

MEDICAL LICENSING BOARD OF INDIANA
CAUSE NO.: 87 MLB 0039

STATE OF INDIANA,)
)
 Petitioner,)
)
 v.)
)
 IRVIN EPSTEIN, D.O.)
 License No. 02000785)
 Respondent.)

FILED

MAY 05 1993

HEALTH PROFESSIONS
BUREAU

ORDER TO SHOW CAUSE

Comes now the Medical Licensing Board of Indiana, (Board), on its own motion and pursuant to IC 4-21.5-1 et seq., and hereby ORDERS Respondent, Irvin Epstein, D.O., to appear before the Board on May 27, 1993, at 10:15 a.m. in the Indiana Government Center Conference Room #4 - #5, 302 W. Washington Street, Indianapolis, Indiana 46204. Respondent is to show cause why his license to practice osteopathic medicine in the State of Indiana, license no. 02000785, should not be summarily suspended, on an emergency basis, or whether other disciplinary action should be imposed due to noncompliance with his probationary terms as set forth in the Board's order of November 25, 1987, and modified on September 29, 1989, July 10, 1990, and March 6, 1991, in that Respondent has failed to submit proof of attendance and completion of the required continuing medical education terms of probation. A copy of the orders are attached hereto and incorporated herein by reference as Exhibit "A", Exhibit "B", Exhibit "C", and Exhibit "D".

1. This notice is being provided to Respondent, Irvin Epstein, D.O., 1703 Trace Lane, Indianapolis, Indiana, 46260.

2. This notice is being given to counsel for Petitioner, State of Indiana, Connie Dinn, Deputy Attorney General, 219 State House, Indianapolis, Indiana, 46204, telephone number (317) 232-6256.

3. The official case no. of this action is 87 MLB 009.
4. The Board is empowered to hold this disciplinary hearing pursuant to the authority of IC 25-1-9 et seq. and IC 4-21.5-3 et seq.
5. The Board will be presiding as administrative law judge and may be contacted to obtain information concerning hearing schedules and procedures by mail in care of the Health Professions Bureau, 402 W. Washington Street, Room 041, Indianapolis, Indiana 46204, or may be contacted by telephone at (317) 232-2960.
6. Any party may be advised or represented by counsel at the party's own expense.
7. A party who fails to attend or participate in a prehearing conference, hearing, or other later stage of this proceeding may be held in default or have the proceeding dismissed under section 24 of IC 4-21.5-3.
8. Pursuant to IC 4-21.5-3-34, this Board may afford parties the opportunity to informally settle matters; however, this section does not require any person to settle a matter under this agency's informal procedures.

All of which is ORDERED, ADJUDGED AND DECREED, this 5th day of May, 1993.

MEDICAL LICENSING BOARD OF INDIANA

BY:

Sarah B. McCarty /sp

Sarah B. McCarty
Executive Director
Health Professions Bureau

cc: Irvin Epstein, D.O.
1703 Trace Lane
Indianapolis, Indiana 46260
CERTIFIED MAIL # 381 637 016
RETURN RECEIPT REQUESTED

Connie Dinn, Deputy Attorney General
Office of Attorney General
219 State House
Indianapolis, IN 46204

BEFORE THE MEDICAL LICENSING
BOARD OF INDIANA
CAUSE NO. 87 MLB 0039

STATE OF INDIANA,

Petitioner,

v.

IRVIN B. EPSTEIN, D.O.,
holder of Indiana osteopathic
physician's license no. 01017413,

Respondent.

FILED

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FINDINGS OF FACT,
CONCLUSIONS OF LAW AND INTERIM ORDER

An administrative hearing was held before the Indiana Medical Licensing Board (hereinafter "Board") on the 18th day of November, 1987, at 6:20 o'clock, p.m., local time, in the Boardroom of the Health Professions Bureau, located at One American Square, Suite 1020, Indianapolis, Indiana, 46282, concerning the Respondent Irvin B. Epstein's (hereinafter "Respondent") license to practice osteopathic medicine, license no. 01017413, in the State of Indiana.

The State of Indiana was represented by counsel, Michael A. Minglin, Deputy Attorney General, and the Respondent, appeared in person without legal counsel and knowingly, voluntarily and intentionally waived his right to legal counsel.

