

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION
BOARD OF MEDICINE

Final Order No. AHCA-96-00776 Date 7-5-96

AGENCY FOR HEALTH CARE
ADMINISTRATION, BOARD OF
MEDICINE,

FILED

Agency for Health Care Administration
AGENCY CLERK

R.S. Power, Agency Clerk

By: Rena Combs
Deputy Agency Clerk

Petitioner,

v.

AHCA CASE NOS. 94-05356

94-17085

94-17087

94-17143

LICENSE NO. ME 0052183

STEVEN CHASE BRIGHAM, M.D.,

Respondent.

FINAL ORDER

THIS CAUSE came before the Board of Medicine (Board) pursuant to Section 120.57(2), Florida Statutes, on June 7, 1996, in Miami Beach, Florida, for consideration of the Amended Administrative Complaint (attached hereto as Exhibit A) in the above-styled cause. At the hearing, Petitioner was represented by Larry G. McPherson, Jr., Chief Medical Attorney. Respondent was present and represented by Elizabeth Alsobrook, Esquire. The parties have been properly noticed of the hearing. Based upon the Hearing Officer's Orders of February 28, 1996 and May 3, 1996 and the Motion for Final Order, an informal hearing will be held pursuant to Section 120.57(2), Florida Statutes. Accordingly, the material issues of fact are not contested. Upon consideration of the Amended Administrative Complaint filed against Respondent, Motion for Final Order, the pleadings of the parties, orders of the Hearing Officer filed in this matter and the arguments presented, and having been otherwise fully advised in its premises, the Board of Medicine

makes the following findings and conclusions:

RULING ON RESPONDENT'S PRELIMINARY MATTERS

1. Respondent made an Oral Motion in opposition to an informal hearing and requested that the Board remand the case to the Hearing Officer to reconsider her order finding no material issues of fact in dispute. The Respondent's Motion is Denied. The Board considered Respondent's argument on the procedural matters leading to the Hearing Officer's action and Petitioner's argument that the Hearing Officer's action comported with the requirements of law.

2. Respondent made an Oral Motion in opposition to adopting the findings of fact based upon additional information in the form of a Recommended Decision of New Jersey Administrative Law Judge, Joseph F. Fidler. The Respondent's Motion is Denied. The record reflects that this additional information from New Jersey was previously considered by the Hearing Officer and the Hearing Officer had denied Petitioner's Motion to reconsider the order finding no material issues of fact in dispute.

FINDINGS OF FACT

1. On March 7, 1996, the Agency for Health Care Administration filed an Amended Administrative Complaint against Steven Chase Brigham, M.D., seeking to take disciplinary action against his license to practice medicine in the State of Florida.

2. The Board adopts as its findings of fact those allegations which were deemed admitted by the Hearing Officer in finding that there were no material issues of fact in dispute, attached hereto as Exhibit B and incorporated herein by reference.

The Amended Administrative Complaint is attached hereto as Exhibit A and incorporated herein by reference.

RULING ON RESPONDENT'S EXCEPTION TO CONCLUSIONS OF LAW

Respondent's Oral Motion that the violations alleged in the Amended Administrative Complaint are not supported by competent, substantial evidence is Denied.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over the parties and subject matter of this case pursuant to Section 120.57(2), Florida Statutes and Chapter 458, Florida Statutes.

2. Based upon the foregoing Findings of Fact, Respondent violated Sections 458.331(1)(b), (kk), (x), Florida Statutes and having determined that violations exist, it is appropriate for the Board to impose disciplinary action against the license of Steven Chase Brigham, M.D.

DISPOSITION

WHEREFORE, it is hereby ORDERED and ADJUDGED that Respondent has violated Sections 458.331(1)(b), (kk), (x), Florida Statutes, the Respondent shall receive the following penalty:

The Respondent's license to practice medicine in the State of Florida is hereby REVOKED.

The Respondent's request for STAY in this matter is DENIED. The Board finds that the Respondent did not offer any compelling reason to grant said STAY, rather, the Respondent advised the Board that he does not now practice in Florida nor does he have any intent to do so.

DONE and ORDERED this 28th day of June, 1996.

BOARD OF MEDICINE

Edward A. Dauer M.D.
EDWARD A. DAUER, M.D.
VICE-CHAIRMAN

NOTICE

The Parties are hereby notified that they may appeal this Final Order by filing one copy of a Notice of Appeal with the Clerk of the Agency for Health Care Administration and by filing one copy of a Notice of Appeal and the appropriate filing fee with the District Court of Appeal within thirty (30) days of the date this Final Order is filed.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by certified mail to Steven Chase Brigham, M.D., 1 Alpha Avenue, Suite 27, Voorhees, New York 08043, Nathan L. Dembin, Esquire, NATHAN L. DEMBIN & ASSOCIATES, P.C., 225 Broadway, Suite 1905, New York, New York 10007, Elizabeth Alsobrook, Esquire, 924 Gadsden Street, Tallahassee, Florida and by interoffice delivery to Larry G. McPherson, Jr., Chief Medical Attorney, Agency for Health Care Administration, 1940 North Monroe Street, Tallahassee, Florida 32399-0792, at or before 5:00 p.m., this _____ day of _____, 1996.

Marm Harris, Ed.D.
Executive Director

3-7-96

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION
BOARD OF MEDICINE

AGENCY FOR HEALTH CARE
ADMINISTRATION,

PETITIONER,

vs.

