

**BEFORE THE MEDICAL LICENSING
BOARD OF INDIANA
CAUSE NO. 2008 MLB 0001**

**IN THE MATTER OF THE LICENSE OF)
MARTIN DEE BONNEY, M.D.)
LICENSE NUMBER: 01047187A)**



ORDER WITHDRAWING PROBATION

A hearing having been held on September 27, 2012, on a petition for withdrawal of probation, the Medical Licensing Board of Indiana, by a vote of 6-0-0, now issues its Order Withdrawing Probation as follows:

FINDINGS OF FACT

1. This matter is before the Board on Martin Dee Bonney's ("Respondent") petition for withdrawal of his probation. In its Stipulated Findings of Fact, Stipulated Conclusions of Law, Ultimate Findings of Fact, Conclusion of Law and Order issued on March 6, 2008, the Board placed the Respondent on indefinite probation with no right to petition for withdrawal of the probation until he completed his recovery contract with the Indiana State Medical Association's Physicians Assistance Program {"ISMA"}. Various terms and conditions were imposed. The discipline was based on drug dependency and prescribing various controlled substances to his spouse with the knowledge that she was addicted.

2. The Respondent has established that the deficiency that required disciplinary action has been remedied. He has completed his five year ISMA contract. ISMA's Candace Backer testified that ISMA supported the Respondent and that he has "done very well in recovery."

CONCLUSIONS OF LAW

1. Ind. Code § 25-1-9-9(b) states in pertinent part that:

The board may withdraw or modify [a] probation [imposed in a disciplinary proceeding] if it finds, after a hearing, that the deficiency that required disciplinary action has been remedied, or that changed circumstances warrant a modification of the order.

2. Because the Respondent has established that the deficiency that required disciplinary action has been remedied, he qualifies for withdrawal of his probation.

ORDER

IT IS HEREBY ORDERED that the Respondent's petition for withdrawal of his probation is granted and therefore his probation is withdrawn.

ISSUED this 04 day of October, 2012.

MEDICAL LICENSING BOARD OF INDIANA

By: 

Frances L. Kelly

Executive Director

Indiana Professional Licensing Agency

CERTIFICATE OF SERVICE

I certify that a copy of the "Order Withdrawing Probation" has been duly served upon:

Martin Dee Bonney, M.D.
Emergency Physicians of Indianapolis, PC
8111 South Emerson Avenue
Indianapolis, Indiana 46237
Service by U.S. Mail

Martin Dee Bonney, M.D.
1764 Halifax Street
Carmel, Indiana 46032
Service by U.S. Mail

Michael Minglin
Senior Deputy Attorney General
Office of the Attorney General
Indiana Government Center South
302 West Washington Street, Fifth Floor
Indianapolis, IN 46204
Michael.Minglin@atg.in.gov
Service by Email

10-4-12
Date

Donna Moran
Donna Moran, Litigation Specialist

Medical Licensing Board of Indiana
Indiana Government Center South
302 West Washington St., Fifth Floor
Indianapolis, IN 46204
Phone: 317-234-2060
Fax: 317-233-4236
Email: pla3@pla.in.gov

Explanation of Service Methods

Personal Service: by delivering a true copy of the aforesaid document(s) personally.

Service by U.S. Mail: by serving a true copy of the aforesaid document(s) by First Class U.S. Mail, postage prepaid.

Service by Email: by sending a true copy of the aforesaid document(s) to the individual's electronic mail address.

BEFORE THE MEDICAL LICENSING
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IN THE MATTER OF THE)
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MARTIN DEE BONNEY, M.D.)
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**STIPULATED FINDINGS OF FACT, STIPULATED CONCLUSIONS OF LAW,
ULTIMATE FINDINGS OF FACT AND ORDER**

The Petitioner, the State of Indiana, by Deputy Attorney General Elizabeth E. Kiefner, Division of Consumer Protection (“Petitioner”), and the Respondent, Martin Dee Bonney, M.D., (“Respondent”), by Counsel Brian D. Jent of Hall Render Killian Heath and Lyman, P.C., signed an Agreement that purports to resolve all issues involved in the action by the Petitioner before the Medical Licensing Board of Indiana (“Board”) regarding Respondent’s license, and which Agreement has been submitted to the Board for approval.

