

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Application of:)	File No. 20-2010-207773
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)	
)	
CHRISTOPHER ERIC BERGER)	
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Applicant.)	
_____)	


DECISION AND ORDER

The attached Stipulation for a Probationary License is hereby accepted and adopted as the Decision and Order by the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on **July 16, 2010**, and the license will be issued and probation will commence only upon applicants completion of any remaining requirements for licensure.

ORDERED July 9, 2010

MEDICAL BOARD OF CALIFORNIA

By: 
Shelton Duruisseau, Ph.D., Chair
Panel A

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Application of:)	Case No. 20-2010-207773
)	
CHRISTOPHER ERIC BERGER)	STIPULATION FOR A
)	PROBATIONARY LICENSE
For a Physician's and Surgeon's)	
License)	
_____)	

- 1) Christopher Eric Berger, applicant for a physician's and surgeon's license (hereinafter "applicant"), and Deborah Pellegrini, Chief of the Licensing Program of the Medical Board of California, hereby stipulate as follows:
- 2) The applicant has satisfactorily met all of the requirements for medical licensure in California.
- 3) In June 2009, the applicant submitted an application for physician's and surgeon's licensure in the state of California. In response to Questions # 18 and 19 on the application relative to substance addiction diagnosis and treatment, the applicant responded in the affirmative. The applicant has sustained a period of recovery and rehabilitation from his condition.
- 4) Section 480 (a) of the Business and Professions Code states that a board may deny a license on the grounds that the applicant has one of the following: (a)(3) done any act which if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license. Sections 2234 and 2239 states that the Board may take action for unprofessional conduct, including conduct related to excessive use of alcohol and/or drugs. The above support a conclusion that grounds for denial exist pursuant to Sections 480(a)(3), 2234 and 2239 of the Business and Professions Code.
- 5) Under Section 2221 of the Business and Professions Code, the Medical Board of California (Board) may deny a license to an applicant because of unprofessional conduct. Alternatively, the Board has the discretionary authority to issue a probationary license with terms and conditions.
- 6) The applicant acknowledges he has a right to request a Statement of Issues and a hearing upon denial of license for cause. Applicant waives notice of hearing and judicial review in favor of this Stipulation for a Probationary License, which is subject to approval by the Board. If not approved, this Stipulation is null and void and may not be used for any purpose.
- 7) This Stipulation for a Probationary License shall be subject to approval by the Medical Board of California. Applicant understands and agrees that counsel for the staff

of the Medical Board of California may communicate directly with the Board regarding this proposed Stipulation, without notice to or participation by applicant or his counsel. By signing the Stipulation, applicant understands and agrees that he may not withdraw his agreement or seek to rescind the Stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this Stipulation, the offer of a Stipulation for a Probationary License shall be of no force or effect; except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

The staff recommends to the Board that a Probationary License be issued as follows:

ORDER

IT IS ORDERED THAT CHRISTOPHER ERIC BERGER, applicant, be issued a physician's and surgeon's license on a probationary basis, subject to the following terms and conditions:

- 1) Applicant is placed on probation for a period of three years. Probation shall begin on the date the applicant is issued a probationary license.
- 2) Applicant shall immediately submit to biological fluid testing, at applicant's expense, upon request of the Board or its designee. Prior to practicing medicine, applicant shall, at applicant's expense, contract with a laboratory service-approved in advance by the Board or its designee-that will conduct random, unannounced, observed, urine testing a minimum of four times each month. The contract shall require results of the urine tests to be transmitted by the laboratory or service directly to the Board or its designee within four hours of the results becoming available. Failure to maintain this laboratory or service during the period of probation is a violation of probation. A certified copy of any laboratory test may be received in evidence in any proceedings between the Board and applicant. Failure to submit to or comply with the time frame for submitting to, or failure to complete the required biological fluid testing, is a violation of probation.
- 3) Applicant shall abstain completely from the use of products or beverages containing alcohol.
- 4) Applicant shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, dangerous drugs as defined by Business and Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not apply to medications lawfully prescribed to applicant by another practitioner for a bona fide illness or condition.