CASE NOS.

94-05356
94-17085
94-17087
94-17143

STEVEN CHASE BRIGHAM, M.D.,

RESPONDENT.

AMENDED ADMINISTRATIVE COMPLAINT

COMES NOW the Petitioner, Agency for Health Care Administration, hereinafter referred to as "Petitioner," and files this Amended Administrative Complaint before the Board of Medicine against Steven Chase Brigham, M.D., hereinafter referred to as "Respondent," and alleges:

1. Petitioner is the state agency charged with regulating the practice of medicine pursuant to Section 20.42, Florida Statutes, Chapter 455, Florida Statutes; and Chapter 458, Florida Statutes.

2. Respondent is and has been at all times material hereto a licensed physician in the State of Florida, having been issued license number ME 0052183. Respondent's last known address is 1 Alpha Avenue, Suite 27, Voorhees, New Jersey, 08043.

3. Respondent is not board certified in any specialty. Respondent's education ended in the completion of a one (1) year

Internal Medicine internship.

4. On or about April 23, 1992, Respondent signed a Verification of Voluntary Retirement and Consent Agreement for Permanent Non-Renewal of License agreeing to voluntarily retire from the practice of medicine in the Commonwealth of Pennsylvania on the condition that the State Board of Medicine of the Commonwealth of Pennsylvania cease the investigation being conducted against Respondent.

5. In signing said Verification of Voluntary Retirement and Consent Agreement for Permanent Non-Renewal of License, Respondent also agreed that his medical license was to be placed on permanent inactive status and that he would never apply for reinstatement, reissuance, reactivation or renewal of his unrestricted license to practice medicine and surgery in the Commonwealth of Pennsylvania.

6. Respondent further agreed that in the future he would not practice medicine and surgery in any manner within the Commonwealth of Pennsylvania.

7. On or about April 28, 1992, the Pennsylvania State Board of Medicine, in consideration of the foregoing Verification of Voluntary Retirement and Consent Agreement for Permanent Non-Renewal of License entered into by and between the Commonwealth of Pennsylvania and Respondent, ordered that Respondent's unrestricted license to practice medicine and surgery in the Commonwealth of Pennsylvania be placed on permanent inactive status subject to Respondent's compliance with the terms of the Consent Agreement and the Order, and ordered that Respondent agrees not to ever apply for

the reactivation, renewal, reinstatement or reissuance of his license or other authorization to practice medicine in the Commonwealth of Pennsylvania.

8. On or about January 3, 1994, the State of New York Department of Health, State Board for Professional Medical Conduct, determined that the continued practice of medicine in the State of New York by Respondent constituted an imminent danger to the health of the people of New York and ordered the immediate suspension of Respondent's license to practice medicine in the State of New York based upon the Respondent's actions listed below in paragraphs nine (9) through twenty-one (21).

9. From on or about November 10 through November 11, 1993, Respondent treated a twenty (20) year-old patient who was twenty-six (26) weeks pregnant and who presented to Respondent for the performance of a termination of her pregnancy.

10. Respondent performed a dilation and evacuation (D&E) procedure on this patient following the dilatation of the patient's cervix via the insertion of laminaria.

11. Following performance of the D&E on this patient, the patient bled profusely internally as a result of lacerations of her lower uterine segment, her uterine artery and the posterior side of her uterus.

12. Respondent failed to recognize the existence and the seriousness of said lacerations and he attempted to repair the lacerations in the office even though the patient's condition required transfer to a hospital.

13. The patient was transferred to a hospital approximately four (4) hours after the D&E procedure and she was in hypovolemic shock upon her arrival to the hospital.

14. The patient underwent the performance of an emergency hysterectomy upon her arrival to the hospital.

15. From on or about May 7 through May 9, 1992, Respondent treated a patient who was twenty-four and one half (24.5) weeks pregnant and who presented to Respondent for the performance of a termination of her pregnancy.

16. Respondent performed a dilation and evacuation (D&E) procedure on this patient following the dilatation of the patient's cervix via the insertion of laminaria.

17. During the performance of the D&E, Respondent used Hern forceps to remove a portion of the fetus and the placenta when omentum was seen by Respondent.

18. Respondent continued performing the D&E procedure following perforation of the patient's uterus and visualization of the omentum.

19. The patient was subsequently transferred by ambulance to a hospital and upon arrival was found to be in shock.

20. The patient underwent a laparotomy which revealed that in using the forceps, Respondent caused an eight (8) to ten (10) centimeter laceration of the posterior uterus.

21. Respondent perforated the patient's sigmoid colon through its mesentery which resulted in the patient needing a colostomy. In addition, Respondent damaged both of the patient's ureters.

22. On or about April 29, 1994, the State of New York Department of Health, State Board for Professional Medical Conduct, ordered that the summary order in the matter dated on or about January 3, 1994, shall remain in full force and effect.

23. On or about July 18, 1994, Petitioner received a letter from Respondent's attorney which advised Petitioner of interim action taken against Respondent's license to practice medicine in the State of New York.

24. Respondent failed to report said suspension to the Board of Medicine within thirty (30) days of the suspension ordered against his license to practice medicine in the State of New York by the State of New York Department of Health, State Board for Professional Medical Conduct.

