

BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS
ON REFERRAL FROM THE STATE MEDICAL BOARD

In the Matter of)
)
 WILLIAM M. SYKES,)
)
 Applicant.) OAH No. 08-0475-MED
) DCCED No. 2800-07-029

CONSENT AGREEMENT

This Consent Agreement is entered into by William M. Sykes, MD (Sykes) and the Division of Corporations, Business, and Professional Licensing, Alaska Department of Commerce, Community and Economic Development (Division), referred to collectively in this Consent Agreement as “the Parties”.

Background

In March, 2007 Sykes submitted an application to the State Medical Board (Board) to be licensed “by credentials” to practice medicine in Alaska. On the license application Sykes failed to list six U.S. states where he had previously been licensed to practice medicine, but had allowed his license to lapse. No adverse actions had been taken against Sykes’ licenses in any of these states.

In compliance with guidelines approved by the Board at the time, an investigator for the Division offered Sykes a Memorandum of Agreement (MOA) to resolve the matter. Subject to approval of the Board, the MOA would have granted a license to Sykes on condition that he pay a fine of \$3,500 and accept a reprimand from the Board. As

required by law, the fine and reprimand would be reported to the National Practitioner Data Base (NPDB) and to the Federation of State Medical Boards (FSMB).

Sykes declined to enter into this proposed MOA, so the Board voted to deny his license application at a meeting held on April 3-4, 2008. Sykes requested an administrative hearing, which was held before an administrative law judge on November 21, 2008.

On January 29, 2009 the administrative law judge issued a proposed decision in the case. The administrative law judge concluded that Sykes' failure to disclose licensure in the other states was the result of "carelessness and inattention to detail" rather than an attempt to misrepresent his background. The administrative law judge recommended that the Board grant Sykes' application for a license on condition that he pay a fine of \$1,500 and accept a reprimand from the Board. This proposed decision was adopted by the Board at a meeting on January 29, 2009. The denial of Sykes' license application was reported to the NPDB and to the FSMB.

Sykes appealed the Board's decision to the Alaska Superior Court in Juneau. The parties submitted their briefs to the court, and oral argument was held, but the superior court has not yet issued a decision in the appeal. At the request of the Parties, the superior court judge has remanded the case back to the Board for consideration of this Consent Agreement.

At a meeting on October 28-29, 2010, while Sykes' appeal was pending, the Board modified its guidelines. Now, a failure to disclose on an Alaska license application

licensure in another state where no discipline had been imposed against the applicant would be considered a technical violation not related to the delivery of health care that would carry a \$1,000 fine, but no reprimand.

Because Sykes' appeal is still pending, the legal proceedings regarding his license application have not yet been concluded. The Parties wish to resolve this matter by applying the Board's current guidelines to Sykes' license application.

Agreement

The Parties agree that the Board has jurisdiction over this matter.

The Parties agree that this Consent Agreement is subject to approval by the Board. If this Consent Agreement is approved by the Board, the Board's order of January 29, 2009 adopting the proposed decision of the administrative law judge will be vacated, and this Consent Agreement will replace and supersede the Board's 2009 order.

Sykes admits that he failed to list on his Alaska license application six states in which he had previously been licensed to practice medicine, but asserts that this omission was careless rather than intentional.

Sykes admits that his failure to disclose the other states where he previously held a license provides grounds for the possible denial of his license application under AS 08.64.240(b), AS 08.64.326(a)(7) and 12 AAC 40.967(2).

Sykes agrees to pay a fine of \$1,000 to the Board in cash, certified check, or money order payable to the State of Alaska, within 60 days after this Consent Agreement is approved by the Board. Payment shall be sent to:

Chief Investigator Quinten Warren
Division of Corporations, Business, and Professional Licensing
Department of Commerce, Community, & Economic Development
550 West 7th Avenue, Suite 1500
Anchorage, AK 99501-3567

Sykes agrees that, if the Board approves this Consent Agreement, Sykes will dismiss his pending superior court appeal.

The Parties agree that, if approved by the Board, this Consent Agreement will be reported to the NPDB and to the FSMB so that those entities may revise and update their records regarding the denial of Sykes' license application in 2009.

The Parties agree that, if this Consent Agreement is approved by the Board, the Board will grant Sykes' application for an unrestricted license to practice medicine in Alaska, *contingent upon receipt and approval of a current application.*

The Parties acknowledge that this Consent Agreement is a public document, and a copy of it may be provided to any person or entity that requests a copy.

Dated: 1/20/2011

Dated: _____

Quinten Warren
Quinten Warren, Chief Investigator for
Don Habeger, Director
Division of Corporations, Business, &
Professional Licensing

William M. Sykes, MD
License Applicant

Chief Investigator Quinten Warren
Division of Corporations, Business, and Professional Licensing
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Dated: _____

Dated: 1/20/11

Quinten Warren, Chief Investigator for
Don Habeger, Director
Division of Corporations, Business, &
Professional Licensing

William M. Sykes, MD
License Applicant

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ORDER

The Alaska State Medical Board hereby adopts the ^{amended} ~~attached~~ Consent Agreement as its final Order in this matter.

The Board has determined that Sykes' failure to report licensure in six other states was a technical violation of the professional licensing statutes and regulations not related to the delivery of patient care. Therefore, it is appropriate to resolve the matter with a civil fine without imposition of censure or a reprimand.

This Order takes effect immediately upon adoption by the Board and signature of this Order.

Dated: Jan 27, 2011

Chair, State Medical Board