

NORTH CAROLINA MEDICAL BOARD
December 17, 2010
1203 Front Street – Board Room

I. HEARINGS:

A court reporter is required

1. MARTIN, Rebecca, DO – Fort Wayne, IN
Denial

Board Attorney: Brian Blankenship
Opposing Counsel: Jean Boyles

II. MOTIONS:

A court reporter may be required

1. BATAWI, Alain, MD – Raleigh, NC

III. PROPOSED SETTLEMENTS:

A court reporter is not required

1. WHITESIDE, Carl Thomas, MD – Asheville, NC

MARTIN, Rebecca, DO – Fort Wayne, IN
Denial

Board Attorney: Brian Blankenship
Opposing Counsel: Jean Boyles

Denial was based on applicant's failure to disclose actions taken by the Iowa Board.

Members of the Quorum are: Dr. Huff, Dr. Walker, Ms. Blizzard, Dr. Gerancher, Ms. Robinson, Dr. Jablonski, Dr. Camnitz and Judge Lewis.



**NORTH CAROLINA
MEDICAL BOARD**

Donald E. Jablonski, DO
President

Janice E. Huff, MD
President-Elect

William A. Walker, MD
Secretary/Treasurer

October 19, 2010

Via Attorney of Record

Rebecca M. Martin, D.O.
1346 Villa Marbella Court, #2102
Myrtle Beach, SC 29572

Dear Dr. Martin:

This is to inform you that the North Carolina Medical Board ("Board") has denied your application for a license to practice medicine in North Carolina.

The denial of your application was based on your failure to disclose the following actions taken by the Iowa Board of Medicine ("Iowa Board"):

1. On August 6, 1990, you were issued a letter of warning. An injured young child was brought to the emergency room when you and a number of other physicians were working. This child had been to this hospital numerous times and was eventually diagnosed with having a missed spleen fracture.
2. On November 26, 2003, you received a second letter of warning wherein the Iowa Board had serious concerns that you failed to appropriately diagnose and treat a patient's myocardial infarction and acute renal failure resulting in the patient's death following heart failure.

You are entitled to a formal hearing before the Board upon your request filed with or mailed by certified mail to the Executive Director of the Board at the address shown hereon within 10 days after you receive this letter. You must state the reasons for your request. The Board shall within 20 days of receipt of your request notify you of the time and place of this public hearing. The burden of satisfying the Board of your qualifications for approval shall be upon you.

Sincerely,

R. David Henderson
Executive Director

RDH/BB/lt

cc: Jean Winborn Boyles, Attorney

R. David Henderson
Executive Director

1203 Front Street
Raleigh, North Carolina 27609-7533

Mailing:
P.O. Box 20007
Raleigh, North Carolina 27619-0007

Telephone: (919) 326-1100
Fax: (919) 326-1131
Email: info@ncmedboard.org
Web: www.ncmedboard.org

NORTH CAROLINA
MEDICAL BOARD

10 OCT 18 AM 10:30

JOHNSON, HEARN, VINEGAR, GEE & GLASS, PLLC

ATTORNEYS AT LAW

TWO HANNOVER SQUARE, SUITE 2200
RALEIGH, NORTH CAROLINA 27601

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MAILING ADDRESS:
POST OFFICE BOX 1776
RALEIGH, NORTH CAROLINA 27602

JEAN WINBORNE BOYLES*
OF COUNSEL

*CERTIFIED MEDIATOR

jboyles@jhvgglaw.com

October 14, 2010

Via Electronic Mail & U.S. Mail

Brian Blankenship, Esq.
N.C. Medical Board
P.O. Box 20007
Raleigh, NC 27619-0007

Re: Rebecca Martin, DO

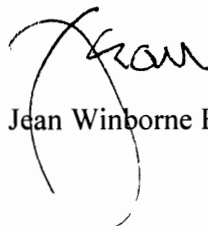
Dear Brian:

I have just spoken with Dr. Rebecca Martin, who I understand has been denied licensure by North Carolina Medical Board. I am in the process of being retained to represent her and am unsure whether she has officially received a Letter of Denial. This letter is to request a hearing on Dr. Martin's behalf, if in fact the ten-day period is running. She has not received the detailed, certified letter. I would like to call and speak with you but understand the Board is meeting this week. Please give me a call at your convenience to further discuss these issues. I would very much appreciate it.

I look forward to working with you on this. I think from my discussion with Dr. Martin she has not fully explained many of the issues involved in her application and has not paid close attention to the detail which the N.C. Medical Board considers very important. I think we can work these issues out.