25. On or about August 9, 1994, the State of New York Department of Health, State Board for Professional Medical Conduct, ordered that Respondent's license to practice medicine in New York State be revoked due to Respondent being found guilty of gross negligence and negligence on more than one (1) occasion in practicing medicine.

26. The Hearing Committee who ordered the abovementioned revocation of Respondent's medical license concluded the following which is stated in the Decision and Order of the Hearing Committee:

Respondent repeatedly exaggerated his medical training, experience and skill. Both in the acts established by the charges herein as well as in his testimony, Respondent has demonstrated he lacks appropriate judgment and insight as to his own limitations. He routinely displayed

a tendency to inflate and embellish the truth. For instance, Respondent regularly referred to himself as an emergency room physician. However, upon further questioning, he admitted he had not had a residency in emergency medicine and had never had a full-time position in an emergency room. Ultimately, Respondent admitted that his experience and training in emergency medicine consisted of part-time positions in various emergency rooms. In like manner, Respondent testified that he had "extensive training" in OB/GYN and abortion. Respondent testified that his credentials in abortion procedures arose from taking a formal course of study in abortion as offered by Planned Parenthood of New York City. However, he eventually admitted that he has never done a residency in OB/GYN. Moreover, Respondent later admitted that he did not complete the course in first trimester abortion practice offered by Planned Parenthood, nor did he receive the course certificate. Eventually, Respondent testified that what he referred to as special training in preparation for his activities in the abortion field consisted of limited interludes of observation of other physicians.

27. On or about October 28, 1994, the State of New York Department of Health Administration, Review Board for Professional Medical Conduct, sustained the determination revoking Respondent's license to practice medicine in the State of New York.

28. Respondent was notified of said revocation in a letter dated on or about November 23, 1994, from the State of New York Department of Health.

29. On or about December 26, 1994, Petitioner received a letter from Respondent's attorney which advised Petitioner of the revocation of Respondent's license to practice medicine in the State of New York.

30. On or about February 3, 1994, the State of New Jersey Department of Law and Public Safety, Division of Consumer Affairs, Board of Medical Examiners, determined that Respondent's unrestricted practice palpably demonstrated a clear and imminent danger to the people of the State of New Jersey and ordered that Respondent may not initiate or participate in second trimester abortions, including the insertion of laminaria for purposes of cervical dilatation preceding evacuation of the uterus, and Respondent shall retain, at his expense, a supervisor acceptable to the Board, who shall review Respondent's patient records no less often than semi-monthly to assure Respondent's compliance with New Jersey law, and Respondent shall cause the supervisor to file a report with the Board on a monthly basis. Said order was based upon the Respondent's actions listed below in Paragraphs thirty-one (31) through forty-one (41).

31. In or about July 1992, a twenty-two (22) year-old patient who was approximately twenty-two (22) to twenty-three (23) weeks pregnant with an intrauterine fetal demise presented to Respondent for an abortion.

32. Respondent commenced the abortion procedure by inserting laminaria into the cervix for dilatation and instructing the patient to return the following day.

33. The patient returned the next day, whereupon Respondent inserted additional laminaria. Despite the rupturing of the patient's membranes following the insertion of the laminaria, Respondent sent the patient home with instructions to take oral antibiotics and to go to New York the following day where Respondent would complete the abortion. Respondent failed to follow the generally accepted medical standard of admitting the patient to the hospital and instead sent her home.

34. The patient developed an infection that evening and was admitted to a hospital via the emergency room.

35. A fourteen (14) year-old patient presented to Respondent for a termination of her pregnancy.

36. Respondent administered an excessive amount of sedation to the patient and placed a handful of gauze in the patient's mouth during the procedure.

37. After administration of the sedation which was twice the normal dose of Fentanyl and of Versed, the staff had difficulty arousing the patient and her heart rate was 110-120 beats per minute.

38. Respondent performed an abortion on a patient who was at eleven (11) to twelve (12) weeks since her last menstrual period.

39. The day following the procedure, the patient complained of significant pain in her abdomen.

40. Respondent saw the patient two (2) days following the procedure, performed a vaginal examination, stated she had a slight

Board of Medical Examiners, ordered that Respondent refrain from the practice of medicine and surgery in the State of New Jersey effective December 14, 1994.

47. Section 458.319(5), Florida Statutes, provides, in part: The licensee must have on file with the department the address of his primary place of practice within this state prior to engaging in that practice.

48. Pursuant to Rule 61-6.005, Florida Administrative Code, it shall be the duty of the licensees, active and inactive, to keep the Department informed of any information which the Department requires, including but not limited to his/her current mailing address.

49. Section 458.320(7), Florida Statutes provides:

Any licensee who relies on any exemption from the financial responsibility requirement shall notify the department, in writing, of any change or circumstance regarding his qualifications for such exemption and shall demonstrate that he is in compliance with the requirements of this section.

50. Pursuant to Section 59R-12.005(3), Florida Administrative Code, each licensee must notify the board in writing of any change of status relating to financial responsibility compliance or exemption at least ten (10) calendar days prior to the change.

51. Rule 59R-12.007, Florida Administrative Code, provides, in part:

A licensee who has claimed an exemption based on the fact that, although an active license has been maintained, the licensee has not been practicing medicine in Florida

must, before initiating or resuming the practice of medicine in this state, notify the Agency of the intent to practice in the state and show compliance with the requirements of the financial responsibility law or show exemption therefrom in the manner set forth in Rule 59R-12.005, Florida Administrative Code.

