

DIVISION OF OCCUPATIONAL LICENSING

Frank H. Murkowski, Governor

**CERTIFIED # 7002 3150 0001 1620 3823
RETURN RECEIPT REQUESTED**

January 24, 2005

Michael R. Bernzott, M.D.
C/o Dennis P. Maloney, Esquire
2525 C Street, Suite 425
Anchorage, Alaska 99503

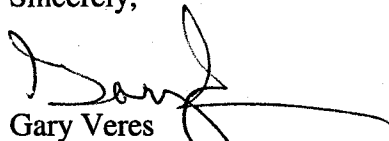
Dear Dr. Bernzott:

RE: Case Nos. 2800-95-019, 2800-01-081 & 2800-03-043

This letter shall serve as formal notice to you that the State Medical Board, during its January 20, 2005 meeting, adopted the Memorandum of Agreement presented to the Board by members of the staff from the Division of Occupational Licensing. A copy of this signed agreement between yourself and the Board, as adopted, is enclosed.

Should you have any questions regarding this matter, please do not hesitate to contact me at the above listed address and telephone number.

Sincerely,



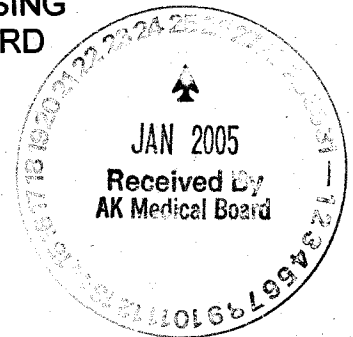
Gary Veres
Chief Investigator

Enclosure

cc: All Members, State Medical Board
Rick Urion, Director
Barbara Gabier, Chief, Occupational Licensing w/original
Hearing Officer Unit
Robert Auth, Assistant Attorney General
Colin Matthews, Investigator
Deborah L. Finley, Investigator
✓ Leslie Gallant, Executive Administrator
Dennis Maloney, Attorney
File: 2800-95-019, 2800-01-081 & 2800-03-043

JGV:ab

STATE OF ALASKA
DEPARTMENT OF COMMERCE
COMMUNITY AND ECONOMIC DEVELOPMENT
DIVISION OF OCCUPATIONAL LICENSING
BEFORE THE STATE MEDICAL BOARD



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In the Matter of:)
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Michael R. Bernzott, M.D.)
)
Respondent)
Case No: 2800.95.019, 2800.01.081 & 2800.03.043

MEMORANDUM OF AGREEMENT

IT IS HEREBY AGREED by the Department of Commerce, Community and Economic Development, Division of Occupational Licensing (Division) and Michael R. Bernzott, M.D. (Bernzott) as follows:

1. Licensure. Bernzott is currently licensed as a Physician in the State of Alaska, and holds License number #3099. This license was first issued on August 31, 1985 and was revoked by Default Judgment on October 21, 2004.
2. Admission/Jurisdiction. Bernzott admits and agrees that the State Medical Board (Board) has jurisdiction over the subject matter of his license in Alaska and over this Memorandum of Agreement (MOA).
3. Admission/Facts. Bernzott admits to the following facts:
 - a. that on August 24, 1995, he participated in a treatment team meeting which was held in a conference room at North Star Hospital, Anchorage, Alaska, and that Patient M.L.T. was the subject of the meeting.
 - b. that subsequent to him "setting up the exercise" he identified as something which might seem "a little weird," Bernzott removed a handgun from a holster on his person and placed the handgun on a desk within reach of patient M.L.T. Bernzott states the handgun was not loaded.
 - c. that according to Bernzott, the patient asked permission to pick up the hand gun, received permission from Bernzott to do so, and then upon request, returned it to Bernzott. It appeared to one or more of the staff members that the patient waived the gun around before returning it to Bernzott.

State Of Alaska
Department Of Commerce
Community And Economic Development
Division of Occupational Licensing
550 West 7th Avenue, Anchorage, Alaska 99501
Phone 907-269-8160 Fax 907-269-8195

1 d. that when M.L.T. asked if the handgun was loaded, Bernzott verbally
2 responded by saying, "Oh absolutely."