With best wishes

Sincerely,



Jean Winborne Boyles

JWB/dbb
Enclosure

Cc: Rebecca Martin, DO, via electronic mail

**BEFORE THE
NORTH CAROLINA MEDICAL BOARD**

NORTH CAROLINA
MEDICAL BOARD

10 DEC -6 PM 1:21

In re:)
)
Alain Batawi, M.D.,) **MOTION TO HOLD PROCEEDING IN**
) **ABEYANCE**
)
 Respondent.)
)

NOW COMES the Respondent, Alain Batawi, M.D., by and through his legal counsel, and moves that the North Carolina Medical Board proceeding pending against the Respondent be held in abeyance. In support of this Motion, Respondent respectfully shows:

1. The North Carolina Medical Board initiated this proceeding by filing its Notice of Charges and Allegations and Notice of Hearing (the "Notice") on September 29, 2009.
2. Although Dr. Batawi intended to vigorously contest the allegations set forth in the Notice at the hearing scheduled for February 17, 2011, his health has appreciably declined since September 2009 and it does not appear to be feasible for him to effectively defend himself at this time.
3. A letter from Dr. Batawi's treating neurologist addressing Dr. Batawi's significant decline in function is attached hereto as Exhibit 1 and incorporated herein by reference.
4. Dr. Batawi has been advised for health reasons to cease his participation in the Board's proceeding.
5. Since Dr. Batawi is unable to effectively participate in this proceeding, he requests that the proceeding, including both the hearing and discovery, be held in abeyance indefinitely.
6. Dr. Batawi's understanding is that his North Carolina medical license expired in October 2010 and has not been renewed, so he is not treating or prescribing medication for any patients, including family members. Therefore, holding this proceeding in abeyance does not present any risk to public.

WHEREFORE, the Respondent respectfully requests that the North Carolina Medical Board hold this proceeding in abeyance during the period of Dr. Batawi's significant decline in cognitive and speech function.

Respectfully submitted this the 2nd day of December, 2010.

West Law Offices, P.C.

By: 

James P. West

N.C. State Bar No. 18019

Attorney for Respondent

Suite 2325, 434 Fayetteville Street

Raleigh, NC 27601

Telephone: (919) 856-8800

Facsimile: (919) 856-8801

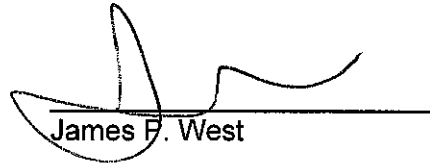
Email: jpwest@westlawpc.com

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a copy of the foregoing RESPONDENT'S MOTION TO HOLD PROCEEDING IN ABEYANCE has been duly served upon the Petitioner's attorneys by hand delivery to the following address:

Brian Blankenship, Esq.
North Carolina Medical Board
1203 Front Street
Raleigh, NC 27609

This the 2nd day of December, 2010.


James F. West

EXHIBIT**1****Gregory M. Bertics, M.D.**

1540 Sunday Drive

Raleigh, NC 27607-6000

Phone: (919) 855-0335; Fax: (919) 325-4683

Date: November 23, 2010

To: James C. West
434 Fayetteville St. Ste. 2325
Raleigh NC 27601
FAX 856-8801

Re: Alain Batawi
ID# 142216
DOB 10/14/1958

Dear Mr. West:

Alain Batawi is under my care for treatment of multiple sclerosis. Recently it's become quite apparent that he is suffering some significant declines in function, in particular, cognitively and in his speech, as well as having increased problems with spasticity and his ability to ambulate. His cognitive declines in particular appear to be related to both a reaction to stress that he is under from an impending action by the NC Medical Board as well as his MS. It is my medical opinion that the stress he is under is reducing his functional status and bringing out old cognitive problems related to MS that he has generally been able to compensate for in the past. For that reason it is my opinion that it is in this patient's best medical interest to reduce his stress level and stop the medical board proceedings. This reduction in stress should help lead to an improvement in his MS symptomatology. Please note that he is being referred for further testing at this time.

Sincerely yours,

*Reviewed and Electronically Signed by Gregory M. Bertics, M.D.
on 11/30/2010 at 8:02 PM*

Cc:

BEFORE THE
NORTH CAROLINA MEDICAL BOARD

| | | |
|---------------------|---|-----------------------------|
| In re: |) | |
| |) | Petitioner's Response to |
| Alain Batawi, M.D., |) | Respondent's Motion to Hold |
| |) | Proceedings in Abeyance; |
| |) | Petitioner's Motion to |
| Respondent. |) | Dismiss Without Prejudice |
| |) | |

NOW COMES the North Carolina Medical Board (the "Medical Board") through the undersigned counsel in response to Petitioner's Motion to Hold Proceeding in Abeyance. Petitioner respectfully shows:

1. On September 29, 2010, the Board filed a Notice of Charges and Allegations (the "Charges") and a Notice of Hearing against Respondent. A hearing on the Charges is presently scheduled for February 17, 2010.

