

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

IN THE MATTER OF THE COMPLAINT :
AND STATEMENT OF CHARGES AGAINST : COMPLAINT AND STATEMENT
ABRAM ZELIKMAN, M.D. : OF CHARGES
RESPONDENT : 02-91-377

COMES NOW Dennis M. Carr, Acting Executive Director of the Iowa State Board of Medical Examiners (hereafter the Board), on January 28, 1993, and at the direction of the Board, files this Complaint and Statement of Charges against Abram Zelikman, M.D.(hereafter the Respondent), a physician licensed pursuant to Chapter 147 of the Code of Iowa and alleges:

1. That C. L. Peterson, D.O., Chairman; John W. Olds, M.D., Vice Chairman; Laura Stensrud, Secretary; Edra Broich; James Caterine, M.D.; Charlotte Cleavenger, D.O.; James D. Collins, Jr., M.D.; Mary C. Hodges; George G. Spellman, Sr., M.D.; and Johanna Whalen, M.D., are the duly appointed and qualified officers and members of the Board.

2. That the Respondent was issued license number 24565 to practice medicine and surgery in the State of Iowa on November 4, 1984, as recorded in the permanent records in the office of the Board.

3. That the Respondent's license is currently invalid due to expiration and nonrenewal.

4. That on or about October 2, 1989, an Order was issued by the Commissioner of Education on the behalf of State Education Department and the Board of Regents of the State of New York, revoking the Respondent's New York medical license.

5. That the Respondent did not notify the Board of the disciplinary action taken against him by the State Education Department and Board of Regents of the State of New York, the New York medical licensing authority, within thirty (30) days of final action as required.

6. That the Board is authorized to take disciplinary action against the Respondent pursuant to the provisions of sections 148.6(1) and 148.6(1)(d) of the 1991 Code of Iowa, as amended, which state in whole or in part:

148.6(1) - "The medical examiners, after due notice and hearing in accordance with chapter 17A, may issue an order to discipline a licensee for any of the grounds set forth in section 147.55, chapter 258A, or this subsection...

"Pursuant to this section, the Board of medical examiners may discipline a licensee who is guilty of any of the following acts or offenses:"

148.6(1)(d) - ""Having the license to practice medicine and surgery revoked... by a licensing authority of another state..."

7. That the Board is authorized to take disciplinary action against the Respondent pursuant to the provisions of 653 I.A.C. 12.4, 12.4(10), and 12.4(28) which state in whole or in part:

653-12.4 - "Grounds for discipline. The board may impose any of the disciplinary sanctions set forth in rule 12.2, including civil penalties in an amount not to exceed \$10,000, when the board determines that the licensee is guilty of any of the following acts or offenses:"

653-12.4(10) - "Failure to report a license revocation...by a licensing authority of another state...within thirty (30) days of the final action by such licensing authority..."

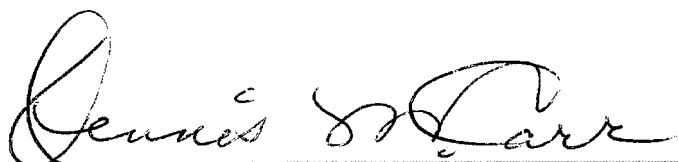
653-12.4(28) - "Violating any of the grounds for revocation or suspension of a license listed in Iowa Code sections...148.6"

8. That paragraphs 6 and 7 constitute grounds for the Board to revoke, suspend or otherwise discipline the license to practice medicine and surgery issued to the Respondent on November 4, 1984.

WHEREFORE the undersigned charges that the Respondent is subject to disciplinary action pursuant to the provisions of sections 148.6(1) and 148.6(1)(d) of the 1991 Code of Iowa, as amended, and 653 I.A.C. 12.4, 12.4(10), and 12.4(28). The undersigned prays that the Board enter an order fixing a time and place of hearing for the Complaint and Statement of Charges. The

undersigned further prays that upon final hearing, the Board enter its findings of fact and decision to revoke, suspend or otherwise discipline the license to practice medicine and surgery issued to the Respondent on November 4, 1984, and for such other relief as the Board deems just in the premises.

IOWA BOARD OF MEDICAL EXAMINERS

A handwritten signature in cursive script, reading "Dennis M. Carr". The signature is written in black ink and is positioned above a horizontal line.