3 e. that Bernzott's actions have been construed by some to not follow the
4 basic principles of either psychoanalytically oriented psychotherapy or of
5 behavioral therapy.

6 f. that Bernzott's actions constitute a significant error in clinical judgment.

7 g. that Bernzott failed to fully perceive the potential impact of his actions
8 on treatment team members.

9 h. that a psychiatrist who reviewed this matter stated "it is unlikely that an
10 episode of this nature will occur in the future", and a licensed psychologist in
11 Anchorage, Alaska, with whom Bernzott initiated and engaged in peer review
12 meetings for approximately three years, stated "it is unlikely that Dr. Bernzott
13 would repeat a similar intervention again."

14 i. that on May 21, 2001, Bernzott received a written request for a complete
15 copy of the medical records of patient A.K., a minor child. The request was made
16 by R.K., the minor child's father/legal guardian.

17 j. that on May 23, 2001, Bernzott replied to R. K.'s written request but did
18 not supply a complete copy of the minor child's medical records as requested. In
19 his response to the Division, Bernzott expressed concerns about the welfare of
20 the patient if he released the records to R.K.

21 k. that Bernzott has still not provided the records to R.K.

22 l. that on March 11, 2003, in Alaska, Bernzott signed an application for a
23 license to practice medicine in Arizona, and in response to Question No.10 of
24 that application, which reads "Are you currently under investigation by any
25 medical board or peer review body?", Bernzott answered NO.

26 m. At the time he submitted the Arizona application, Bernzott was, and
27 still is, under active investigation by this Division on behalf of the Board.

28 n. that Bernzott's answer to Question 10 of the Arizona application is false.
29 On September 9, 2003, a representative of the Arizona Medical Board reported
30 that Bernzott had been allowed to withdraw his Arizona application in lieu of
31 possible Board denial of his application.

1 o. that on June 24, 2003, the Division filed an Accusation, which was
2 served on Bernzott via U.S. Certified Return Receipt Mail 7001 2510 0004 2031
3 7003, which was signed for at Bernzott's Arizona address on June 24, 2004. He
4 did not respond to the Notice of Defense.

5 p. that on August 11, 2004, the Division filed a Motion For Default
6 Judgment to revoke Bernzott's Alaska medical license, and on October 21, 2004,
7 the Board entered an Order revoking his Alaska medical license.

8 q. that upon acceptance of this agreement by the Board his Alaska license
9 will be reinstated with an expiration date of December 31, 2004, as it was prior to
10 the revocation. To renew his license he must meet all licensing requirements
11 under AS 08.64.

12 Bernzott admits that as a result of the above facts, grounds exist for
13 possible suspension, revocation, or other disciplinary sanctions of his physician
14 license pursuant to AS 08.01.075, AS 08.64.326 (a)(1) (7) (8) (A), and 12 AAC
15 40.967 (11).

16 4. Formal Hearing Process. It is the intent of the parties to this MOA to provide
17 for the compromise and settlement of all issues that have been raised by the
18 Accusation filed on June 24, 2004 to revoke, suspend, or impose disciplinary
19 sanctions against Bernzott's physician license through a formal hearing process.

20 5. Waiver of Rights. Bernzott has consulted with an attorney of his own choosing
21 and understands he has the right to appeal the revocation Order to Superior
22 Court. He understands and agrees that by signing this MOA, he is waiving his
23 rights to appeal that Order. Further, he understands and agrees that he is
24 relieving the Division of any burden it has of proving the facts he admits above.
25 Bernzott understands and agrees that by signing this MOA he is voluntarily and
26 knowingly giving up his right to present oral and documentary evidence, to present
27 rebuttal evidence, and to cross-examine witnesses against him.

28 6. Effect of Nonacceptance of Agreement. Bernzott and the Division agree that
29 this MOA is subject to the approval of the Board. They agree that if the Board
30 rejects this MOA, it will be void, and the October 21, 2004 revocation Order will
31 remain in effect.

1 7. Memorandum of Agreement, Decision and Order. Bernzott agrees that the
2 Board has the authority to enter into this MOA and to issue the following Decision
3 and Order.