The Board, after reviewing the Agreement at the February 28, 2008, meeting, now finds it has been entered into fairly and without fraud, duress or undue influence, and is fair and equitable between the parties. The Board hereby incorporates the Agreement as if fully set forth herein and approves and adopts in full the Agreement as a resolution of this matter. The Board approved this Agreement by a vote of 4 in favor, 0 against and 1 abstaining. The Board hereby issues the following Stipulated Findings of Fact, Stipulated Conclusions of Law, Ultimate Findings of Fact, and Order:

STIPULATED FINDINGS OF FACT

1. The Attorney General of Indiana is empowered to bring disciplinary complaints in the name of the State of Indiana before the Board pursuant to Indiana Code §_25-1-7 *et seq.*

2. The Board is charged with the duty and responsibility of regulating the practice of medicine pursuant to Ind. Code §_25-22.5-2-7.

3. The Board is empowered to hold disciplinary hearings pursuant to the authority of Ind. Code §_4-21.5-3 *et seq.*

4. Respondent's address on file with the Board is 2921 Shadow Lake Drive, Indianapolis, IN 46217, and he is a licensed medical doctor holding Indiana license number 01047187A.

5. In June 2003, Respondent requested a Drug Enforcement Administration ("DEA") Certificate of Registration for use in the State of Indiana. Respondent previously registered with DEA in the State of Kentucky where he practiced from 1998 to 2003.

6. In December 2003, DEA began an investigation into the prescribing practices of Respondent. Specifically, local pharmacies contacted DEA with concerns that Respondent was writing controlled substance prescriptions for his spouse.

7. The DEA investigation revealed that Respondent prescribed a large number of quantities of controlled substances for his spouse, including Hydrocodone-based products, Oxycodone, Ambien, Lorazepam, and Duragesic patches. Respondent and his spouse also received prescriptions for Suboxone for opiate dependence. In 2004

Respondent and his wife were dismissed from the practice of a physician for non-compliance with the Suboxone treatment plan.

8. In June 2005 Respondent's Kentucky DEA number was voluntarily surrendered during the course of an investigation by DEA's Louisville office. At that time, Respondent no longer practiced or resided in the State of Kentucky.

9. Respondent was interviewed by DEA staff in November 2005. At that time he admitted that he wrote prescriptions for his spouse due to her addiction to Hydrocodone. He also indicated that he knew his spouse was using multiple pharmacies to fill her prescriptions to avoid detection of the quantities of controlled substances she was receiving. Respondent also admitted that he wrote prescriptions for a friend of his wife and other family members, including his in laws and brother-in-law without maintaining proper medical records.

10. In July 2006 Respondent entered into a Memorandum of Agreement ("MOA") with the Drug Enforcement Administration. The MOA indicated that Respondent agreed to prescribe controlled substances only to patients "in an emergency room department setting pursuant to a legitimate medical purpose backed by the appropriate medical record" and that he would not prescribe controlled substances to any member of his immediate family or himself. The MOA is in effect from July 2006 to July 2009.

11. In June 2007 Respondent was seen by Melanie Margiotta, M.D., for an addictionology examination. Respondent was diagnosed with opioid dependence, insomnia, obstructive sleep apnea, and depressive disorder. Respondent admitted that he

developed an opiate dependence in 2004 and that he had never been in an addiction recovery program.

12. In September 2007 Respondent entered into a five (5) year recovery monitoring agreement with the Indiana State Medical Association's ("ISMA") Physician Assistance Program.

STIPULATED CONCLUSIONS OF LAW

1. Respondent admits a violation of Indiana Code § 25-1-9-4(a)(4)(D), in that, Respondent continued to practice although unfit due to addiction to, abuse of, or severe dependency upon alcohol or other drugs that endanger the public by impairing a practitioner's ability to practice safely as evidenced by Respondent's admitted opiate addiction.

2. Respondent admits a violation of Indiana Code § 25-1-9-4(a)(9), in that, the Respondent knowingly prescribed, sold, or administered any drug classified as a narcotic, addicting, or dangerous drug to a habitué or addict as evidenced by Respondent's admission that he prescribed numerous controlled substances, including Oxycodone, Hydrocodone, Duragesic, and Lorazepam, to his spouse with the knowledge that she was addicted to opiates.

ULTIMATE FINDINGS OF FACT

Respondent's violation is cause for disciplinary sanctions that may be imposed singly or in combination such as censure, a letter of reprimand, probation, suspension, or revocation and a fine up to the amount of \$1,000 per violation as detailed at Ind. Code § 25-1-9-9.

ORDER

1. The Board has jurisdiction over the Respondent and the subject matter in this disciplinary action commenced on January 9, 2008.

2. The parties execute this Agreement voluntarily.

3. Respondent and Petitioner voluntarily waive their rights to a public hearing on the Complaint and all other proceedings in this action to which either party may be entitled by law, including judicial appeal or review.

