

BEFORE THE BOARD OF MEDICINE

STATE OF NORTH DAKOTA

North Dakota Board of Medicine –	)	
Investigative Panel A,	)	
	)	
Complainant,	)	
	)	
vs.	)	<b>COMPLAINT</b>
	)	
Walter Jesse Berger, III, M.D.,	)	
	)	
Respondent.	)	

COMES NOW, the Complainant, North Dakota Board of Medicine – Investigative Panel A, and for its Complaint against the Respondent, Walter Jesse Berger, III, M.D. alleges and states as follows:

I.

Investigative Panel A of the North Dakota Board of Medicine (“Board”) is authorized pursuant to N.D.C.C. Chapter 43-17.1 to conduct investigations related to the practice of any physician licensed to practice in this state and file a formal complaint against any licensed physician with the Board of Medicine.

II.

Walter Jesse Berger, III, M.D., is a physician licensed to practice medicine in the State of North Dakota.

FACTS

III.

Respondent was employed as a psychiatrist with the VA Health Care System in Fargo, North Dakota until June of 2017. It is unknown if Respondent has been employed since that time but Respondent continues to maintain an active license to practice medicine in the State of North Dakota.

IV.

On April 18, 2018, Panel A of the North Dakota Board of Medicine entered an Order requiring Respondent to undergo a comprehensive competency evaluation to determine whether the Respondent was able to continue to practice medicine safely. The Panel entered said Order after receiving information from the National Practitioner Data Bank regarding Respondent that gave rise to probable cause existed to believe Respondent might have had a physical or mental disability that was materially affecting his ability to perform his duties of a physician in a competent manner. On August 6-7, 2018, Respondent completed a full competency evaluation at the Center for Personalized Education for Professionals. Said evaluation determined Respondent had multiple areas that were deficient which directly impact his ability to perform his duties as physician in a competent manner. Thus, Respondent is subject to discipline pursuant to N.D.C.C. § 43-17-31.

V.

WHEREFORE, Complainant respectfully requests Respondent, Walter Jesse Berger, III, M.D., be disciplined for his violations of N.D.C.C. § 43-17-31 and seeks an appropriate sanction(s) for those violations as authorized by N.D.C.C. § 43-17-30.1. Complainant also respectfully requests that the Board be awarded its costs and attorney's fees in having to bring this action pursuant to N.D.C.C. § 43-17-31.1.

**NOTICE:** Respondent must answer this Complaint within twenty-one days after service of the complaint or the allegations may be deemed admitted and may result in a default order revoking the subject's license. Such answer must be served in the manner allowed for service under the North Dakota Rules of Civil Procedure.

Dated this 25<sup>th</sup> day of June, 2019.

By Stacy M. Moldenhauer

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Attorney for: North Dakota Board of  
Medicine – Investigative Panel A



discretion of the Board.

4. Respondent shall be responsible for paying the costs and attorney's fees incurred by the Board in the investigation and prosecution of this action in an amount not to exceed \$2,500. The Board will notify the Respondent of any such costs within a reasonable time after the Stipulation is approved by the Board and Respondent shall make payment within (30) days from receiving such notification.

5. If Respondent shall fail, neglect, or refuse to comply with any of the terms, provisions, or conditions herein, the Board shall take action against the Respondent that is in accordance with the law.

6. In the event the Board, in its discretion, does not approve this settlement, this Stipulation is withdrawn and shall be of no evidentiary value and shall not be relied upon nor introduced in any disciplinary action by either party hereto except that Respondent agrees that should the Board reject this Stipulation, and if this case proceeds to hearing, Respondent will assert no claim that the Board was prejudiced by its review and discussion of this Stipulation or of any records relating hereto.

7. This agreement for the disposition of the above-entitled contested case is a matter of public record and the obligations of the Board with respect thereto shall be governed by the laws of North Dakota and current Board policy.

8. All parties hereto recognize that the Board representatives who have engaged in discussions relative to an agreed disposition of this matter can only make recommendations to the North Dakota Board of Medicine, which recommendations can in no way be considered as binding upon the full membership of the Board who would ultimately decide the pending contested case, and this agreement is subject to acceptance by the full membership of the Board.

9. Respondent understands that he has the right and has been afforded the opportunity to have this agreement reviewed by an attorney, and that in the event he chooses to execute this document without taking the opportunity to avail himself of this right, such failure shall be deemed to be a waiver of such right.

10. Respondent specifically waives any claim that any disclosures made to the full membership of the Board for the purposes of consideration of this agreement have prejudiced his right to a fair and impartial hearing in the event that this agreement is not accepted by the full Board and if further proceedings ensue.

11. Respondent further agrees that there have been no inducements, threats or promises made in order to obtain his entry into this agreement.

12. The parties further agree that all statements contained herein are based upon the facts known to the Board on the date of execution of this agreement.

Date this 19<sup>th</sup> day of January, ~~2019~~ 2020

Walter Jesse Berger <sup>M.D.</sup>  
Walter Jesse Berger, III, M.D.

Dated this 24<sup>th</sup> day of January, ~~2019~~ 2020

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 vs. )  
 )  
 )  
 Walter Jesse Berger, III. M.D., )  
 )  
 Respondent. )

**ORDER**

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WHEREAS, Panel A of the North Dakota Board of Medicine issued a Complaint against Respondent on June 25, 2019 requesting Respondent be disciplined for his violations of the North Dakota Medical Practice Act pursuant to N.D.C.C. § 43-17-31(1). In addition, the Board requested it be awarded its costs and attorney’s fees in accordance with N.D.C.C. § 43-17-31.1.

WHEREAS, Respondent acknowledged the allegations in the Complaint are true and are grounds for discipline.

WHEREAS, Respondent and the Investigative Panel A entered into a Stipulation dated January 24, 2020.

WHEREAS, the North Dakota Board of Medicine finds the terms of that Stipulation are an appropriate disposition of this case.

IT IS HEREBY ORDERED THAT:

1. Respondent’s license to practice medicine in the State of North Dakota is indefinitely suspended.
2. Respondent retains the right to reapply for reinstatement of his medical license in

North Dakota; however, any petition for reinstatement of his license shall be subject to the sole discretion of this Board.

3. Respondent shall be required to pay the costs of the prosecution of this action not to exceed \$2,500.00. The Board will notify the Respondent of any such costs within a reasonable time after the date of this Order and Respondent shall make payment in full or make payment arrangements within thirty (30) days from receiving such notification.

This Order is effective this 27<sup>th</sup> day of March, 2020.

NORTH DAKOTA BOARD OF MEDICINE



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Rupkumar Nagala, M.D.  
Chairman