The Board members hearing this matter were: Martin J. O'Neill, M.D.; George H. Rawls, M.D.; John D. Miller, M.D.; John T. Hinton, D.O.; and Ronald E. Elberger, Esq. Pursuant to IC 4-21.5-3-13, John T. Hinton, D.O., participated in a prior determination of probable cause in this matter which was disclosed on the record. Respondent did not demonstrate grounds for disqualification under IC 4-21.5-3-10, and Respondent also knowingly, voluntarily and intentionally waived any objection to Dr. Hinton's participation in this proceeding.

FINDINGS OF FACT

1. Respondent holds a license to practice osteopathic medicine, license no. 01017413.
2. The "Complaint" and "Notice of Hearing" were properly mailed to and received by Respondent pursuant to the notice provisions of IC 4-21.5-1 et seq.
3. In the performance of its statutorily delegated duties and responsibilities, this Board possesses and exercises special administrative expertise in determining whether or not certain practices and activities constitute the competent practice of medicine and/or whether or not such practices and activities constitute the incompetent practice of medicine.
4. Respondent suffers from mental impairment and has been diagnosed by Jack R. Adair, M.D., James M. Brooks, Ph.D., and Jeffrey W. Hilburn, M.D. as having:
 - (A) Adjustment Reaction with anxious mood;
 - (B) Prolonged grief reaction; and,
 - (C) Possible organic brain syndrome.
5. The "possible organic brain syndrom" referred to in rhetorical paragraph four (4) above, is a physical abnormality which may involve the frontal lobe of the right hemisphere of Respondent's brain.
6. Respondent admits to being mentally impaired by adjustment reaction with anxious mood and prolonged grief reaction.
7. Respondent's mental impairment manifests itself by among other things, a lack of inhibition impairing normal judgment.
8. In order to specifically diagnose, prognose, and treat the possible organic brain syndrome (as well as other diagnosed conditions), Respondent must undergo further psychometric testing including the Reitam Battery of examinations

10. During the presentation of Respondent's case in chief, Respondent admitted the findings set forth above, rested, and knowingly, intentionally and voluntarily proposed a settlement which was adopted by the Board in the Interim Order contained herein.

CONCLUSIONS OF LAW

1. The Board has jurisdiction to hear this case and take disciplinary action in regard thereto.

2. The Respondent's conduct constitutes violations of IC 25-22.5-6-2.1(b)(4)(C), to-wit:

IC 25-22.5-6-2.1(b):

(b) A practitioner shall conduct the practitioner's practice in accordance with the standards established by the board under IC 25-22.5-2-7 and is subject to the exercise of the disciplinary sanctions under subsection (e) if, after a hearing, the board finds:

.....
(4) a practitioner has continued to practice although he has become unfit to practice due to:

.....
(C) physical or mental disability

.....
3. The violations referred to above warrant the imposition of disciplinary sanctions against Respondent.

INTERIM ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, the Board now issues the following Interim Order:

1. The license of Respondent, Irvin B. Epstein, D.O., is hereby placed upon INDEFINITE PROBATION subject to the following terms and conditions:

.....
Respondent is to ONLY work at a Blood Plasma Cen-

(B) Respondent is PROHIBITED from any other employment as an osteopathic physician in any capacity;

(C) During the first month of probation, Respondent SHALL submit weekly, written reports from his supervisor regarding all aspects of Respondent's job performance and SHALL thereafter submit such reports monthly;

(D) Respondent SHALL provide the Board with immediate notice of any change in employment;

(E) Respondent is PROHIBITED from engaging in any intimidation or harrassment of any prior employer, the Board, the attorney general's office, the Health Professions Bureau or any law enforcement official which conduct, if engaged in by Respondent, SHALL be deemed to be unprofessional conduct and immediately subject Respondent to the emergency suspension of his license without additional notice and to the filing of additional charges against his license;

(F) Within thirty (30) days of receipt of this Interim Order, Respondent SHALL subject himself to further psychometric tests, including the Reitam Battery, from Jack R. Adair, M.D., or such other psychiatrist approved by the Board, the detailed, written results of which SHALL be submitted directly to the Board;

(G) Respondent SHALL engage in intensive psychiatric treatment and SHALL submit detailed, written reports from his treating psychiatrist directly to the Board which SHALL detail Respondent's diagnosis, prognosis and treatment;

(H) Respondent acknowledges, understands and voluntarily agrees that he SHALL APPEAR before the Board at its next regularly scheduled meeting following the submission of the test results from the additional psychometric testing (including Reitam Battery) for the SOLE purpose of incorporating

2. Respondent acknowledges and understands that ANY violation of the terms and conditions set forth herein WILL immediately subject Respondent to the emergency suspension of his license without additional notice and to the filing of additional charges.

