

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

* * * * *

IN THE MATTER OF THE :
APPLICATION FOR :
LICENSURE OF : ORDER

FRANCIS BANDETTINI, D.O. : 03-93-002
APPLICANT

* * * * *

BE IT REMEMBERED:

1. That on January 28, 1993, the Iowa Board of Medical Examiners (hereafter the Board) notified Francis C. Bandettini, D.O. (hereafter the Applicant) that his application for permanent Iowa osteopathic medical licensure had been denied.
2. That on February 12, 1993, the Applicant filed a notice of appeal of the licensure denial.
3. That on April 1, 1993, a hearing on the Applicant's appeal was heard before a three member panel of the Board.
4. That on April 13, 1993, a Findings of Fact, Conclusions of Law, Decision and Order of the Panel was issued.
5. That on April 17, 1993, a copy of the said Findings of Fact, Conclusions of Law, Decision and Order of the Panel was served upon the Applicant via U.S. First Class restricted certified mail, return receipt requested.

6. That on April 29, 1993, the said Findings of Fact, Conclusions of Law, Decision and Order of the Panel was accepted by the board.

7. That thirty (30) days having passed without an appeal of the said Findings of Fact, Conclusions of Law, Decision and Order of the Panel, the same became a final decision of the Board.

THEREFORE IT IS ORDERED that the Applicant's application for permanent Iowa medical licensure is GRANTED, and said license shall issue accordingly.

Dated on ✓ May 27, 1993.

IOWA STATE BOARD OF MEDICAL EXAMINERS

Laura Stensrud Sec.
Laura Stensrud, Board Secretary
Iowa State Board of Medical Examiners
1209 East Court
Des Moines, Iowa 50319
(515) 281-5171

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

IN THE MATTER OF THE)	NO. 03-93-002
APPLICATION FOR)	DIA NO. 93DPHMB-11
LICENSURE OF:)	
)	FINDINGS OF FACT,
FRANCIS BANDETTINI, D.O.,)	CONCLUSIONS OF LAW,
)	DECISION AND ORDER
Applicant)	OF THE PANEL

To: Francis Bandettini, D.O.

On January 28, 1993, the Iowa Board of Medical Examiners (Board) notified Francis Bandettini, D.O., (Applicant) that it had voted to deny his application for permanent Iowa medical licensure. On February 12, 1993, the Applicant filed a Notice of Appeal.

A hearing was held on April 1, 1993, at 8:30 a.m. before a panel of the Board in the second floor conference room, Executive Hills West, 1209 East Court Avenue, Des Moines, Iowa. The members of the panel were: James Collins, M.D.; Laura Stensrud, public member; and John Olds, M.D. The Applicant appeared and was represented by his counsel, Mark Ravreby. The State was represented by Maureen McGuire, Assistant Attorney General. The hearing was recorded by a certified court reporter. Margaret LaMarche, an Administrative Law Judge from the Iowa Department of Inspections and Appeals, presided and was instructed to prepare the panel's proposed decision.

THE RECORD

The record includes the denial of licensure, Notice of Appeal, Notice of Hearing, Applicant letter dated February 9, 1993, the testimony of the witnesses, and the following exhibits:

- State's Exhibit 1: Application for Licensure filed September 17, 1992
- State's Exhibit 2: Letter dated November 17, 1992 (Haller to Carr)
- State's Exhibit 3: Letter dated January 6, 1988 (Hurd and Pettid to Barone)
- State's Exhibit 4: Letter dated February 22, 1988 (Howell to Barone)
- State's Exhibit 5: Letter dated March 2, 1988 (Barone to Bandettini)

- State's Exhibit 6: Letter dated April 28, 1988 (Barone to Bandettini)
- State's Exhibit 7: Letter dated October 28, 1988 (Pettid to Bandettini)
- State's Exhibit 8: Letter dated November 16, 1988 (Barone to Bandettini)
- State's Exhibit 9: Letter dated December 8, 1988 (Bogard, Hinder, Lugenbill to Haller)
- Applicant's Exhibit A: License Background Information
July 1987 - March 1993
- Applicant's Exhibit B: Letter dated November 9, 1988
(Bandettini to Hallo)

FINDINGS OF FACT

1. On September 17, 1992, the Applicant filed an application for permanent Iowa medical licensure with the Board. In response to question 14E, "Have you ever been warned, censured by, or requested to withdraw from any hospital in which you have trained, been a staff member, or held hospital privileges?", Applicant answered "No." (Exhibit 1)
2. The Applicant had been a resident in the Creighton University Family Practice program from July 1, 1987, until January 1, 1989. In response to an inquiry from the Board, the Chairman of the Creighton University Department of Family Practice notified the Board's Executive Director that Applicant was terminated from their program and sent the Board a summary of significant events that occurred prior to his dismissal. (testimony of Dennis Carr; Exhibit 2)
3. On January 6, 1988, the Residency Director and Associate Director of the Family Practice Program notified the Chairman that the Applicant should not be advanced to a second year status. They recommended that the Applicant either repeat the first year program or look at a different type of residency program. (testimony of Dennis Carr; Exhibit 3)
4. On March 2, 1988, the Chairman of the Family Practice Department sent the Applicant official written notice that he would be placed on a two-month probationary period and outlined the department's expectations for the Applicant's progress. (testimony of Dennis Carr; Exhibit 5)
5. On April 28, 1988, the Applicant met in person with the Chairman of the Emergency Medicine Department, Dr. Eugene J.

