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NOV 21 1986

ADMINISTRATIVE COURT

8 STATE OF MAINE BOARD OF)
REGISTRATION IN MEDICINE,)

9 Plaintiff)

ADMINISTRATIVE COURT
DOCKET NO. 86-145

10 v.)

11 ABRAHAM BERGER,)

STIPULATION AND ORDER

12 Defendant)
13

14 WHEREAS the State of Maine Board of Registration in Medicine
15 (the "Board") has filed a Summons and Complaint in Administrative
16 Court, Docket No. 86-145, and has reached an agreement with
17 Defendant, Abraham Berger, ("Berger") to settle this action with-
18 out trial;

19 WHEREAS Berger admits that he never was graduated with a
20 Doctor of Medicine from either the Universidad Central Del Este
21 or from any other institution;

22 WHEREAS Berger admits that he misrepresented to the Board
23 that he had graduated with a Degree of Doctor of Medicine from
24 the Universidad Central Del Este;

25 WHEREAS Berger admits that his actions in misrepresenting to
26 the Board that he was graduated with a Degree of Doctor of
27 Medicine from the Universidad Central Del Este constitutes a
28 violation of 32 M.R.S.A. §3282-A(2) (A) (Supp. 1985);

NOW, therefore, upon stipulation and consent of the Board and Berger, it is hereby Ordered, Adjudged and Decreed as follows:

1. That the Administrative Court has jurisdiction of the subject matter of this action pursuant to: 4 M.R.S.A. § 1151(2) (1979 & Supp. 1985); 5 M.R.S.A. § 10051 (1979 & Supp. 1985); and 32 M.R.S.A. § 3282-A (Supp. 1985).

2. That Berger's license to practice medicine in the State of Maine hereby is revoked.

DATED: 8 July 86

Abraham Berger
ABRAHAM BERGER

DATED: 10 JUL 1986

W. Patrick Resen
W. PATRICK RESEN, Esq.
Attorney for Abraham Berger

DATED: 16 July 86

Edward F. Bradley Jr.
EDWARD F. BRADLEY, Chairman
for the Board of Registration
in Medicine

DATED: July 17, 1986

Kenneth W. Lehman
KENNETH W. LEHMAN, Esq.
Assistant Attorney General
Attorney for the Board of
Registration in Medicine

SO ORDERED:

DATED: 7/21/86

Wanda A. Stearns
ADMINISTRATIVE COURT JUDGE

STATE OF MAINE

ADMINISTRATIVE COURT

DOCKET NO. _____

STATE OF MAINE BOARD OF)
REGISTRATION IN MEDICINE,)
)
Plaintiff)
)
v.)
)
ABRAHAM BERGER,)
)
Defendant)

COMPLAINT

INTRODUCTION AND VENUE

1. This is an action to revoke the license of Abraham Berger to practice medicine in the State of Maine. This action is brought in this Court pursuant to 32 M.R.S.A. § 3282-A(1)(D) (Supp. 1985).

PARTIES

2. The Board of Registration in Medicine of the State of Maine (the "Board") is an agency of the State of Maine, with offices in Winslow, Kennebec County, Maine, and pursuant to 32 M.R.S.A. § 3270 (1978), the Board is authorized to register and license persons to practice medicine and surgery in the State of Maine.

3. Defendant Abraham Berger has, since on or about August 13, 1981, been registered and licensed by the Board to practice medicine and surgery within the State of Maine. Defendant's license registration number is 10743.

4. Upon information and belief, Defendant is a resident of San Francisco, California.

JURISDICTION

5. This Court has jurisdiction over this action pursuant to 4 M.R.S.A. § 1151(2) (1979 & Supp. 1985); 5 M.R.S.A. § 10051 (1979 & Supp. 1985); and 32 M.R.S.A. § 3282-A(1)(D) (Supp. 1985).

APPLICABLE STATUTES

6. Pursuant to 32 M.R.S.A. § 3270 (1978), no person shall practice medicine or surgery in any manner unless that person is "duly registered and licensed" by the Board.

7. Pursuant to 32 M.R.S.A. § 3282-A (Supp. 1985), the Board is authorized to investigate complaints against a licensee, and, upon finding that the factual basis of the complaint is true and is of sufficient gravity to warrant further action, the Board may file a complaint in the Administrative Court seeking revocation or suspension of such license.

8. Pursuant to 32 M.R.S.A. § 3282-A(2) (Supp. 1985), this Court may revoke or suspend a license if it finds that the licensee practiced fraud or deceit in obtaining a license.

9. Pursuant to 4 M.R.S.A. § 1156 (1979), this Court may impose a fine against Defendant in an amount not to exceed \$1,500.

CAUSE OF ACTION

10. Plaintiff repeats and realleges as if fully set forth herein the allegations contained in paragraphs 1 through 9 of this Complaint.

11. On or about February 23, 1981, Defendant submitted a FLEX Application (the "Application") to the Board for the June, 1981 FLEX Examination. A copy of the Application is attached as Exhibit 1.

12. The Application constituted Defendant's application to practice medicine in Maine, for once he passed the FLEX exam, Defendant would be licensed to practice medicine in Maine.

13. The Application was submitted under oath, and Defendant swore under penalty of perjury that his answers and statements made therein are true and correct.

14. As part of the Application to the Board, Defendant submitted certified photocopies of a diploma showing that he was granted the degree of Doctor in Medicine by the Universidad Central del Este. Also submitted was a certified photocopy of a translation of the diploma.

15. In the Application, Defendant represented to the Board that he was graduated in 1978 with the degree of Doctor in Medicine from the Universidad Central del Este, in San Pedro de Macoris, Dominican Republic.

16. Defendant's representation that he was graduated with the degree of Doctor of Medicine from the Universidad Central del Este is false.

17. Defendant passed the FLEX examination, and the Board subsequently issued Defendant a license to practice medicine in the State of Maine.

18. The Board had no knowledge of the falsity of the application and that Defendant never was graduated from medical school as a Doctor in Medicine.

19. Defendant's actions in falsely representing to the Board that he was graduated with the degree of Doctor in Medicine from the Universidad Central del Este constitutes the practice of fraud or deceit in obtaining a license, in violation of 32 M.R.S.A. § 3282-A(2)(A) (Supp. 1985).

RELIEF REQUESTED

WHEREFORE, Plaintiff respectfully requests that this Court issue an order:

- (a) Revoking Defendant Abraham Berger's license to practice medicine in the State of Maine pursuant to 32 M.R.S.A. § 3282-A(1)(D) (Supp. 1985) and 4 M.R.S.A. § 1151(2) (Supp. 1985);
- (b) Imposing a fine in the amount of One Thousand Five Hundred Dollars (\$1,500) against Defendant pursuant to 4 M.R.S.A. § 1156 (1979); and

(c) Awarding Plaintiff such other and further relief as to
the Court may seem appropriate.

DATED: June 5, 1986

Respectfully submitted,

JAMES E. TIERNEY
Attorney General



KENNETH W. LEHMAN
Assistant Attorney General
Attorney for Plaintiffs
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