3. Pursuant to IC 25-22.5-2-7(1)(F), the Board WILL impose the costs of these disciplinary proceedings as part of its Final Order to be made as set forth above.


4. In the event that Respondent needs to have the additional psychometric testing performed by a psychiatrist other than Jack R. Adair, M.D., Respondent may contact the Health Professions Bureau who will contact either boardmember George H. Rawls, M.D. or John D. Miller, M.D. for prior approval without the necessity of convening the entire Board.

5. Respondent is aware, understands and voluntarily agrees that the content and terms of the FINAL ORDER of this Board is contingent upon the diagnosis, prognosis and treatment plan resulting from the additional psychometric testing which MUST be completed within thirty (30) days of receipt of this INTERIM ORDER and submitted directly to the Board.

All of which is ORDERED, ADJUDGED AND DECREED, this 25th day of November, 1987, nunc pro tunc to the 18th day of November, 1987.

INDIANA MEDICAL LICENSING BOARD

By:


Ronald E. Elberger, Esq.
Member, Indiana Medical Li-
censing Board

Copy to:

Michael A. Minglin, Deputy Attorney General
Jack R. Adair, M.D.

IN THE MATTER OF:
IRVIN B. EPSTEIN, D.O.

)
)
)
Petitioner.

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HEALTH PROFESSIONS
BUREAU

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

An administrative hearing was held before the Medical Licensing Board of Indiana (hereinafter "Board") on the 28th day of September, 1989 at 9:35 a.m., local time, in the Board Room of the Health Professions Bureau, located at One American Square, Suite 1020, Indianapolis, Indiana, 46282 concerning Irvin B. Epstein, D.O. (hereinafter "Petitioner") license to practice osteopathic medicine, license number 02000785, in the State of Indiana.

The State of Indiana was represented by counsel, Michael A. Minglin, Deputy Attorney General and the Petitioner appeared in person and knowingly, intentionally and voluntarily waived his right to counsel.

The Board members hearing this matter were: John D. Miller, M.D.; John Hinton, D.O.; Martin J. O'Neill, M.D.; Deanna S. Keene, M.D.; Gilbert Wilhelmus, M.D. and Ronald E. Elberger, Consumer Member.

The Board having considered the pleadings, evidence, and taking judicial notice of its official file including all previous action, by a vote of 5 to 1, issues the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. Petitioner holds a suspended license to practice osteopathic medicine, same being license number 02000785.

2. Notice of this proceeding was properly mailed to and received by the Petitioner and Respondent pursuant to the notice provisions of IC 4-21.5-3-20.

3. A review of Petitioner's official file reveals that he has

4. Petitioner has demonstrated his good faith efforts toward rehabilitation.

5. Petitioner's demeanor was very positive and indicative of an individual who has made substantial progress towards recovery.

6. Harold Nichols, M.D., Psychiatrist testified regarding the progress the Petitioner has made toward rehabilitation.

7. Raymond Horn, Ph.D. testified on Petitioner's behalf regarding the progress Petitioner has made toward recovery.

8. Petitioner offered testimony regarding his rehabilitation and progress since the Order of November 25, 1987 was entered by the Board, placing license number 02000785 on Indefinite ~~Probation~~ ^{Suspension}.

CONCLUSIONS OF LAW

Pursuant to the authority of IC 25-1-9 et seq., the Board may reinstate a suspended license and impose disciplinary or corrective measures if after a hearing the Board is satisfied that the Practitioner is able to practice with reasonable skill and safety to the public.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, the Board now issues the following Order:

1. The suspended medical license of Irvin B. Epstein, D.O., license number 02000785 is hereby REINSTATED and placed on INDEFINITE PROBATION under the following terms and conditions:

a. Petitioner shall work only at a plasma center or blood donor center and must have Board approval prior to working in any other capacity or accepting any other type of employment.

b. Petitioner shall cause his immediate supervisor to submit monthly reports to the Board regarding work performance and interpersonal relations.