52. As of on or about September 1, 1994, Respondent had on file with Petitioner and the Board of Medicine a practice address and a mailing address located in New Jersey.

53. In addition, Respondent had indicated on his renewal for licensure completed on or about March 22, 1994, that he was exempt from the financial responsibility requirements due to his not practicing in the State of Florida. Respondent expressed no intention to practice medicine in Florida to either Petitioner or to the Board of Medicine.

54. Beginning in or about September, 1994, to on or about February 3, 1995, Respondent provided medical care and performed terminations of pregnancies at The Ladies Center, Inc., (TLC) in Pensacola, Florida.

55. Respondent failed to notify Petitioner of his primary place of practice within the State of Florida prior to engaging in the practice of medicine at TLC.

56. Respondent's above listed mailing address of record is no longer valid. Respondent has relocated to Connecticut.

57. Respondent failed to inform Petitioner of his new mailing address.

58. Respondent applied for and was granted a financial responsibility exemption based on the fact that he was maintaining an active licensure status in the State of Florida, but he was not engaging in the practice of medicine in Florida.

59. Respondent failed to notify Petitioner in writing of any change or circumstance regarding his qualifications for exemption from financial responsibility.

60. Respondent failed to notify Petitioner of his change of status relating to his financial responsibility compliance at least ten (10) days prior to the change.

61. Respondent failed to notify Petitioner of his intent to practice medicine in the State of Florida and show compliance with the requirements of the financial responsibility law or show exemption therefrom prior to initiating the practice of medicine in Florida.

Count One

62. Petitioner realleges and incorporates paragraph one (1) through sixty-one (61) as if fully set forth herein this Count One.

63. Respondent is guilty of having a license or the authority to practice medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions in that Respondent signed a Verification of Voluntary Retirement and Consent Agreement for Permanent Non-Renewal of License conditional upon the Pennsylvania State Board of Medicine ceasing an investigation which was being conducted against

Respondent, in that Respondent's license to practice medicine in the State of New York was suspended on or about January 3, 1994, by the State of New York Department of Health, State Board for Professional Medical Conduct, and was subsequently revoked on or about August 12, 1994, and in that Respondent's license to practice medicine in the State of New Jersey was restricted by the State of New Jersey Department of Law and Public Safety, Division of Consumer Affairs, Board of Medical Examiners, on or about February 3, 1994.

64. Based on the foregoing, Respondent violated Section 458.331(1)(b), Florida Statutes, having a license or the authority to practice medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions. The licensing authority's acceptance of a physician's relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the physician's license, shall be construed as action against the physician's license.

Count Two

65. Petitioner realleges and incorporates Paragraphs one (1) through sixty-one (61), and sixty-three (63) as if fully set forth herein this Count Two.

66. Respondent is guilty of failing to report to the board, in writing, within thirty (30) days if action defined in Section

458.331(1)(b), Florida Statutes, has been taken against one's license to practice medicine in another state, territory, or country in that on or about April 28, 1992, the Pennsylvania State Board of Medicine, ordered that Respondent's unrestricted license to practice medicine and surgery in the Commonwealth of Pennsylvania be placed on permanent inactive status and Respondent failed to notify Petitioner of same, in that Respondent's license to practice medicine in the State of New York was ordered suspended on or about January 3, 1994, and Respondent failed to notify Petitioner of same until on or about July 18, 1994, and in that Respondent's license to practice medicine in the State of New Jersey was restricted on or about February 3, 1994, and Respondent failed to notify Petitioner of same until on or about July 18, 1994.

67. Based on the foregoing, Respondent violated Section 458.331(1)(kk), Florida Statutes, failing to report to the board, in writing, within 30 days if action as defined in paragraph (b) has been taken against one's license to practice medicine in another state, territory, or country.

Count Three

68. Petitioner realleges and incorporates Paragraphs one (1) through sixty-one (61), sixty-three (63), and sixty-six (66) as if fully set forth herein this Count Three.

69. Respondent is guilty of violating any provision of this chapter, a rule of the board or department, or a lawful order of the board or department previously entered in a disciplinary

hearing or failing to comply with a lawfully issued subpoena of the department in that Respondent failed to notify Petitioner of his primary place of practice within the State of Florida prior to engaging in the practice of medicine at TLC in violation of Section 458.319(5), Florida Statutes.

70. Based on the foregoing, Respondent violated Section 458.331(1)(x), Florida Statutes, violating any provision of this chapter, a rule of the board or department, or a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.

Count Four

71. Petitioner realleges and incorporates Paragraphs one (1) through sixty-one (61), sixty-three (63), sixty-six (66), and sixty-nine (69) as if fully set forth herein this Count Four.

72. Respondent is guilty of violating any provision of this chapter, a rule of the board or department, or a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department in that Respondent failed to inform Petitioner of his new mailing address in violation of Section 61-6.005, Florida Administrative Code.

73. Based on the foregoing, Respondent violated Section 458.331(1)(x), Florida Statutes, violating any provision of this chapter, a rule of the board or department, or a lawful order of the board or department previously entered in a disciplinary

hearing or failing to comply with a lawfully issued subpoena of the department.

Count Five

74. Petitioner realleges and incorporates Paragraphs one (1) through sixty-one (61), sixty-three (63), sixty-six (66), sixty-nine (69), and seventy-two (72) as if fully set forth herein this Count Five.

