reviewing the Agreement at the August 23, 2007 meeting, now finds it has been entered into fairly and without fraud, duress or undue influence, and is fair and equitable between the parties. The Board hereby incorporates the Agreement as if fully set forth herein and approves and adopts in full the Agreement as a resolution of this matter. The Board approved this Agreement by a vote of 4 in favor, 0 against, and 0

abstaining. The Board hereby issues the following Findings of Fact, Ultimate Findings of Fact, Conclusions of Law and Order:

STIPULATED FINDINGS OF FACT

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 Indiana 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. The Board is empowered to hold disciplinary hearings pursuant to the authority of Ind. Code § 4-21.5-3 *et seq.*

4. Respondent's address on file with the Board is 9260 East 1125 South, Fairmount, IN 46928 and he is a licensed medical doctor holding Indiana license number 01031910.

5. In approximately October 1992, Respondent voluntarily entered into treatment at Shepherd Hill Treatment Center in Ohio for chemical dependency. Said program was completed successfully in January 1993.

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was successfully discharged in March 1997. It was recommended at that time that Respondent modify his family practice; however, he decided to enter a 2 year psychiatric residency. Upon completion, he began work at a hospital in August 2000.

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17. Respondent also sought care from psychiatrist Maria Poor, M.D. ("Dr. Poor"). Dr. Poor has subsequently retired her practice and Respondent is seeing Steven Conant, M.D., at Gallahue Mental Health Center on a monthly basis.

18. Respondent signed a new five year recovery monitoring agreement ("RMA") with IMSA in May 2007. Respondent is in compliance with his RMA at the time of the presentation of this Agreement.

19. Respondent continued to work as a staff psychiatrist at Veteran's Administration Hospital from October 2006 through June 2007. Respondent's employment with the Veteran's Administration Hospital was terminated on June 7, 2007 due to the pending litigation against his Indiana medical license.

STIPULATED CONCLUSIONS OF LAW

Respondent is in violation of Ind. Code 25-1-9-4(a)(4)(D) in that the Respondent has continued to practice although becoming unfit to practice due to addiction to,

abuse of, or severe dependency upon alcohol or other drugs that endanger the public by impairing a practitioner's ability to practice safely.

ULTIMATE FINDINGS OF FACT

Respondent's violation is cause for disciplinary sanctions that may be imposed singly or in combination such as censure, a letter of reprimand, probation, suspension, or revocation and a fine up to the amount of \$1,000 per violation as detailed at Ind. Code §25-1-9-9.

ORDER

1. The Board has jurisdiction over the Respondent and the subject matter in this disciplinary action commenced on February 27, 2007.

2. The parties execute this Agreement voluntarily.

3. 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.

4. Petitioner agrees that the terms of this Agreement will resolve any and all outstanding claims or allegations or potential claims or allegations relating to disciplinary action against Respondent's license arising from this Complaint for the period between March 2007 and the date of the Final Order.

5. Respondent has carefully read and examined this Agreement and fully understands its terms and that, subject to a final order issued by the Board, this Agreement is a final disposition of all matters and not subject to further review.

6. Respondent shall be placed on INDEFINITE PROBATION. Respondent shall remain on probation for the entire length of his ISMA contract. Respondent's probation shall be monitored with the following terms and conditions:

A. Respondent shall keep the Board apprised of his current home address, mailing address, and phone number; his place of employment, employment phone number, and name of supervisor; and his occupation title, work schedule, and hours worked per week.

B. Respondent shall provide a copy of all Board orders imposing discipline or limiting practice to his employer who shall sign and return a copy of such orders to the Board within seven days of employment or receipt of the order.

C. Respondent will cause his employer to submit monthly reports to the Board advising of his professional competence, sense of responsibility, work habits, mental attitude, and ability to work with others. Respondent understands it is his responsibility to ensure that these reports are turned in to the Board on the 1st day of the month.

D. Respondent shall work no more than forty hours.

E. Respondent shall not possess, dispense, or have direct access to controlled substances for a minimum of three months. The Respondent may petition to modify this provision and shall demonstrate as a condition precedent to modification that he has submitted satisfactory supervisory reports from his employer for three months, and that he is in full compliance with the ISMA contract.