4 PROPOSED DECISION AND ORDER

5 IT IS HEREBY ORDERED that the physician license issued Bernzott shall
6 be subject to the following terms and conditions.

7 A. Civil Fine. Bernzott shall pay a fine of \$10,000.00, with \$4,000.00
8 suspended, in certified check or money order payable to the State of Alaska within
9 ninety (90) days after this MOA is adopted by the Board. If Bernzott fails to pay
10 the \$6,000.00 within the ninety (90) days, the entire amount of the fine
11 (\$10,000.00), will become immediately due and payable.
12

13 All payments required by this MOA shall be addressed to:

14 Gary Veres, Chief Investigator
15 Division of Occupational Licensing
16 550 West 7th Avenue, Suite 1500
17 Anchorage, Alaska 99501-3567

18 B. Reprimand. The Board hereby reprimands you for allowing patient M.L.T. to
19 take physical possession of a handgun. Although you contend the handgun was
20 unloaded, and that your actions were intended as therapy for M.L.T., your actions
21 purportedly caused a great deal of fear among some staff members who were
22 present in the room with you and M.L.T. There is no indication the patient
23 suffered any harm as a result of your actions. It has been opined your actions did
24 not follow basic principles of either psychoanalytically oriented psychotherapy or
25 of behavioral therapy. You committed a significant error in clinical judgment in this
26 instance.

27 You are also reprimanded for your failure to provide medical records to a person
28 authorized to receive the records within the ninety days specified by professional
29 regulations pertaining to the practice of medicine in Alaska. Although you did
30 send a letter to the requesting parent, you did not provide the records he
31

1 requested. The Board expects you to comply with laws relating to the practice of
2 medicine in Alaska.

3 You are also reprimanded for failing to provide accurate information to the State
4 of Arizona in relation with your application for a license to practice medicine in that
5 state, by failing to disclose the fact you were under investigation by this Board.

6 C. Use of Firearms in Treatment of Patients. Bernzott shall totally refrain from
7 utilizing any firearms in connection with his treatment of patients.

8 D. Compliance with Agreement. If Bernzott fails to comply with any term or
9 condition of this MOA, his physician's license shall be automatically suspended. If
10 his license is suspended under this paragraph, he will be entitled to a hearing
11 regarding the issue of the suspension. If Bernzott's license is suspended, he will
12 continue to be responsible for all license requirements pursuant to AS 08.64.

13 E. Good Faith. All parties agree to act in good faith in carrying out the stated
14 intentions of this MOA.

15 F. Address of the Board. All communication concerning compliance with this
16 MOA shall be addressed to:

17 Colin Matthews, Investigator
18 550 West 7th Avenue, Suite 1500
19 Anchorage, Alaska 99501
20 Telephone Number (907) 269.8179 Fax Number (907) 269.8195

21 IT IS HEREBY FURTHER ORDERED that this Order shall take effect
22 immediately upon its adoption by the Board and is a public document of the Board
23 and the State of Alaska. The State may provide a copy of it to any person or
24 entity.

25 DATED this 10th day of January, 2005, at Anchorage, Alaska.

26 
27 EDGAR BLATCHFORD, COMMISSIONER

28 By: Gary Veres, Chief Investigator for
29 Richard Urion, Director
30 Division of Occupational Licensing
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I, Michael R. Bernzott, have read the MOA, understand it, and agree to be bound by its terms and conditions.

DATED: 3 JAN 2005 Michael R. Bernzott

SUBSCRIBED AND SWORN TO before me this 3rd day of JANUARY, 2005 at Chandler, Arizona.



Notary Public in and for Arizona.
My Commission expires 11 JAN 2005

ORDER

The State Medical Board for the State of Alaska, having examined the MOA and Proposed Decision and Order, Case No: 2800.95.019, 2800.01.081 and 2800.03.043, adopted the MOA and Decision and Order in this matter on

January 20, 2005.

DATED this 20th day of January, 2005, at Anchorage, Alaska.

STATE MEDICAL BOARD

By: David Headman
Chairperson

Bernz10/CM

State Of Alaska
Department Of Commerce
Community And Economic Development
Division of Occupational Licensing
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Phone 907-269-8160 Fax 907-269-8195