75. Respondent is guilty of violating any provision of this chapter, a rule of the board or department, or a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department in that Respondent failed to notify Petitioner in writing of any change or circumstance regarding his qualifications for exemption from financial responsibility in violation of Section 458.320(7), Florida Statutes, in that Respondent failed to notify Petitioner of his change of status relating to his financial responsibility compliance at least ten (10) days prior to the change in violation of Section 59R-12.005(3), Florida Administrative Code, and in that Respondent failed to notify Petitioner of his intent to practice medicine in the State of Florida and show compliance with the requirements of the financial responsibility law or show exemption therefrom prior to initiating the practice of medicine in Florida in violation of Section 59R-12.007, Florida Administrative Code.


76. Based on the foregoing, Respondent violated Section 458.331(1)(x), Florida Statutes, violating any provision of this

chapter, a rule of the board or department, or a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.

WHEREFORE, the Petitioner respectfully requests the Board of Medicine enter an Order imposing one or more of the following penalties: permanent revocation or suspension of the Respondent's license, restriction of the Respondent's practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, and/or any other relief that the Board deems appropriate.

SIGNED this 7 day of March, 1996.

Douglas M. Cook, Director


Larry G. McPherson, Jr.
Chief Medical Attorney

COUNSEL FOR AGENCY:

Larry G. McPherson, Jr.
Chief Medical Attorney
Agency for Health Care Administration
1940 North Monroe Street
Tallahassee, Florida 32399-0792
Florida Bar #788643
RPC/sdb
PCP: February 16, 1995
Murray, Slade and Varn

FILED
AGENCY FOR
HEALTH CARE ADMINISTRATION
DEPUTY CLERK
CLERK 
DATE 3-7-96

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

AGENCY FOR HEALTH
CARE ADMINISTRATION,
BOARD OF MEDICINE,

Petitioner,

vs.

STEVEN CHASE BRIGHAM, M.D.,

Respondent.

CASE NO. 95-3963

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ORDER CLOSING FILE

On March 26, 1996, Petitioner filed a Motion to Relinquish Jurisdiction in this case with the Division of Administrative Hearings. It is, therefore, ORDERED

1. The Motion is GRANTED.
2. After review of the record in this case and the facts admitted by Respondent there appears to be no issues of material fact to be decided in this case.
3. The case file of the Division of Administrative Hearings is hereby CLOSED; and
4. Jurisdiction is relinquished to the Agency for Health Care Administration, Board of Medicine.

DONE and ORDERED this 3d day of May, 1996, in
Tallahassee, Florida.

Diane Cleavinger
DIANE CLEAVINGER, Hearing Officer
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-1550
(904) 488-9675 SunCom 278-9675

Filed with the Clerk of the
Division of Administrative Hearings
this 3d day of May, 1996.

COPIES FURNISHED:

Monica L. Felder, Esquire
Agency for Health
Care Administration
Suite 60
1940 North Monroe Street
Tallahassee, FL 32399-0792

Nathan L. Dembin, Esquire
Nathan L. Dembin et al.
Suite 1905
225 Broadway
New York, NY 10007

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

AGENCY FOR HEALTH CARE
ADMINISTRATION, BOARD OF
MEDICINE,

Petitioner,

vs.

DOAH Case Number	95-3963
AHCA Case Numbers	91-05356
	94-17085
	94-17087
	94-17143

STEVEN CHASE BRIGHAM, M.D.,

Respondent.

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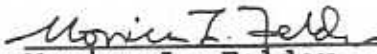
MOTION TO RELINQUISH JURISDICTION

COMES NOW the Petitioner, by and through undersigned counsel, and files this Motion to Relinquish Jurisdiction and as grounds therefore states the following:

1. All of the allegations and charges of the Amended Administrative Complaint have been deemed admitted by the Hearing Officer, pursuant to an order dated February 28, 1996.
2. There are no longer any issues of material fact left to be decided in this matter.
3. Respondent's counsel has been notified of this request and objects to relinquishment of jurisdiction.
4. Petitioner requests an order be issued on this motion so that the case can be presented as an informal hearing before the Board of Medicine at its next meeting.

WHEREFORE, Petitioner respectfully requests this Honorable Hearing Officer to issue an order relinquishing jurisdiction of this matter.

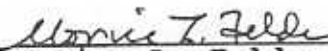
Respectfully,



Monica L. Felder
Senior Attorney
Florida Bar Number 986283
Agency for Health Care
Administration
1940 North Monroe Street
Tallahassee, Florida 32399-0750

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. mail this 26th day of March, 1996, to Nathan Dembin, Esquire, 225 Broadway, Suite 1905, New York, New York 10007.



Monica L. Felder
Senior Attorney

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

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AGENCY FOR HEALTH CARE
ADMINISTRATION, BOARD OF
MEDICINE,

Petitioner,

vs.

STEVEN CHASE BRIGHAM, M.D.,

Respondent.

CASE NO. 95-3963

ORDER

This cause came on for consideration of Petitioner's Motion to Deem Admitted and Motion for Order Compelling Discovery filed with the Division of Administrative Hearings on January 18, 1996. Having reviewed the file and being otherwise advised in the premises, it is

ORDERED:

- (1) The Motion is GRANTED.
- (2) Questions 1 through 37 of the Request for Admissions are deemed admitted and Respondent shall within thirty (30) days from the date of this order answer the interrogatories posed by Petitioner and produce the documents requested by Petitioner.
- (3) Failure to respond to this order will result in dismissal of this case.