F. Respondent will continue to see his psychiatrist on a monthly basis and cause his psychiatrist to issue a monthly report to the Board on his progress. Respondent understands it is his responsibility to ensure that these reports are to the Board on the 1st of each month.

G. Respondent shall remain compliant with all terms of his contract with the Indiana State Medical Association's Physician Assistance Program.

H. Respondent has a duty to notify the Board in writing within twenty-four (24) hours of any relapse.

I. Respondent shall continue to attend AA/NA on a monthly basis and submit a log of the same to the Board on the 1st day of every month.

J. The parties agreed to a verbal addition to the proposed settlement agreement that Respondent will attend personal appearances before the Board on a quarterly basis.

7. 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 Indiana 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.

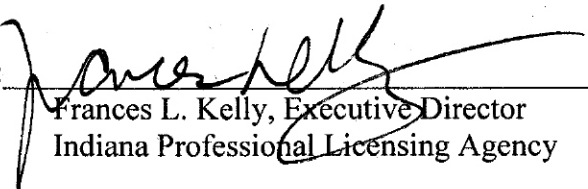
8. The parties agree to the continuing jurisdiction of the Board

9. The Respondent agrees to pay \$50.00, payable to Sherri Rutledge & Associates for a copy of the transcript of the presentation of this Agreement to the Board.

The check should be mailed to: Medical Licensing Board of Indiana, C/O Michael Rinebold, Board Director, 402 West Washington Street, Room W072, Indianapolis, IN 46204.

So ORDERED, ADJUDGED, and DECREED, this 06 day of September 2007.

MEDICAL LICENSING BOARD OF INDIANA

By: 

Frances L. Kelly, Executive Director
Indiana Professional Licensing Agency

Copies To:

Brion Bertsch M.D.
9260 East 1125 South
Fairmount, IN 46928

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

7002 2030 0001 2957 1551

Beth Ann Compton
10 West Market Street Suite 1720
Indianapolis, IN 46204

Elizabeth E. Kiefner, Deputy Attorney General
Office of the Attorney General
Indiana Government Center South
302 West Washington Street, Fifth Floor
Indianapolis, Indiana 46204-2770

BEFORE THE MEDICAL LICENSING
BOARD OF INDIANA
CAUSE NO.: 2007 MLB 0006

STATE OF INDIANA,)

Petitioner,)

v.)

BRION A. BERTSCH, M.D.)
LICENSE NUMBER: 01031910,)

Respondent.)



PETITION FOR SUMMARY SUSPENSION

The State of Indiana, by Counsel, Elizabeth Kiefner Crawford, Deputy Attorney General, moves the Medical Licensing Board of Indiana (“Board”) to suspend the medical license held by Brion Bertsch, M.D. (“Respondent”) for ninety (90) days, and in support of its petition states the following:

1. Respondent is a licensed Physician in the State of Indiana holding Indiana license number 01031910.
2. This Board has jurisdiction to suspend Respondent’s license in accordance with the provisions of Indiana Code § 4-21.5-4 et seq. and Indiana Code § 25-1-9-10.
3. On or about August 23, 2007, Respondent’s Indiana medical license was placed on probation by agreement as a result of Respondent’s long term problems with chemical dependency and depression. As part of his probationary order, Respondent agreed to maintain compliance with the Indiana State Medical Association’s Physician Assistance Program (“PAP”).

4. In July 2008, Respondent relapsed on Dextromethorphan. He was not brought before the Board for an Order To Show Causes as a result of this relapse.

5. On or about September 18, 2008 the PAP reported Respondent's August 2008 relapse to Kristen Kelley, Director of the Medical Licensing Board, and indicated the following, "...we have agreed to continue monitoring Dr. Bertsch with the understanding that any future relapse will result in termination from our program for an extended period of time."

6. On or about September 21, 2009, the undersigned was notified by Kristen Kelley that Respondent suffered another relapse, this time on alcohol.

