

BEFORE THE MEDICAL LICENSING
BOARD OF INDIANA
CAUSE NUMBER: 2004 MLB 0041

STATE OF INDIANA,

Petitioner,

v.

MARK STEVEN WEINBERGER, M.D.

License No.: 01045912A,

Respondent.

FILED

MAY 10 2005

HEALTH PROFESSIONS
BUREAU

FINDINGS OF FACT AND ORDER

The Medical Licensing Board of Indiana ("Board") held an administrative hearing on April 28, 2005, in Room C of the Conference Center, Indiana Government Center South, 302 West Washington Street, Indianapolis, Indiana, concerning a disciplinary complaint filed against Mark Steven Weinberger, M.D., ("Respondent").

The State of Indiana was represented by Deputy Attorney General James R. Holden. The Respondent failed to appear in person or by counsel.

The Board, by a vote of 6-0-1, found the Respondent to be in default. The Board then held further proceedings in Respondent's absence, and, after considering the evidence presented and taking official notice of its file in this matter, by a vote of 6-0-1, issues the following Findings of Fact and Order:

FINDINGS OF FACT

1. The Board has jurisdiction to decide this matter, conduct a hearing, and impose discipline upon Respondent's medical license in accordance with Indiana Code §25-1 *et seq.* and

Indiana Code §25-22.5-2-7. Respondent was provided adequate notice of the final hearing in accordance with Indiana Code §4-21.5-3-8 and Indiana Code §4-21.5-3-20.

2. Respondent's address, on file with the Board, is 225 E. 90th Drive, Merrillville, IN 46410 and he is a duly licensed physician holding Indiana license number 01045912A.

3. On October 15, 2004, the State of Indiana filed a petition for Summary Suspension of the Respondent's license with the Board. The Petition for Summary Suspension was granted by the Board at its regularly scheduled October 28, 2004 meeting.

COUNT I

4. Respondent practiced medicine at "The Nose and Sinus Center," located at 255 E. 90th Drive, Merrillville, Indiana, an independent practice owned by the Respondent. On or around late September 2004, the Respondent vanished during a family vacation in Greece telling family members they would have to return to the United States on their own. Evidence was presented that indicated that the Respondent had been planning his "disappearance" for some time.

5. Since September 2004, the Respondent could not be located by any of his patients or employees as he left no forwarding address and has failed to notify his current active patients in writing or by publication that he has discontinued his practice as required by 844 IAC 5-2-16(b). A court-ordered receivership has been authorized to take control of the practice's assets in order to satisfy over \$5.7 million in unpaid claims by creditors. Court documents indicated that the parties to the receivership proceeding "do not anticipate [the Respondent's] return."

6. The Respondent has also failed to make reasonable arrangements to properly transfer patient records as required by 844 IAC 5-2-16(b).

7. Respondent has knowingly violated any state statute or rule, or federal statute or regulation, regulating the profession in question; namely: 844 IAC 5-2-16(b), in violation of Indiana Code § 25-1-9-4(a)(3).

COUNT II

8. Since the Respondent's disappearance, over 200 claims for medical malpractice have been filed by former patients against the Respondent with the Indiana Department of Insurance. These malpractice claims included claims alleging unnecessary surgery and fraud.

9. A subsequent investigation revealed that the Respondent had used his practice to perpetrate a scheme to defraud numerous insurance companies. The Respondent submitted insurance claims on numerous occasions in which he grossly over billed for procedures, billed for medically unnecessary surgeries, or billed for services not rendered. The Board heard evidence that many surgeries that the Respondent documented as performed were not in fact performed.

10. The conduct described above constitutes a violation of Indiana Code § 25-1-9-4(a)(1)(B), in that, Respondent has engaged in fraud or material deception in the course of professional services or activities.

ULTIMATE FINDINGS OF FACT

The conduct described above constitutes a violation of the following:

- a) Indiana Code § 25-1-9-4(a)(3), in that, the Respondent has knowingly violated any state statute or rule, or federal statute or regulation, regulating the profession in question, namely: 844 IAC 5-2-16(b), and
- b) Indiana Code § 25-1-9-4(a)(1)(B), in that, the Respondent has engaged in a fraud or material deception in the course of professional services or activities.

ORDER

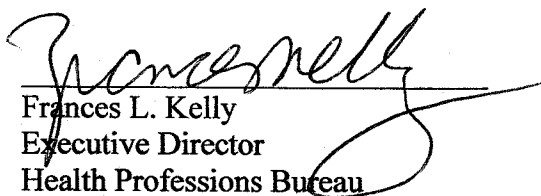
Based upon the above Findings of Fact, the Board issues the following Order:

1. Respondent's Indiana medical license is hereby **REVOKED**.
2. Respondent shall pay a civil fine in the amount of \$2,000.00 to the Health Professions Bureau within 30 days from the date of this final order.
3. Respondent shall pay the costs associated with the prosecution of this case in the amount of \$ 280.00 to the Health Professions Bureau and \$3,438.34 to the Office of the Attorney General, both within 30 days from the date of this final order.
4. Respondent shall immediately cease and desist all acts constituting the practice of medicine and shall surrender all indicia of licensure, including his pocket license and wall license, to the Board in care of the Health Professions Bureau, 402 West Washington Street, Room W066, Indianapolis, Indiana 46204.

SO ORDERED, this 10 day of May, 2005.

MEDICAL LICENSING BOARD OF INDIANA

By:


Frances L. Kelly
Executive Director
Health Professions Bureau

Copies to:

Mark Steven Weinberger, M.D.

225 E. 90th Drive

Merrillville, IN 46410

CERTIFIED MAIL#7003 3110 0003 5659 5499

RETURN RECEIPT REQUESTED

Deputy Attorney General James R. Holden

OFFICE OF THE INDIANA ATTORNEY GENERAL

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