Dennis M. Carr
Acting Executive Director
Executive Hills West
1209 East Court Avenue
Des Moines, IA 50319
Telephone: (515) 281-5171

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

IN THE MATTER OF THE)	02-91-377
COMPLAINT AND STATEMENT)	DIA NO. 93DPHMB-7
OF CHARGES AGAINST)	
)	FINDINGS OF FACT,
ABRAM ZELIKMAN, M.D.,)	CONCLUSIONS OF LAW,
)	DECISION AND ORDER
Respondent)	OF THE PANEL

TO: ABRAM ZELIKMAN, M.D.

On January 28, 1993, a Complaint and Statement of Charges was filed against Abram Zelikman, M.D., (Respondent) by the Iowa Board of Medical Examiners (Board) charging him with having his medical license revoked by another jurisdiction and failure to inform the Iowa Board of the revocation, in violation of Iowa Code section 148.6(1)(d) and 653 IAC 12.4(10) and (28). An Original Notice and Order for Hearing set the hearing for March 10, 1993. The hearing was continued.

The hearing was held before a panel of the Board on May 12, 1993, at 9:05 a.m. in the second floor conference room, Executive Hills West, 1209 East Court Avenue, Des Moines, Iowa. The Board panel included: Edra Broich; George Spellman, M.D.; and James Catherine, M.D. The Respondent did not appear nor was he represented by counsel. The State was represented by Rose Vasquez, Assistant Attorney General. The hearing was recorded by a certified court reporter and was open to the public. Margaret LaMarche, Administrative Law Judge from the Iowa Department of Inspections and Appeals, presided and was instructed to prepare this proposed decision of the panel.

THE RECORD

The record includes the Complaint and Statement of Charges, Original Notice, Order for Hearing, Order for Continuance, the testimony of the witness at the hearing, and the following exhibits:

- Exhibit A: Letter March 19, 1991 (Iowa Board to New York Board)
- Exhibit B: Letter March 25, 1991 (New York Board to Iowa Board)
- Exhibit C: Letter October 5, 1989 (New York Board to Respondent)
- Exhibit D: Report of the Review Committee

Exhibit E: Documentation of attempt to serve notice by certified mail

Exhibit F: Affidavits of Dennis Carr

Exhibit H: Affidavit of Publication

FINDINGS OF FACT

1. The Respondent was issued license number 24565 to practice medicine and surgery in the State of Iowa on November 4, 1984, as recorded in the permanent records in the office of the Board. The Respondent's license is currently invalid due to expiration and nonrenewal. (official file)

2. On October 2, 1989, an Order was issued by the Commissioner of Education on behalf of the State Education Department and the Board of Regents of the State of New York, revoking the Respondent's New York medical license. (testimony of Doug Brown; Exhibits A-D)

3. According to a certified copy of the Report and Order of the New York Board, the Respondent was found to have 1) practiced the profession with gross negligence; 2) practiced the profession with gross incompetence; 3) practiced the profession with negligence and/or incompetence on more than one occasion; 4) permitted an unlicensed person to practice medicine; 5) neglected a patient; (6) abandoned a patient in need of immediate professional care; 7) practiced the profession fraudulently; and 8) failed to maintain medical records. (testimony of Doug Brown; Exhibits A-D)

4. The Respondent did not report the license revocation order issued by the New York Board to the Iowa Board of Medical Examiners. (testimony of Doug Brown)

5. The Complaint and Statement of Charges, Order for Hearing, and Original Notice were sent to the Respondent by certified mail, restricted delivery, at his last known address. The mailing was returned to the Board marked "unclaimed" after three notices were left at the residence. (Exhibit E)

6. The Complaint and Statement of Charges, Order for Hearing, and Original Notice were subsequently sent to the Respondent by ordinary mail at his last known mailing address. (Exhibit F)

7. After attempts to locate and serve the Respondent were unsuccessful, notice was published in the Des Moines Register on March 19, March 26, and April 2, 1993. (Exhibit G)

CONCLUSIONS OF LAW

1. 653 IAC 12.50(9) provides that a written notice of hearing, together with a statement of the charges, shall be served upon the licensee at least 30 days before said hearing in the manner required for service of an original notice or by restricted certified mail, return receipt requested.

653 IAC 12.50(10) provides:

12.50(10) Notice by publication. If licensees have absented or removed themselves from the state, the notice and statement of the charges shall be so served at least 30 days before the date of the hearing, wherever the licensees may be found. If the whereabouts of the licensee is unknown, service may be had by publication as provided in the rules of civil procedure upon filing the affidavit required by the rules. In case the licensee fails to appear, either in person or by counsel at the time and place designated in said notice, the board shall proceed with the hearing as hereinafter provided.