4. Petitioner agrees that the terms of this Agreement will resolve any and all outstanding claims or allegations or potential claims or allegations relating to disciplinary action against Respondent's license arising from this Complaint for the period between March 2007 and the date of the Final Order.

5. Respondent has carefully read and examined this Agreement and fully understands its terms and that, subject to a final order issued by the Board, this Agreement is a final disposition of all matters and not subject to further review.

6. The Respondent shall be placed on **INDEFINITE PROBATION**. The Respondent may not petition the Board to lift the probation until he has successfully completed his recovery contract with ISMA. The Respondent's probation shall be monitored with the following terms and conditions:

A. Respondent shall keep the Board apprised of the following information and update it within seven (7) days of any change:

1. Current home address, mailing address, and residential phone number;

2. Place of employment, employment telephone number, and name of supervisor; and
 3. Occupation title, work schedule, including the number of hours worked per week;
- B. Respondent shall provide a copy of all Board orders imposing discipline or limiting his practice to all employers who shall sign and return a copy of such orders to the Board within seven (7) days of employment or receipt of the order.
- C. Respondent shall cause his employer to submit reports to the Board advising the Board of his professional competence, sense of responsibility, work habits, mental attitude, and ability to work with others on a monthly basis for the first six (6) months; then on a quarterly basis until the fourth and fifth years of probation in which a report will be issued on an annual basis.
- D. Respondent shall attend personal appearances before the Board monthly for the first six months of probation and quarterly thereafter until the fourth and fifth years in which he will only be required to report to the Board one time.
- E. Respondent shall remain in total compliance with all terms of his monitoring agreement with the Indiana State Medical Association's Physician Assistance Program.

F. Respondent shall notify the Board in writing within forty-eight (48) hours of any relapse.

G. Respondent shall perform twenty (20) hours of community service within the first year of his probation.

H. Respondent shall continue to follow all of the treatment recommendations of Dr. Melanie Margiotta, or her successor.

I. Respondent shall attend fifteen (15) hours of continuing education in addition to any continuing education already required in the areas of ethical prescribing and boundaries (12 hours) and medical record keeping/documentation (3 hours). Respondent shall provide the Board with proof of completion of this continuing education within one (1) year of the date of the final order in this matter.

7. Respondent further understands that failure to comply with the Board's order may result in the State requesting an emergency suspension of Respondent's license, as well as possible reinstatement of the initial action giving rise to this resolution, an Order to Show Cause as may be issued by the Board, or a new cause of action being filed pursuant to Indiana Code § 25-1-9-4(a)(10), any or all of which could lead to additional sanctions, up to and including a revocation of Respondent's license.

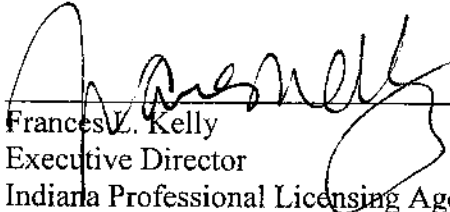
8. The parties agree to the continuing jurisdiction of the Board

9. The Respondent agrees to pay for a copy of the transcript of the presentation of this Agreement to the Board. A check in the amount of \$135.00, payable to "Rutledge Independent Reporters" shall be sent to the attention to the Board.

So ORDERED, ADJUDGED, and DECREED, this 06 day of March,

2008.

MEDICAL LICENSING BOARD OF INDIANA



Frances L. Kelly
Executive Director
Indiana Professional Licensing Agency

Copies To:

Brian D. Jent
Hall Render Killian, Heath & Lyman, P.C.
One American Square, Suite 2000
Box 82064
Indianapolis, IN 46282

Martin Dee Bonney, M.D.
2921 Shadow Lake Drive
Indianapolis, IN 46217
CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Elizabeth E. Kiefner, Deputy Attorney General
Office of the Attorney General
302 West Washington Street, Fifth Floor
Indianapolis, Indiana 46204-2770

BEFORE THE INDIANA STATE
MEDICAL LICENSING BOARD
CAUSE NO. 2008 MLB 0001

IN THE MATTER OF THE)
)
LICENSE OF MARTIN DEE BONNEY, M.D.)
)
LICENSE NO: 01047187A)
)



COMPLAINT

This complaint is brought against the medical license of Martin Dee Bonney, M.D., by the State of Indiana, by counsel, Deputy Attorney General, Elizabeth E. Kiefner, on behalf of the Office of the Attorney General (“Petitioner”) and pursuant to Indiana Code § 25-1-7-7, Ind. Code §25-1-5-3, Ind. Code §25-22.5 et seq., the Administrative Orders and Procedures Act, Ind. Code § 4-21.5-3 et seq. and Ind. Code § 25-1-9-1 et seq., and in support alleges and states:

FACTS

1. Respondent’s address on file with the Indiana Medical Licensing Board is 2921 Shadow Lake Drive, Indianapolis, IN 46217, and he is a licensed medical doctor holding Indiana license number 01047187A.