DONE and ORDERED this 28th day of February, 1996, in
Tallahassee, Florida.

Diane Cleavinger
DIANE CLEAVINGER, Hearing Officer
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-1550
(904) 488-9675 SunCom 278-9675

Filed with the Clerk of the
Division of Administrative Hearings
this 28th day of February, 1996.

COPIES FURNISHED:

Monica L. Felder, Esquire
Agency for Health Care
Administration
1940 North Monroe Street, Suite 60
Tallahassee, FL 32399-0792

Nathan L. Dembin, Esquire
Nathan L. Dembin & Associates, P.C.
225 Broadway, Suite 1905
New York, NY 10007

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

AGENCY FOR HEALTH CARE
ADMINISTRATION,

Petitioner,

DOAH CASE NO. 95-3963
AHCA CASE NOS. 94-05356
94-17085
94-17087
94-17143

vs.

STEVEN CHASE BRIGHAM, M.D.,

Respondent.

PETITIONER'S MOTION TO DEEM ADMITTED AND
MOTION FOR ORDER COMPELLING DISCOVERY

COMES NOW, the Petitioner, the Agency for Health Care Administration, by and through its undersigned counsel, pursuant Florida Rules of Civil Procedure, and moves for an Order deeming the attached Request for Admissions admitted, as well as an Order compelling the Respondent to respond to Petitioner's Request for Interrogatories and Request to Produce, and as grounds therefore states:

1. Propounded under certificate of service dated November 20, 1995, Petitioner served a Request for Admissions, Request for Production and Interrogatories upon the Respondent through Respondent's counsel Nathan L. Dembin, Esquire. As of this date the Request for Admissions, Request for Production and Interrogatories served on November 20, 1995, have not been returned to the Petitioner.

2. Rule 1.370, Florida Rules of Civil Procedure (entitled "Requests for Admissions") states in pertinent part:

a) Request for Admission. A party may serve upon any other party a written request for the admission of the truth of any matters within the scope of Rule 1.280(b) set forth in the request that relate to statements or opinions of fact or of the application of the law to fact, including genuineness of any documents described in the request....The matter is admitted unless the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter within 30 days after service of the request...

3. Rule 1.340, Florida Rules of Civil Procedure (entitled "Interrogatories to Parties") states in pertinent part:

a) Procedure for Use. Without leave of court, any party may serve upon any other party written interrogatories to be answered (1) by the party to whom the interrogatories are directed ...The party to whom the interrogatories are directed shall serve the answers and any objections within 30 days after the service of the interrogatories, except that a defendant may serve answers or objections within 45 days after service of the process and initial pleading upon that defendant.

4. Rule 1.350, Florida Rules of Civil Procedure (entitled "Production of Documents and Things and Entry Upon Land for Inspection and Other Purposes") states in pertinent part:

b) Procedure. Without leave of court the request may be served on the plaintiff after commencement of the action and on any other party with or after service of the process and initial pleading on that party....The party to whom the request is directed shall serve a written response within 30 days after service of the request, except that a defendant may serve a response within 45 days after service of the process and initial pleading on that defendant.

5. Attached hereto, as Composite Exhibit A, are copies of Petitioner's First Set of Request for Admissions, Request for Production of Documents and Interrogatories to Respondent.

6. The Respondent has failed to respond or object to the Request for Admissions, Request for Production and

Interrogatories filed by the Petitioner on November 20, 1995.

7. On or January 4, 1996, the Respondent contacted the Petitioner. The Respondent was notified that the discovery was past due and asked to remit immediately. The Respondent requested an extension of time to submit the discovery, and the Petitioner agreed to allow the Respondent until January 12, 1996, to submit the discovery. See Letter to Respondent, dated January 4, 1996, attached as Exhibit B. To date, the requested discovery has not been received. The Petitioner is therefore requesting relief pursuant to Rule 1.380, Florida Rules of Civil Procedure (entitled "Failure to Make Discovery; Sanctions").

8. The formal hearing in this case is set for February 27-28, 1996. The Petitioner needs time prior to that to take the depositions of the Respondent's witnesses and to otherwise prepare for hearing.

9. Petitioner certifies that she has written to Respondent's counsel, Nathan L. Dembin, in a good faith effort to resolve by agreement the issues raised. (See attached Exhibit B.) He has not responded. The Petitioner does not feel that she can adequately prepare for hearing unless the discovery is provided immediately.

WHEREFORE, Petitioner moves this Honorable Hearing Officer to enter an order deeming the attached Request for Admissions admitted and an order compelling the Respondent to comply with discovery requests.

Respectfully Submitted,

Monica L. Felder
Monica L. Felder
Senior Attorney
Agency for Health Care
Administration
1940 No. Monroe Street
Tallahassee, Fl 32399
(904) 488-0062

MLF/mlm

I HEREBY CERTIFY that a true copy of the foregoing has been furnished to Nathan L. Dembin, Esquire, at Nathan L. Dembin & Associates, 225 Broadway, Ste. 1905, New York, New York 10007 by U.S. Mail this 18 day of January, 1996.

Monica L. Felder

Monica L. Felder

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

AGENCY FOR HEALTH CARE ADMINISTRATION,

Petitioner,

v.