7. On or about September 21, 2009, Candace Backer, Program Director for the PAP verified that Respondent has been terminated from the PAP.

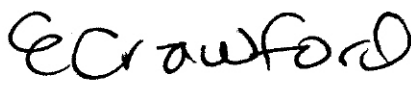
8. Respondent is currently employed as a staff psychiatrist at Wabash Valley Correctional Center.

9. If allowed to continue to practice as a licensed Physician, Respondent represents a clear and immediate danger to the public health and safety.

WHEREFORE, the State of Indiana requests that this Board set a hearing on this petition for summary suspension and suspend Respondent's license for a period of ninety (90) days and for all other proper relief.

Respectfully submitted,

GREGORY F. ZOELLER
Attorney General of Indiana

By: 


Elizabeth Kiefner Crawford
Deputy Attorney General
Attorney Number: 24261-49A

Deputy Attorney General, Elizabeth Kiefner Crawford
Office of the Attorney General
Indiana Government Center South
302 West Washington Street, Fifth Floor
Indianapolis, IN 46204-2770
(317) 234-2257

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing "Petition for Summary Suspension" has been served upon the Respondent at the address listed below, via overnight mail, on this 22nd day of September 2009:

Brion Bertsch, M.D.
9260 E 1125 S
Fairmount, IN 46928



Elizabeth Kiefner Crawford

**BEFORE THE MEDICAL
LICENSING BOARD OF INDIANA
CAUSE NO.: 2007 MLB 0006**

STATE OF INDIANA,)
)
) **Petitioner,**)
)
) **v.**)
)
) **BRION A. BERTSCH, M.D.**)
) **LICENSE NUMBER: 01031910A,**)
)
) **Respondent.**)
)



SUMMARY SUSPENSION ORDER

The Medical Licensing Board of Indiana ("Board"), pursuant to the authority of Indiana Code § 4-21.5-4-1 *et seq.* and Indiana Code § 25-1-9-10, by a vote of 4-0-0, accepts an Agreement to **SUMMARILY SUSPEND** the license held by Brion A. Bertsch, M.D., ("Respondent") for a period of ninety (90) days, as the Board finds that an emergency exists and that the Respondent represents a clear and immediate danger to the public health and safety if allowed to practice medicine in State of Indiana.

The State of Indiana was represented by Elizabeth Kiefner Crawford, Deputy Attorney General. Respondent appeared in person and waived his right to counsel.

This NON-FINAL emergency order is based on the evidence in the Board's file including the Summary Suspension Agreement and the following:

1. Respondent is a licensed physician in the State of Indiana.
2. This Board has jurisdiction to suspend Respondent's license in accordance with the provisions of Indiana Code § 4-21.5-4 *et seq.* and Indiana Code § 25-1-9-10.

3. On or about August 23, 2007, Respondent's Indiana medical license was placed on probation by agreement as a result of Respondent's long term problems with chemical dependency and depression. As part of his probationary order, Respondent agreed to maintain compliance with the Indiana State Medical Association's Physician Assistance Program ("PAP").

4. In July 2008, Respondent relapsed on Dextromethorphan. He was not brought before the Board for an Order To Show Causes as a result of this relapse.

5. On or about September 18, 2008, the PAP reported Respondent's August 2008 relapse to Kristen Kelley, Director of the Medical Licensing Board, and indicated the following, "...we have agreed to continue monitoring Dr. Bertsch with the understanding that any future relapse will result in termination from our program for an extended period of time."

6. On or about September 21, 2009, the undersigned was notified by Kristen Kelley that Respondent suffered another relapse, this time on alcohol.

7. On or about September 21, 2009, Candace Backer, Program Director for the PAP verified that Respondent has been terminated from the PAP.

8. Respondent is currently employed as a staff psychiatrist at Wabash Valley Correctional Center.

9. If allowed to continue to practice as a physician, Respondent represents a clear and immediate danger to the public health and safety.

WHEREFORE, the Respondent's Indiana medical license will be placed on **SUMMARY SUSPENSION FOR NINETY (90) DAYS**.