Petitioner shall continue psychiatric counseling with

necessary. Petitioner shall cause monthly reports to be submitted to the Board regarding Petitioner's treatment, prognosis, and diagnosis.

d. Petitioner shall complete fifty (50) hours of continuing medical education (CME) per year once employment is obtained and shall provide annual reports to the Board.

e. Petitioner shall appear before the Board on a quarterly basis to report on his employment status and rehabilitation.

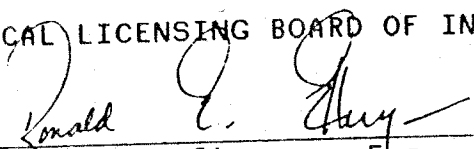
f. Petitioner understands and verbally agrees to waive his physician/patient privilege.

g. Petitioner is assessed the costs of this proceeding in the amount of one hundred twenty-five dollars (\$125.00) to be paid within one (1) year of receipt of this Order.

All of which is ORDERED, ADJUDGED, AND DECREED this 29th day of September, 1989 nunc pro tunc to the 28th day of September, 1989.

MEDICAL LICENSING BOARD OF INDIANA

By


Ronald E. Elberger, Esq.
Member

cc: Irvin B. Epstein, D.O.
1703 Trace Lane
Indianapolis, IN 46260
CERTIFIED MAIL #P148 508 814
RETURN RECEIPT REQUESTED

Michael A. Minglin
Deputy Attorney General
219 State House
Indianapolis, IN 46204

IN THE MATTER OF:
IRVIN EPSTEIN, D.O.,
Petitioner.

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HEALTH PROFESSIONS
BUREAU

FINDINGS OF FACT AND ORDER

An administrative hearing was held before the Medical Licensing Board of Indiana (hereinafter "Board") on the 28th day of June, 1990, at the Health Professions Bureau, located at One American Square, Suite 1020, Indianapolis, Indiana, 46282, concerning the Petitioner, Irvin Epstein's (hereinafter "Petitioner") license to practice osteopathic medicine, in the State of Indiana.

The State of Indiana was represented by Stephen C. McNutt, Deputy Attorney General, for the Office of the Attorney General, and Petitioner appeared in person and waived his right to be represented by counsel.

The Board, having considered Petitioner's Petition for Modification, evidence submitted by Petitioner, and having taken official notice of its file, by a vote of 5 to 0, now issues the following Findings of Fact and Order:

FINDINGS OF FACT

Irvin Epstein, D.O., who resides at 1703 Trace Lane, Indianapolis, Indiana 46260 is a duly licensed doctor of osteopathy in the State of Indiana holding Indiana medical license 02000785.

2. Petitioner timely received notice of this hearing in accordance with IC 4-21.5-3-20.

3. Petitioner's medical license was placed on indefinite suspension by the Board on September 29, 1989.

4. Under the terms of the Order, Petitioner is required to undergo monthly psychiatric counseling until the treating psychiatrist deems treatment no longer necessary and Petitioner is required to cause his supervisor to issue monthly written reports to the Board regarding work performance.

5. Dr. Harold Nichols, Petitioner's treating psycia-

Exhibit "C"

trist, notified the Board by letter dated January 19, 1990, that Petitioner no longer required monthly treatment.

6. The Board takes notice of Petitioner's improved appearance and demeanor from previous appearances before the Board.

7. Petitioner orally requested that his monthly employment reports be reduced to bi-monthly reports.

8. The Board determines in accordance with IC 25-1-9-9(b) that circumstances have changed to such a degree as to warrant modifying Petitioner's final Order, file dated September 29, 1990.

ORDER

Based on the foregoing Findings of Fact, the Board issues the following Order.

1. Petitioner's Final Order, filed dated September 29, 1990, is MODIFIED as follows:

A. Part "c" of said Order requiring monthly psychiatric counseling is deleted.

B. Part "b" of said Order, requiring monthly written reports from Petitioner's supervisor concerning his work performance is modified to require such reports every other month.

2. All other requirements of the Order, file dated September 29, 1989, remain in full force and effect.

3. Petitioner is assessed costs of \$ 20.⁰⁰, payable within thirty (30) days of receipt of this Order.

SO ORDERED this 10th day of July, 1990.