DOAH Case No. 95-3963
AHCA Case No. 91-05356
94-17085
94-17087
94-17143

STEVEN CHASE BRIGHAM, M.D.

Respondent.

PETITIONER'S FIRST REQUEST FOR ADMISSIONS, FIRST SET OF
INTERROGATORIES, AND FIRST REQUEST FOR PRODUCTION OF
DOCUMENTS

TO: Nathan L. Dembin, Esquire,
Nathan L. Dembin & Associates, P.C.,
225 Broadway, Ste. 1905,
New York, New York 10007.

COMES NOW the Agency for Health Care Administration, Board of Medicine, the Petitioner, and requests that Respondent, within thirty days of the date hereon, admit the truth of the facts requested, and the genuineness of the documents to be produced in the following queries. The Petitioner also requests that the Respondent respond to the interrogatory questions contained in said queries and that Respondent provide said answers within the time permitted by Rule 1.340, Florida Rules of Civil Procedure.

I HEREBY CERTIFY that the original and one copy hereof together with the attached were served by Petitioner, Agency for Health Care Administration, on Nathan L. Dembin, Esquire, Nathan L. Dembin & Associates, P.C., 225 Broadway, Ste. 1905, New York, New York 10007, this 20th day of November, 1995.

Monica L. Felder
Monica L. Felder
Senior Attorney
Florida Bar No. 986283
Agency for Health Care
Administration,
Northwood Centre
1940 North Monroe Street,
Suite 60
Tallahassee, FL 32399-0792
(904) 488-0068

MLF/mlm

ADMISSIONS

1. Petitioner is the state agency charged with regulating the practice of medicine pursuant to Section 20.165, Florida Statutes; Chapter 455, Florida Statutes; and Chapter 458, Florida Statutes.

Admit _____

Deny _____

2. Respondent is and has been at all times material hereto a licensed physician in the State of Florida, having been issued license number ME 0052183.

Admit _____

Deny _____

3. Respondent's last known address is 1 Alpha Avenue, Suite 27, Voorhees, New Jersey 08043.

Admit _____

Deny _____

4. Respondent is not board certified in any specialty.

Admit _____

Deny _____

5. Respondent's education ended in the completion of a one (1) year Internal Medicine internship.

Admit _____

Deny _____

6. On April 23, 1992, Respondent signed a Verification of Voluntary Retirement and Consent Agreement for Permanent Non-Renewal of License agreeing to voluntarily retire from the practice of medicine in the Commonwealth of Pennsylvania on the condition that the State Board of Medicine of the Commonwealth of Pennsylvania cease the investigation being conducted against Respondent.

Admit _____

Deny _____

7. In signing said Verification of Voluntary Retirement and Consent Agreement for Permanent Non-Renewal of License, Respondent also agreed that his medical license was to be placed on permanent inactive status and that he would never apply for reinstatement, reissuance, reactivation or renewal of his unrestricted license to practice medicine in the Commonwealth of Pennsylvania.

Admit _____

Deny _____

8. Respondent further agreed that in the future he would not practice medicine and surgery in any manner within the Commonwealth of Pennsylvania.

Admit _____

Deny _____

9. On April 28, 1992, the Pennsylvania State Board of Medicine, in consideration of the foregoing Verification of Voluntary Retirement and Consent Agreement for Permanent Non-Renewal of License entered into by and between the Commonwealth of Pennsylvania and Respondent, ordered that Respondent's unrestricted license to practice medicine and surgery in the Commonwealth of Pennsylvania be placed on permanent inactive status subject to Respondent's compliance with the terms of the Consent Agreement and Order, and ordered that Respondent agrees not to ever apply for the reactivation, renewal, reinstatement or reissuance of his license or other authorization to practice medicine in the Commonwealth of Pennsylvania.

Admit _____

Deny _____

10. On January 3, 1994, the State of New York Department of Health, State Board for Professional Medical Conduct, determined that the continued practice of medicine in the State of New York by Respondent constituted an imminent danger to the health of the people of New York and ordered the immediate suspension of Respondent's license to practice medicine in the State of New York.

Admit _____

Deny _____

11. On April 29, 1994, the State of New York Department of Health, State Board for Professional Medical Conduct, ordered that the summary order in the matter dated January 3, 1994, remain in full force and effect.

Admit _____

Deny _____

12. On July 18, 1994, Petitioner received a letter from Respondent's attorney which advised Petitioner of interim action taken against Respondent's license to practice medicine in the State of New York.

Admit _____

Deny _____

13. Respondent failed to the Florida Board of Medicine within thirty (30) days of the action taken against his license to practice medicine in the State of New York.

Admit _____

Deny _____

14. On August 9, 1994, the State of New York Department of Health, State Board for Professional Medical Conduct, ordered that Respondent's license to practice medicine in the State of New York be revoked due to Respondent being found guilty of gross negligence and negligence on more than one occasion in practicing medicine.

Admit _____

Deny _____

15. On October 28, 1994, the State of New York Department of Health Administration, Review Board for Professional Medical Conduct, sustained the determination revoking Respondent's license to practice medicine in the State of New York.

Admit _____

Deny _____

16. Respondent was notified of said revocation in a letter dated November 23, 1994, from the State of New York Department of Health.

Admit _____

Deny _____

17. On December 26, 1994, Petitioner received a letter from Respondent's attorney which advised Petitioner of the revocation of Respondent's license to practice medicine in the State of New York.