IT IS FURTHER ORDERED, that Respondent shall immediately surrender all indicia of licensure, including his pocket license and wall license, to the Board in care of the Indiana Professional Licensing Agency, 402 West Washington Street, Room 072, Indianapolis, Indiana 46204.

SO ORDERED, this 02 day of ^{October}~~September~~, 2009; this Order is effective as of the 24th day of September, 2009.

MEDICAL LICENSING BOARD OF INDIANA

By: 
Frances L. Kelly
Executive Director
Indiana Professional Licensing Agency

Copies to:

Brion A. Bertsch, M.D.
9260 E 1125 S
Fairmount, IN 46928

SENT CERTIFIED MAIL NO. 7008 1830 0003 8055 3548
RETURN RECEIPT REQUESTED.

Deputy Attorney General Elizabeth Kiefner Crawford
Office of the Attorney General
Indiana Government Center South
302 West Washington Street, Fifth Floor
Indianapolis, IN 46204-2770

BEFORE THE MEDICAL LICENSING BOARD OF INDIANA

CAUSE NO.: 2007 MLB 0006

STATE OF INDIANA,

Petitioner,

v.

BRION A. BERTSCH, M.D.
LICENSE NUMBER: 01031910A,

Respondent.

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FINDINGS OF FACT AND ORDER

The Medical Licensing Board of Indiana (“Board”), held an administrative hearing on December 3, 2009 in Room W064 of the Indiana Professional Licensing Agency, Indiana Government Center South, 402 West Washington Street, Indianapolis, Indiana, concerning the Order to Show Cause filed by the Board against Brion A. Bertsch, M.D. (“Respondent”) on November 17, 2009.

The State of Indiana was represented by Deputy Attorney General Elizabeth Kiefner Crawford. The Respondent appeared in person without counsel and waived his right to counsel.

The Board, after considering the evidence presented and taking official notice of its file in this matter, by a vote of 6-0-0, issues the following Findings of Fact and Order:

FINDINGS OF FACT

1. On or about September 6, 2007, the Board issued its Findings of Fact, Conclusions of Law, and Order placing the Respondent’s Indiana medical license on Indefinite Probation with the terms and conditions that the Respondent, “shall remain compliant with all terms of his contract with the Indiana State Medical Association’s Physician Assistance

Program” and “Respondent has a duty to notify the Board in writing within twenty-four (24) hours of any relapse.”

2. On or about November 17, 2009, the Board issued an Order To Show Cause against the Respondent to show cause why further sanctions should not be imposed against his license to practice medicine in the State of Indiana. This Order To Show Cause was based on the Board’s notification from ISMA that Respondent had relapsed on alcohol and was terminated from ISMA’s Physician Assistance Program.

3. A hearing was held on December 3, 2009. Respondent admitted his non-compliance with terms 6(G) and 6(H) of his September 6, 2007 order. Respondent further testified that he is working as a psychiatrist for Correctional Medical Services and that his work deals solely with providing mental health services to prisoners in the Indiana Department of Corrections. Following the hearing, the Board determined that the Respondent was not in compliance with his probationary order and that further sanctions were warranted.

ULTIMATE FINDINGS OF FACT

Respondent’s conduct constitutes violations of Ind. Code § 25-1-9-4(a)(10) in that he has failed to comply with an order imposing sanction under section 9.

CONCLUSION OF LAW

1. Respondent’s violation is cause for disciplinary sanctions which may be imposed singly or in combination such as censure, a letter or reprimand, probation, suspension, or revocation and a fine up to the amount of \$1,000 per violation as detailed in Ind. Code §25-1-9-9.

ORDER

Based upon the above Findings of Fact, the Board issues the following Order:

1. Respondent's medical license shall continue on **INDEFINITE PROBATION** with all the terms and conditions from the September 6, 2007 Order Issuing Probationary License still in effect. Additionally, the following terms and conditions shall be added to the Respondent's probationary license:

A. Respondent's employment shall be limited to correctional medicine (inside a prison environment) only. Respondent must inform the Board prior to taking any other employment and shall appear before the Board for it to consider additional probationary terms should Respondent accept a position outside of correctional medicine.