653 IAC 12.50(21) provides that if a Respondent upon whom a proper notice of hearing has been served, fails to appear either in person or by counsel at the hearing, the Board or hearing panel shall proceed with the conduct of the hearing, and the Respondent shall be bound by the results of such hearing to the same extent as if the Respondent were present.

The Board unsuccessfully attempted to serve the Respondent by certified mail. The notice was also sent by regular mail. As a last resort, Respondent was properly served with notice by publication, and he is bound by the results of this hearing as if he had appeared.

2. Iowa Code section 148.6(1)(d) provides in relevant part:

Pursuant to this section the Board of medical examiners may discipline a licensee who is guilty of any of the following acts of offenses:

148.6(1)(d) Having the license to practice medicine and surgery revoked . . . by a licensing authority of another state . . .

The preponderance of the evidence established that the Respondent violated Iowa Code section 148.6(1)(d) when his license to practice medicine and surgery in the state of New York was revoked.

3. 653 IAC 12.4(10) and (28) provide:

653 - 12.4 Grounds for discipline. The Board may impose any of the disciplinary sanctions set forth in rule 12.2, including civil penalties in an amount not to exceed \$10,000, when the board determines that the licensee is guilty of any of the following acts or offenses:

653 - 12.4(10) Failure to report a license revocation . . . by a licensing authority of another state . . . within thirty (30) days of the final action by such licensing authority . . .

653 - 12.4(28) Violating any of the grounds for revocation or suspension of a license listed in Iowa Code sections . . . 148.6.

The preponderance of the evidence established that the Respondent violated 653 IAC 12.4(10) and (28) when he failed to report the revocation of his New York medical license to the Iowa Board.

DECISION AND ORDER

It is hereby ORDERED that when this Proposed Decision and Order of the panel becomes a final decision, the medical license of Abram Zelikman, M.D., number 24565, shall be REVOKED.

In accordance with 653 IAC 12.50(29), a proposed decision becomes a final decision unless appealed to the Board by a party adversely affected by serving a notice of appeal on the executive director within thirty (30) days after service of this proposed decision. The Board may also review a proposed decision on its own motion.

Dated this *2nd* day of *June*, 1993.

THE PANEL:

Edra Broich

Edra Broich, Public Member

George E. Spellman, M.D.

George Spellman, M.D.

James Caterine

James Caterine, M.D.

ML/jmm

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

IN THE MATTER OF THE COMPLAINT *
*
AND STATEMENT OF CHARGES AGAINST * ORDER
*
ABRAM ZELIKMAN, M.D., * 02-91-377
*
RESPONDENT *
*


NOW ON Oct. 5, 1993, BE IT REMEMBERED:

1. That Abram Zelikman, M.D., (hereafter the Respondent), was issued a license to practice medicine and surgery in the state of Iowa, on November 4, 1984, as evidenced by certificate number 24565, which is recorded in the permanent records in the office of the Iowa State Board of Medical Examiners (hereafter the Board).
2. That a Complaint and Statement of Charges was filed against the Respondent, on November 12, 1992, and a hearing was held on the said Complaint and Statement of Charges before a three member panel of the Board on May 12, 1993.
3. That a Findings of Fact, Conclusions of Law, Decision and Order of the Panel (hereafter Proposed Decision of the Panel) was issued on June 2, 1993. On June 2, 1993, a copy of the same was sent to the Iowa Attorney General's Office, via LOCAL mail. The said Proposed Decision of the Panel was accepted without appeal by the Board on June 3, 1993.
4. That on August 23, 1993, completed service of a notice of issuance of the said Proposed Decision of the Panel was made on the Respondent via publication.

5. That pursuant to Rule 653-12.50(29) of the Iowa Administrative Code, thirty (30) days having passed and no appeal of the said Proposed Decision of the Panel, having been filed by the Respondent or any other party to proceeding the said Proposed Decision of the Panel became a final order of the Board.

6. That pursuant to Sections 148.6(1), 148.6(2) and 148.7(7) of the 1993 Code of Iowa the undersigned is authorized to enter an Order herein.

THEREFORE IT IS ORDERED that Iowa medical license number 24565 issued to the Respondent is **REVOKED**.



Charlotte A. Cleavenger, D.O., Chair
IOWA STATE BOARD OF MEDICAL EXAMINERS
1209 East Court Avenue
Des Moines, IA 50319-0180