

TRUE AND EXACT COPY OF ORIGINAL

BEFORE THE MINNESOTA BOARD OF MEDICAL PRACTICE

In the Matter of the
Medical License of
Larry F. Berger, M.D.
Date of Birth: 11/28/1951
License No.: 29,521

STIPULATION AND ORDER

IT IS HEREBY STIPULATED AND AGREED, by and between Larry F. Berger, M.D., and the Complaint Review Committee ("Committee") of the Minnesota Board of Medical Practice ("Board") as follows:

1. During all times herein, Respondent has been and now is subject to the jurisdiction of the Board from which he holds a license to practice medicine and surgery in the State of Minnesota.

2. Respondent has been advised by Board representatives that he may choose to be represented by legal counsel in this matter and has chosen Gregory Bulinski, Bassford Remele, 33 South Sixth Street, Suite 3800, Minneapolis, Minnesota 55402-3707, telephone (612) 333-8829. The Committee was represented by Tiernee M. Murphy, Assistant Attorney General, 1400 Bremer Tower, 445 Minnesota Street; St. Paul, Minnesota 55101, telephone (651) 296-7575.

FACTS

3. For the purpose of this Stipulation, the Board may consider the following facts as true:

a. Respondent was licensed by the Board to practice medicine and surgery in the State of Minnesota on August 10, 1985. Respondent is board-certified in psychiatry.

b. In April 2006, the Board received a complaint alleging that Respondent engaged in sexual contact with a patient.

c. Between February 1998 and October 6, 2003, Respondent provided medication management for the patient.

d. On May 16, 2004, the patient was admitted to the psychiatric ward of a hospital. On May 17, 2004, Respondent was called to evaluate the patient, and subsequently determined that the patient could be discharged from the hospital. Per standard discharge protocol, the patient was given a follow-up appointment with Respondent in July 2004. The patient failed to return for the follow-up appointment with Respondent in July 2004. The last date of professional contact between Respondent and the patient was May 17, 2004.

e. Respondent admits that he treated the patient about once per year from approximately February 1998 through May 2004. Respondent provided medication management therapy to the patient and denies that he provided any psychotherapy. In August 2004, Respondent learned that the patient was being followed by another physician.

f. In January 2005, Respondent and the patient met anonymously through an Internet chat room. After several online conversations, Respondent and the patient exchanged identifying information and agreed to meet after the patient confirmed that the physician-patient relationship had ended and the patient was receiving care elsewhere.

g. In January or early February 2005, Respondent and the patient engaged in consensual sexual activity at the patient's residence.

h. On February 13, 2005, Respondent and the patient engaged in consensual sexual activity at Respondent's residence.

i. In January 2006, Respondent and the patient again engaged in consensual sexual activity at the patient's residence.

STATUTES

4. The Committee views Respondent's isolated conduct described above as inappropriate in such a way as to require Board action under Minn. Stat. §§ 147.091, subd. 1(g) and (k), and Respondent accepts the judgment of the Committee that the conduct cited above constitutes a reasonable basis in law and fact to justify the disciplinary action under these statutes.

REMEDY

5. Upon this Stipulation and all of the files, records, and proceedings herein, and without any further notice or hearing herein, Respondent does hereby consent that until further Order of the Board, made after notice and hearing upon application by Respondent or upon the Board's own motion, the Board may make and enter an Order conditioning Respondent's license to practice medicine and surgery in the State of Minnesota as follows:

- a. Respondent is REPRIMANDED.
- b. Within six months from the date of this Order, Respondent shall successfully complete a boundaries training course, approved in advance by the Committee or its designee.
- c. Respondent shall meet on a quarterly basis with a designated Board member. It shall be Respondent's obligation to contact the designated Board member to arrange each of the meetings. The purpose of such meetings shall be to review Respondent's progress under the terms and conditions of this Stipulation and Order.

d. Respondent shall pay a civil penalty in the amount of \$1,620.00 within six months of the date of this Order.

e. The Stipulation and Order shall remain in effect for a minimum of one year. At the end of this period, Respondent may petition for reinstatement of an unconditional license. Upon hearing the petition, the Board may continue, modify, or remove the conditions set out herein.