MEDICAL LICENSING BOARD OF INDIANA

By: Sarah B. McCarty
Sarah B. McCarty
Executive Director
Consumer Protection Division

cc: Irvin Epstein, D.O.
1703 Trace Lane
Indianapolis, Indiana 46260
SENT CERTIFIED MAIL NO.: 4391930352
RETURN RECEIPT REQUESTED.

Stephen C. McNutt
Deputy Attorney General
Office of Attorney General
219 State House
Indianapolis, Indiana 46204

SCM/dcm:8925S

STATE OF INDIANA,
Petitioner,
v.
IRVIN EPSTEIN, D.O.,
Respondent.

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HEALTH PROFESSIONS
BUREAU

FINDINGS OF FACT AND ORDER

An administrative hearing was held before the Medical Licensing Board of Indiana (hereinafter "Board") on the 28th day of February, 1991, at the Health Professions Bureau, located at One American Square, Suite 1020, Indianapolis, Indiana, 46282, concerning the Respondent's, Irvin Epstein's, license to practice osteopathic medicine, in the State of Indiana.

Respondent appeared in person and knowingly, intentionally, and voluntarily waived his right to be represented by counsel. The State of Indiana was represented by Stephen C. McNutt, Deputy Attorney General and Andrew S. Peacock, Certified Legal Intern, for the Office of Attorney General.

The Board, having considered Respondent's Petition for Modification, evidence, testimony, and having taken official notice of its file, by a vote of 4 to 0, now issues the following Findings of Fact and Order:

FINDINGS OF FACT

1. Irvin Epstein, D.O., who resides at 1703 Trace Lane, Indianapolis, Indiana 46260, is a duly licensed doctor of

"Exhibit D"

osteopathy in the state of Indiana holding Indiana medical license no. 02000785.

2. Respondent timely received notice of this hearing in accordance with IC 4-21.5-3-20.

3. Respondent's medical license was placed on indefinite suspension by the Board on March 3, 1988.

4. On September 29, 1989, Respondent's license was reinstated and placed on indefinite probation. The terms of Respondent's probation specifically provide that he may work only at a plasma or blood donor center. Additionally, he is required to submit bi-monthly reports from his supervisor, complete fifty (50) hours of CME per year, and make quarterly appearances before the Board.

5. Respondent requested that his personal appearances be reduced to two per year, that he be granted permission to apply for an administrative position with the Office of Disability Determination, and that he be allowed to work in any position which did not involve patient contact.

6. Respondent was unable to provide the Board with specific information about the position he was seeking with the Office of Disability Determination.

7. Pursuant to IC 4-21.5-3-14(c) and IC 25-1-9-9(b), Respondent had the burden of showing that changed circumstances exist which warrant modification of the terms of his probation.

8. Respondent failed to show that there were changed circumstances sufficient to warrant reducing the number of appearances he must make before the Board.

9. Respondent failed to show evidence of changed circumstances sufficient to warrant a change in the requirement to limit his practice only to plasma centers or blood donor centers.

ORDER

Based on the foregoing Findings of Fact, the Board issues the following Order:

1. The Board denies Respondent's request to reduce the number of his personal appearances to two per year.

2. The Board denies Respondent's request to allow him to pursue employment in any job which does not involve patient contact.

3. The Board will review Respondent's request to work at the State of Indiana, Office of Disability Determination at such time as Respondent petitions the Board. Respondent may apply for and interview for said position. However, Respondent may not accept the position without prior Board approval.

4. All other requirements of the Order, file dated September 29, 1989, and its modification file dated July 10, 1990, remain in full force and effect.

SO ORDERED this 6th day of March 1991 nunc pro tunc
to February 28, 1991.

MEDICAL LICENSING BOARD OF INDIANA

By: Sarah B. McCarty
Sarah B. McCarty
Executive Director
Health Professions Bureau

cc: Irvin Epstein, D.O.
1703 Trace Lane
Indianapolis, Indiana 46260
SENT CERTIFIED MAIL NO. F 404 406 920
RETURN RECEIPT REQUESTED.

Stephen C. McNutt
Deputy Attorney General
219 State House
Indianapolis, Indiana 46204-2794

Andrew S. Peacock
Certified Legal Intern
219 State House
Indianapolis, Indiana 46204-2794

ASP/sb:0080S