Admit _____

Deny _____

18. On February 3, 1994, the State of New Jersey Department of Law and Public Safety, Division of Consumer Affairs, Board of Medical Examiners, determined that Respondent's unrestricted practice palpably demonstrated a clear and imminent danger to the people of the State of New Jersey and ordered that Respondent may not initiate or participate in second trimester abortions, including the insertion of laminaria for purposes of cervical dilatation preceding evacuation of the uterus, and Respondent shall retain, at his expense, a supervisor acceptable to the Board, who shall review Respondent's patient records no less often than semi-monthly to assure Respondent's compliance with New Jersey law, and Respondent shall cause the supervisor to file a report with the Board on a monthly basis.

Admit _____

Deny _____

19. On July 18, 1994, Petitioner received a letter from Respondent's attorney which advised Petitioner of interim action taken against Respondent's license to practice medicine in the State of New Jersey.

Admit _____

Deny _____

20. Respondent failed to report the action taken against his license in New Jersey to the Florida Board of Medicine within thirty (30) days of the action ordered against his license to practice medicine in the State of New Jersey by the State of New Jersey Department of Law and Public Safety, Division of Consumer Affairs, Board of Medical Examiners.

Admit _____

Deny _____

21. On December 14, 1994, Respondent appeared before the State of New Jersey Department of Law and Public Safety, Division of Consumer Affairs, Board of Medical Examiners, and offered to cease practicing medicine and surgery in the State of New Jersey.

Admit _____

Deny _____

22. The State of New Jersey Department of Law and Public Safety, Division of Consumer Affairs, Board of Medical Examiners, accepted Respondent's offer to cease practicing medicine and surgery in the State of New Jersey.

Admit _____

Deny _____

23. On January 13, 1995, the State of New Jersey Department of Law and Public Safety, Division of Consumer Affairs, Board of Medical Examiners, ordered that Respondent refrain from the practice of medicine and surgery in the State of New Jersey effective December 14, 1994.

Admit _____

Deny _____

24. As of September 1, 1994, Respondent had on file with Petitioner and the Board of Medicine a practice address and mailing address located in New Jersey.

Admit _____

Deny _____

25. In addition, Respondent had indicated on his license renewal form, completed on March 22, 1994, that he was exempt from the financial responsibility requirements due to his not practicing in the State of Florida.

Admit _____

Deny _____

26. In March, 1994, the Respondent expressed no intention to practice medicine in the State of Florida, to either Petitioner or to the Board of Medicine.

Admit _____

Deny _____

27. Beginning in September 1994, and continuing until February 3, 1995, Respondent provided medical care and performed terminations of pregnancies at The Ladies Center, Inc., (TLC) in Pensacola, Florida.

Admit _____

Deny _____

28. Respondent failed to notify Petitioner of his primary place of practice within the State of Florida prior to engaging in the practice of medicine at TLC.

Admit _____

Deny _____

29. Respondent's listed mailing address of record at the time this Administrative Complaint was filed on February 21, 1995, was no longer valid. Respondent had relocated to Connecticut.

Admit _____ Deny _____

30. Respondent failed to inform Petitioner of his new mailing address.

Admit _____ Deny _____

31. Respondent applied for and was granted a financial responsibility exemption based on the fact that he was maintaining an active licensure status in the State of Florida, but he was not engaging in the practice of medicine in Florida.

Admit _____ Deny _____

32. Respondent failed to notify Petitioner in writing of any change or circumstance regarding his qualification for exemption from financial responsibility.

Admit _____ Deny _____

33. Respondent failed to notify Petitioner of his change of status relating to his financial responsibility compliance at least ten (10) days prior to the change.

Admit _____ Deny _____

34. Respondent failed to notify Petitioner of his intent to practice medicine in the State of Florida, thereby failing to show compliance with the requirements of the financial responsibility law or show exemption therefrom prior to initiating the practice of medicine in Florida.

Admit _____ Deny _____

35. The documents attached and marked as, Exhibit A, are true and correct and certified copies of the Order and Verification of Voluntary Retirement and Consent Agreement for Permanent Non-Renewal of Licensure from the Commonwealth of Pennsylvania, Department of Health, State Board of Medicine and are admissible into evidence in the above-styled matter for the purposes of findings of facts.

Admit _____ Deny _____

36. The documents attached and marked as, Exhibit B, are true and correct and certified copies of the Interim Decision and Order from the State of New Jersey Department of Law and Public Safety, Division of Consumer Affairs, State Board of Medical Examiners and are admissible into evidence in the above-styled matter for the purposes of findings of facts.

Admit _____

Deny _____

37. The documents attached and marked as, Exhibit C, are true and correct and certified copies of the documents from the files of the State of New York Department of Health, Office of Professional Medical Conduct and are admissible into evidence in the above-styled matter for the purposes of findings of facts.

Admit _____

Deny _____

36. The documents attached and marked as, Exhibit B, are true and correct and certified copies of the Interim Decision and Order from the State of New Jersey Department of Law and Public Safety, Division of Consumer Affairs, State Board of Medical Examiners and are admissible into evidence in the above-styled matter for the purposes of findings of facts.

Admit _____

Deny _____

37. The documents attached and marked as, Exhibit C, are true and correct and certified copies of the documents from the files of the State of New York Department of Health, Office of Professional Medical Conduct and are admissible into evidence in the above-styled matter for the purposes of findings of facts.

Admit _____

Deny _____