2. In June 2003 Respondent requested a Drug Enforcement Administration (“DEA”) Certificate of Registration for use in the State of Indiana. Respondent previously registered with DEA in the State of Kentucky where he practiced from 1998 to 2003.

3. In December 2003 DEA began an investigation into the prescribing practices of Respondent. Specifically, local pharmacies contacted DEA with concerns that Respondent was writing controlled substance prescriptions for his spouse.

4. The DEA investigation revealed that Respondent a large number of prescriptions for his spouse for controlled substances including Hydrocodone-based products, Oxycodone, Ambien, Lorazepam, and Duragesic patches. Respondent and his spouse also received prescriptions for Suboxone for opiate dependence. Respondent and his wife were dismissed from the practice of a physician for non-compliance with the Suboxone treatment plan.

5. In June 2005 Respondent's Kentucky DEA number was surrendered for cause to DEA's Louisville office.

6. Respondent was interviewed by DEA staff in November 2005. At that time he admitted that he wrote prescriptions for his spouse due to her addiction to Hydrocodone. He also indicated that he knew his spouse was using multiple pharmacies to fill her prescriptions to avoid detection of the quantities of controlled substances she was receiving. Respondent also admitted that he wrote prescriptions for a friend of his wife and other family members including his in laws, and brother in law without maintaining proper medical records.

7. In July 2006 Respondent entered into a Memorandum of Agreement ("MOA") with the Drug Enforcement Administration. The MOA indicates that Respondent agreed to prescribe controlled substances only to patients "in an emergency room department setting pursuant to a legitimate medical purpose backed by the appropriate medical record" and that he would not prescribe controlled substances to any

member of his immediate family or himself. The MOA is in effect from July 2006 to July 2009.

8. In June 2007 Respondent was seen by Melanie Margiotta, M.D. for an addictionology examination. Respondent was diagnosed with opioid dependence, insomnia, obstructive sleep apnea, and depressive disorder. Respondent admitted that he developed an opiate dependence in 2004 and that he had never been in an addiction recovery program.

9. In September 2007 Respondent entered into a five (5) year recovery monitoring agreement with the Indiana State Medical Association's Physician Assistance Program. At the time of the filing of this Complaint Respondent is in compliance with ISMA's program.

COUNT I

The conduct described above constitutes a violation of Indiana Code § 25-1-9-4(a)(4)(D) in that Respondent continued to practice although unfit due to addiction to, abuse of, or severe dependency upon alcohol or other drugs that endanger the public by impairing a practitioner's ability to practice safely as evidenced by Respondent's admitted opiate addiction.

COUNT II

The conduct described above constitutes a violation of Indiana Code § 25-1-9-4(a)(9) in that the Respondent knowingly prescribed, sold, or administered any drug classified as a narcotic, addicting, or dangerous drug to a habitué or addict as evidenced by Respondent's admission that he prescribed numerous controlled substances including Oxycodone, Hydrocodone, Duragesic, and Lorazepam to his spouse with the knowledge that she was addicted to opiates.

COUNT III

The conduct described above constitutes a violation of Indiana Code § 25-1-9-4(a)(4)(B) failure to keep abreast of current theory or practice to wit Indiana Code 16-39-7-1 as evidenced by Respondent wrote prescriptions for numerous individuals including his spouse, family members, and friends without keeping medical records.

WHEREFORE, Petitioner demands an order against the Respondent, that:

1. Imposes the appropriate disciplinary sanction;
2. Directs Respondent to immediately pay all the cost incurred in the prosecution of this case;
3. Provides any other relief the Board deems just and proper.

Respectfully submitted,

STEVE CARTER
Attorney General of Indiana

By: Elizabeth E. Kiefner

Elizabeth E. Kiefner
Deputy Attorney General
Attorney Number: 24261-49

Office of the Attorney General
Indiana Government Center South, Fifth Floor
302 West Washington Street
Indianapolis, Indiana 46204-2770
(317) 234-2257

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing "Complaint" has been served upon the Respondent listed below, by United States mail, first class postage prepaid, on this 9th day of January, 2008.

Brian D. Jent
Hall Render Killian, Heath & Lyman, P.C.
One American Square, Suite 2000
Box 82064
Indianapolis, IN 46282

Elizabeth E. Kiefner

Elizabeth E. Kiefner
Deputy Attorney General