6. Within ten days of signing the Stipulation to this Order, Respondent shall provide the Board with a list of all hospitals and skilled nursing facilities at which Respondent currently has medical privileges, a list of all states in which Respondent is licensed or has applied for licensure, and the addresses and telephone numbers of Respondent's residences and all work sites. Within seven days of any change, Respondent shall provide the Board with the new address and telephone information. The information shall be sent to Robert A. Leach, Minnesota Board of Medical Practice, University Park Plaza, 2829 University Avenue S.E., Suite 500, Minneapolis, Minnesota 55414-3246.

7. In the event Respondent resides or practices outside the State of Minnesota, Respondent shall promptly notify the Board in writing of the location of his residence and all work sites. Periods of residency or practice outside of Minnesota: will not be credited toward any period of Respondent's suspended, limited, or conditioned license in Minnesota unless Respondent demonstrates that practice in another state conforms completely with Respondent's Minnesota license to practice medicine.

8. If Respondent shall fail, neglect, or refuse to fully comply with each of the terms, provisions, and conditions herein, the Committee shall schedule a hearing before the Board. The Committee shall mail Respondent a notice of the violation alleged by the Committee and of the

time and place of the hearing. Respondent shall submit a response to the allegations at least three days prior to the hearing. If Respondent does not submit a timely response to the Board, the allegations may be deemed admitted.

At the hearing before the Board, the Committee and Respondent may submit affidavits made on personal knowledge and argument based on the record in support of their positions. The evidentiary record before the Board shall be limited to such affidavits and this Stipulation and Order. Respondent waives a hearing before an administrative law judge and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.

At the hearing, the Board will determine whether to impose additional disciplinary action, including additional conditions or limitations on Respondent's practice, or suspension or revocation of Respondent's license.

9. In the event the Board in its discretion does not approve this settlement, this stipulation is withdrawn and shall be of no evidentiary value and shall not be relied upon nor introduced in any disciplinary action by either party hereto except that Respondent agrees that should the Board reject this Stipulation and if this case proceeds to hearing, Respondent will assert no claim that the Board was prejudiced by its review and discussion of this Stipulation or of any records relating hereto.


10. Respondent waives any further hearings on this matter before the Board to which Respondent may be entitled by Minnesota or United States constitutions, statutes, or rules and agrees that the Order to be entered pursuant to the Stipulation shall be the final Order herein.

11. Respondent hereby acknowledges that he has read and understands this Stipulation and has voluntarily entered into the Stipulation without threat or promise by the

Board or any of its members, employees, or agents. This Stipulation contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Stipulation.

Dated: 8-24-2007

Dated: 9/8/07



LARRY F. BERGER, M.D.
Respondent

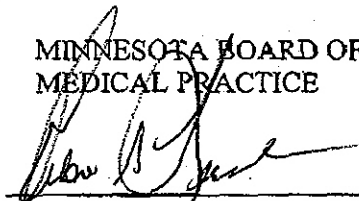
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FOR THE COMMITTEE

ORDER

Upon consideration of this Stipulation and all the files, records, and proceedings herein,
IT IS HEREBY ORDERED that the terms of this Stipulation are adopted and
implemented by the Board this 8th day of September, 2007.