B. Respondent shall forward reports from his trauma therapist to the Board on a monthly basis for the length of his probation. It is Respondent's responsibility to ensure that these reports are forwarded to the Board on the 1st of each month.

SO ORDERED, this _____ // _____ day of December, 2009.

MEDICAL LICENSING BOARD OF INDIANA

By:



Frances L. Kelly
Executive Director
Indiana Professional Licensing Agency

Copies to:

Brion Bertsch, M.D.
9260 E 1125 South
Fairmount, IN 46928

SENT CERTIFIED MAIL NO. 7008 1830 0003 8055 3722
RETURN RECEIPT REQUESTED.

Elizabeth Kiefner Crawford, Deputy Attorney General
OFFICE OF THE INDIANA ATTORNEY GENERAL
Indiana Government Center South
302 West Washington Street, Fifth Floor
Indianapolis, IN 46204-2770

BEFORE THE MEDICAL LICENSING
BOARD OF INDIANA
CAUSE NO. 2007 MLB 0006

IN THE MATTER OF THE LICENSE OF)
)
BRION A. BERTSCH M.D.)
)
)
LICENSE NO: 01031910A)

FILED
APR 11 2013
Indiana Professional
Licensing Agency

**FINDINGS OF FACT, ULTIMATE FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND ORDER**

A hearing having been held on March 27, 2013, in the Indiana Government Center South Building, 302 West Washington Street, Conference Center Room B, Indianapolis, Indiana, on a petition for withdrawal of probation, the Medical Licensing Board of Indiana ("Board"), by a vote of 5-2-0, now issues its Order denying Respondent's Petition to Withdraw Probation as follows:

FINDING OF FACTS

1. This matter is before the Board on Brion A. Bertsch's ("Respondent") petition for withdrawal of his probation. In its Finding of Fact, Ultimate Findings of Fact, Conclusions of Law and Order issued on November 17, 2009, the Board placed the Respondent on indefinite probation and imposed various terms and conditions, including requiring Respondent to remain probation for the entire length of his monitoring agreement with the Indiana State Medical Association ("ISMA").

2. Respondent has failed to establish that the deficiency that required disciplinary action has been remedied and that the terms and conditions required for the withdrawal of the probation from his medical license have been met. Respondent testified that over a year remained until he was scheduled to complete his contract with ISMA. Additionally, Candace Backer of ISMA's

Physician Assistance Program testified that ISMA recommends that Respondent continue with monitoring beyond the completion date currently set within Respondent's monitoring agreement.

CONCLUSIONS OF LAW

1. Pursuant to Ind. Code § 25-1-9-16(c), "The board shall remove any limitations placed on a probationary license under this section if the Board finds after a hearing that the deficiency that required disciplinary action has been remedied."

2. Respondent failed to establish that he remedied the deficiency that required the disciplinary action.

ORDER

1. Based upon the above Findings of Fact, the Board issues the following Respondent's Petition to Withdrawal Probation is **DENIED**.

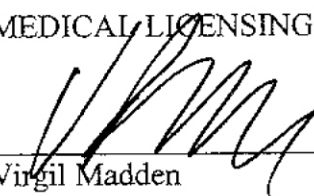
2. Respondent's license shall remain on **INDEFINITE PROBATION**.

3. Respondent's license shall continue to be subject to the **TERMS AND CONDITIONS** imposed in the November 17, 2009 order.

SO ORDERED, this 11 day of April, 2013.

MEDICAL LICENSING BOARD OF INDIANA

By:



Virgil Madden
Executive Director
Indiana Professional Licensing Agency

CERTIFICATE OF SERVICE

I certify that a copy of the "Findings of Fact, Ultimate Finding of Fact, Conclusions of Law, and Order" has been duly served upon:

Brion Alan Bertsch, M.D.
6908 South Old Highway 41
PO Box 500
Carlisle, IN 47838
Service by U.S. Mail

Maritza K. Webb
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Office of the Attorney General
302 West Washington Street, 5th Floor
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4-11-13
Date

Donna Moran
Donna Moran, Litigation Specialist

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Explanation of Service Methods

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