2. On September 29, 2010, Petitioner also served its First Request for Interrogatories and Request for Production of Documents on Respondent.

3. On October 29, 2010, Respondent requested an extension of time, until November 11, 2010, to respond to Petitioner's discovery request. (Exhibit 1) Counsel for Petitioner agreed to extend the time to respond to discovery until November 11, 2010. (Exhibit 1)

4. On October 19, 2010 Petitioner served a Notice of Deposition on Respondent. The deposition was scheduled for November 16, 2010 at the offices of Respondent's counsel.

5. On November 12, 2010 Respondent's counsel notified counsel for Petitioner that, due to a decline in his health, Respondent would not produce discovery and would not participate in the deposition previously scheduled for November 16, 2010.

(Exhibit 1)

6. On December 2, 2010, Respondent submitted a Motion to Hold Proceeding in Abeyance. In support of his Motion, Respondent submitted a letter from Dr. Gregory Bertics, a neurologist treating Respondent for multiple sclerosis. According to Dr. Bertics, Respondent is suffering significant decline, specifically, cognitive decline and decline in his ability to ambulate. Dr. Bertics opined the stress of the pending Medical Board proceedings is reducing Respondent's functional status and bringing out cognitive problems related to MS.

7. Respondent's license to practice medicine in North Carolina will be made inactive for failure to register on December 14, 2010, assuming he does not register his license prior to that date.

8. It serves no useful purpose to hold the Medical Board's proceedings in abeyance. If, as Dr. Bertics states, the stress

of the Medical Board's proceedings has caused Respondent to suffer cognitive and functional decline, initiation of future proceedings would likely result in similar decline. Should Respondent apply to reactivate his license, it is the intention of Petitioner's counsel to pursue charges against Dr. Batawi at that time.

WHEREFORE, counsel for Petitioners request the Board Dismiss Without Prejudice the Notice of Charges and Allegations dated September 29, 2010.

Respectfully submitted this the 8th day of December, 2010.

THE NORTH CAROLINA MEDICAL BOARD

By:



Brian Blankenship

N.C. Bar No. 21929

North Carolina Medical Board
1203 Front Street

Raleigh, North Carolina 27609

(919) 326-1100

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a copy of the foregoing PETITIONER'S RESPONSE TO RESPONDENT'S MOTION TO HOLD PROCEEDINGS IN ABEYANCE; PETITIONER'S MOTION TO DISMISS WITHOUT PREJUDICE has been duly served upon the Petitioner's attorneys by electronic mail and by mailing them by placing a copy in the U.S. Mail, postage-paid to the following address:

James P. West
Suite 2325
Two Hanover Square
434 Fayetteville St.
Raleigh, NC 27601

This the 8th day of December, 2010.



Brian Blankenship
Board Attorney
North Carolina Medical Board
P.O. Box 20007
Raleigh, NC 27619-0007
(919) 326-1109, ext. 239

Brian L. Blankenship

From: James West [jpwest@westlawpc.com]
Sent: Friday, November 12, 2010 4:33 PM
To: Brian L. Blankenship
Subject: Re: Batawi Discovery
Attachments: jpwest.vcf

Brian,

I am emailing you to confirm our recent telephone conversation. Due to the decline in Dr. Batawi's health, he will not be producing discovery responses or participating in the deposition that is scheduled for next week. I am waiting for documentation from his treating neurologist regarding his condition. I anticipate that I will be filing a motion shortly to hold the pending proceeding in abeyance until Dr. Batawi is able to recover, which, to be candid, may not be feasible given the progressive nature of his disease.

James West

On 11/12/2010 3:44 PM, Brian L. Blankenship wrote:

James:

Hopefully you received the message that I returned your call this morning. I'll be in the office until at least 5 p.m. if you would like to call.

Also, I realize it is not the end of the day, but I have not received Dr. Batawi's response to the discovery previously submitted.

Thanks,

Brian

From: James West [mailto:jpwest@westlawpc.com]
Sent: Friday, October 29, 2010 3:31 PM
To: Brian L. Blankenship
Subject: Batawi Discovery

Brian,

To confirm our telephone discussion today, you have agreed on behalf of the NC Medical Board to an extension of time until November 11, 2010 for Dr. Batawi to respond to the discovery you have served on him. I will attempt to send the discovery to you by November 9 if feasible. If my understanding is not correct, please let me know. I look forward to our meeting November 4 at 1:30pm.

--

James P. West
West Law Offices, P.C.
Suite 2325, 434 Fayetteville Street
Raleigh, NC 27601
Telephone: (919) 856-8800

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James P. West
West Law Offices, P.C.
Suite 2325, 434 Fayetteville Street
Raleigh, NC 27601
Telephone: (919) 856-8800

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