Within fifteen (15) calendar days of receiving any lawful prescription medications, applicant shall notify the Board or its designee of the: issuing practitioner's name, address and telephone number; medication name and strength; and issuing pharmacy name, address and telephone number.

- 5) Prior to engaging in the practice of medicine the applicant shall provide a true copy of the Stipulation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to applicant, at any other facility where applicant engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to applicant. Applicant shall submit proof of compliance to the Board or its designee within fifteen (15) calendar days.
- 6) During probation, applicant is prohibited from supervising physician assistants.
- 7) Applicant shall obey all federal, state and local laws, and all rules governing the practice of medicine in California.
- 8) Applicant shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all conditions of probation. Applicant shall submit quarterly declarations not later than ten (10) calendar days after the end of the preceding quarter.
- 9) Applicant shall comply with the Board's probation unit. Applicant shall, at all times, keep the Board informed of applicant's business and residence addresses. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code Section 2021(b).

Applicant shall not engage in the practice of medicine in applicant's place of residence. Applicant shall maintain a current and renewed California physician's and surgeon's probationary license.

Applicant shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) calendar days.

10) Applicant shall be available in person for interviews either at applicant's place of business or at the probation unit office, with the Board or its designee upon request at various intervals and either with or without prior notice throughout the term of probation.

11) In the event applicant should leave the State of California to reside or to practice applicant shall notify the Board or its designee in writing thirty (30) calendar days prior to the dates of departure and return. Non-practice is defined as any period of time exceeding thirty (30) calendar days in which applicant is not engaging in any activities defined in Sections 2051 and 2052 of the Business and Professions Code.

All time spent in an intensive training program outside the State of California which has been approved by the Board or its designee shall be considered as time spent in the practice of medicine within the State. A Board-order suspension of practice shall not be considered as a period of non-practice. Periods of temporary or permanent residence or

practice outside California will not apply to the reduction of the probationary term. Periods of temporary or permanent residence or practice outside California will relieve applicant of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws (condition #7) and Probation Unit Compliance (condition #9).

12) In the event applicant resides in the State of California and for any reason applicant stops practicing medicine in California, applicant shall notify the Board or its designee in writing within thirty (30) calendar days prior to the dates of non-practice and return to practice. Any period of non-practice within California, as defined in this condition, will not apply to the reduction of the probationary term and does not relieve applicant of the responsibility to comply with the terms and conditions of probation. Non-practice is defined as any period of time exceeding thirty calendar days in which applicant is not engaging in any activities defined in Sections 2051 and 2052 of the Business and Professions Code.

All time spent in an intensive training program that has been approved by the Board or its designee shall be considered time spent in the practice of medicine. For purposes of this condition, non-practice due to a Board-ordered suspension or in compliance with any other condition of probation, shall not be considered a period of non-practice.

13) The Medical Board of California reserves the right to evaluate the applicant's probationary history at or near the end of the probationary period and to exercise its discretion whether to grant a clear license without conditions, or to take any other action deemed appropriate and reasonable under the circumstances.


14) Failure to fully comply with any term or condition of probation is a violation of probation. If applicant violates probation in any respect, the Board, after giving applicant notice and the opportunity to be heard, may revoke probation and terminate the probationary license. If an Accusation or Petition to Revoke Probation is filed against the applicant during probation, the Board or its designee shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

15) Applicant shall pay all costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis.

Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year. Failure to pay costs within thirty (30) calendar days of the due date is a violation of probation.


16) Applicant shall comply with all financial obligations not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, applicant shall be issued a full and unrestricted license and applicant shall have fulfilled all terms and conditions of probation.

Applicant agrees to comply with the terms and conditions of the above Order.



Christopher Eric Berger, Applicant

6.23.2010
Date



Deborah Pellegrini, Chief of Licensing

24 June 2010
Date