Barone, M.D. On that same day, Dr. Barone summarized their meeting in writing, which he sent to the Applicant, as well as three other physicians on the faculty. Dr. Barone decided that the Applicant would repeat six months of the first year beginning July 1, 1988, and ending December 30, 1988. At the end of this period, the Applicant would be terminated from the residency program if he had not improved. The Applicant was notified that he had the right to appeal the decision. (Testimony of Dennis Carr; Exhibit 6)

6. On October 21, 1988, Doctors Pettid and Hurd met with the Applicant to tell him that his performance in the family practice service was not satisfactory. The doctors documented their reasons for this conclusion in a letter to Dr. Barone dated October 28, 1988, and they recommended that the Applicant be released from the program effective November 1, 1988. (testimony of Dennis Carr; Exhibit 7)

7. On November 9, 1988, the Applicant submitted his letter of resignation to Dr. Haller in the Graduate Medical Education office. (testimony of Applicant; Exhibit 9; Exhibit B)

8. On November 16, 1988, Dr. Barone sent a letter to the Applicant officially informing him of his termination as a resident in the Department of Family Practice at Creighton University, effective December 30, 1988. Dr. Barone stated that the reason for the termination was the Applicant's inability to integrate the cognitive knowledge that he has into an effective patient care plan. Dr. Barone further stated to the Applicant that he would not receive a Certificate of Completion of one year of residency. The Applicant was also informed that he had the right to appeal the decision. (testimony of Dennis Carr; Exhibit 8)

9. The Applicant appealed the decision to refuse him credit for one year's residency. As a result of that appeal, the Applicant was given ten months' credit for his 18 months of work. (testimony of Dennis Carr, Applicant; Exhibit 9)

10. The Applicant did have satisfactory evaluations in his rotations outside of the Family Practice Department while a resident at Creighton. Most notably, the Applicant was evaluated as "above average" and "excellent" during his psychiatry rotations. Following his departure from the Family Practice program at Creighton, the Applicant was accepted into a psychiatric residency training program at the University of South Dakota School of Medicine, where he trained from January 1, 1989 through February 29, 1992. The Applicant performed well in his residency and was asked to remain in the department as a faculty member. The Applicant has also been a staff member at the McKennan, Sioux Valley, and Charter Hospitals in Sioux Falls, South Dakota. (testimony of Applicant; Exhibit A)

11. The Applicant has full medical licensure in South Dakota. He answered a question similar to "14E" "no" on his South Dakota application for licensure. South Dakota investigated his residency at Creighton, but did not cite him for a false answer on his application. (testimony of Applicant; Exhibit A)

12. The Applicant has been asked to treat psychiatric patients in Sheldon, Iowa on weekends. This is why he has applied for an Iowa license. The Applicant testified that he did not intend to deceive the Board when he answered "No" to question "14E". The Applicant felt he had effectively resigned from the family practice program at Creighton prior to his termination. However, the language in 14E is clear. The Board does not believe that the Applicant could honestly conclude that he had not received a "warning or censure" while a resident at Creighton. The Applicant admits that his "no" answer was wrong. (testimony of Applicant; Exhibit 1)

CONCLUSIONS OF LAW

1. Pursuant to Iowa Code section 147.4 (1991), the department may refuse to grant a license to practice a profession to any person otherwise qualified upon any of the grounds for which a license may be revoked or suspended.

2. Iowa Code section 258A.10 (1991) provides in relevant part:

A licensing board established after January 1, 1978 and pursuant to the provisions of this chapter shall by rule include provisions for the revocation or suspension of a license which shall include but is not limited to the following:

1. Fraud in procuring a license.

• • •

3. 653 IAC 12.4(1) provides:

Grounds for discipline. The board may impose any of the disciplinary sanctions set forth in rule 12.2(258A), 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:

Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to an intentional perversion of the truth in making application for a license to practice medicine and surgery, osteopathic medicine and surgery or osteopathy in this state, and includes false representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in

this state, or attempting to file or filing with the board or the Iowa department of public health any false or forged diploma, or certificate or affidavit or identification or qualification in making an application for a license in this state.

4. During his residency at Creighton University, the Applicant received official written notice that he was placed on two months' probation. Subsequently, he was told both orally and in writing that he would have to repeat six months of his residency. Either of these actions obviously constitutes a "warning" within the meaning of question 14E. The Applicant was eventually "released" from the program and only received ten months' credit for 18 months' work. Regardless of whether the Applicant effectively resigned before he was terminated, he was "warned" while in training at Creighton. The Applicant's testimony that he did not consider these actions to be "warnings" at the time he filled out the application was not credible. A reasonable person could not have concluded that the Applicant's substantial problems in his residency training were not warnings. The Applicant's answer of "no" to question 14E constitutes an intentional perversion of the truth in making application for a license to practice osteopathic medicine and surgery, and constitutes grounds to deny him a license pursuant to Iowa Code section 147.4, 258A.10 (1991) and 653 IAC 12.4(1).

However, the record establishes that the Applicant performed in a satisfactory manner in his rotations outside the Family Practice Department. Most notably, the Applicant did well in his psychiatric rotation at Creighton, and was subsequently accepted into a psychiatric residency training program where he was later retained as an Assistant Professor. The Applicant plans to practice psychiatry on a part-time basis in Sheldon, Iowa, where there is a need for a psychiatrist. It is therefore the recommendation of the panel that the Applicant be granted a license to practice osteopathic medicine and surgery in Iowa.

DECISION AND ORDER

It is hereby ORDERED, that when this Proposed Decision of the Panel becomes a final decision, the Applicant's application for permanent medical licensure in Iowa, is GRANTED.

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.

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Dated this *13th* day of April, 1993.

THE PANEL

John Olds M.D.

John Olds, M.D.

James Collins M.D.

James Collins, M.D.

Laura Stensrud

Laura Stensrud, Public Member

ML/jmm

Copies to:
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