MINNESOTA BOARD OF
MEDICAL PRACTICE

By: 

AFFIDAVIT OF SERVICE BY MAIL

**Re: In the Matter of the Medical License of Larry F. Berger, M.D.
License No. 29,521**

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

SANDRA A. BUSH, being first duly sworn, deposes and says:

That at the City of St. Paul, County of Ramsey and State of Minnesota, on September 11, 2007, she served the attached STIPULATION AND ORDER by depositing in the United States mail at said city and state, a true and correct copy thereof, properly enveloped, with first class postage prepaid, and addressed to:

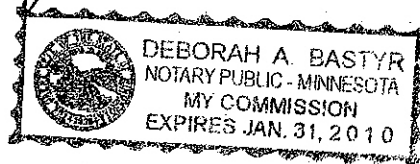
Gregory Bulinski
Bassford Remele
33 South Sixth Street, Suite 3800
Minneapolis, MN 55402-3707

Sandra A. Bush
SANDRA A. BUSH

Subscribed and sworn to before me on
September 11, 2007.

Deborah A. Bastyr
Notary Public

AG: #1863736-v1



**TRUE AND EXACT
COPY OF ORIGINAL**

**BEFORE THE MINNESOTA
BOARD OF MEDICAL PRACTICE**

In the Matter of the
Medical License of
Larry F. Berger, M.D.
Date of Birth: 11/28/1951
License Number: 29,521

**ORDER OF
UNCONDITIONAL LICENSE**

The Minnesota Board of Medical Practice ("Board"), having convened on November 8, 2008, to review the petition of Larry F. Berger, M.D. ("Respondent"), for reinstatement of an unconditional license to practice medicine and surgery makes the following:

FINDINGS OF FACT

1. Respondent's medical license has been conditioned and restricted pursuant to a Stipulation and Order dated September 8, 2007 ("Order"), which was based upon Respondent's unethical and unprofessional conduct. In accordance with the Order, Respondent was reprimanded and required, in part, to successfully complete appropriate coursework in professional boundaries, meet with a designated Board member on a quarterly basis, and pay a civil penalty of \$1,620.00.

2. On August 22, 2008, the Board received a written petition from Respondent for consideration of an unconditional license.

3. On September 23, 2008, the Complaint Review Committee met to discuss Respondent's petition for reinstatement of an unconditional license. The Committee concluded that Respondent had complied with the terms and conditions imposed on his license and recommended that the Board issue an unconditional license to practice medicine and surgery in the State of Minnesota.

4. Based on the foregoing, the Board concludes that Respondent has complied with and fulfilled the Order issued by the Board on September 8, 2007, and hereby issues the following:

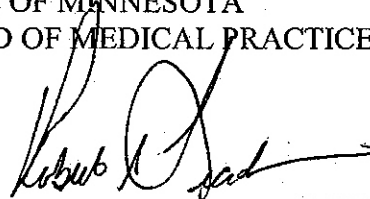
ORDER

IT IS HEREBY ORDERED that an unconditional license to practice medicine and surgery in the State of Minnesota be conferred upon Respondent, such license to carry all duties, benefits, responsibilities, and privileges inherent therein through Minnesota statute and rule.

Dated:

November 8, 2008

STATE OF MINNESOTA
BOARD OF MEDICAL PRACTICE



AG: #2321058-v1

AFFIDAVIT OF SERVICE BY MAIL


**Re: In the Matter of the Medical License of Larry F. Berger, M.D.
License Number: 29,521**

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Dawn Christensen, being first duly sworn, deposes and says:

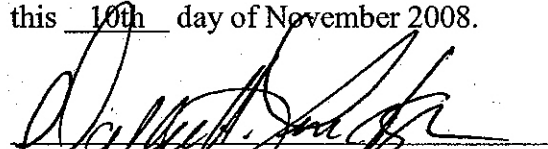
That at the City of St. Paul, County of Ramsey and State of Minnesota, on November 10, 2008, she served the attached **ORDER OF UNCONDITIONAL LICENSE** by depositing in the United States mail at said city and state, a true and correct copy thereof, properly enveloped, with first class postage prepaid, and addressed to:

Gregory Bulinski
Attorney at Law
Bassford Remele
33 South Sixth Street, Suite 3800
Minneapolis, Minnesota 55402-3707



Dawn Christensen

Subscribed and sworn to before me
this 10th day of November 2008.



Notary Public

AG: #2339079-v1

