

IN AND BEFORE THE OKLAHOMA STATE BOARD
OF MEDICAL LICENSURE AND SUPERVISION
STATE OF OKLAHOMA

FILED

STATE OF OKLAHOMA)
EX REL. THE OKLAHOMA BOARD)
OF MEDICAL LICENSURE)
AND SUPERVISION,)
)
Plaintiff,)
)
v.)
)
STEPHANIE MARIE BERG, M.D.,)
MEDICAL LICENSE NO. 22391,)
)
Defendant.)

NOV 06 2009

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 09-08-3832

COMPLAINT

COMES NOW the Plaintiff, the State of Oklahoma ex rel. the Oklahoma State Board of Medical Licensure and Supervision (the "Board"), by and through its attorney, Elizabeth A. Scott, Assistant Attorney General, and for its Complaint against the Defendant, Stephanie Marie Berg, M.D., alleges and states as follows:

1. The Board is a duly authorized agency of the State of Oklahoma empowered to license and oversee the activities of physicians and surgeons in the State of Oklahoma pursuant to 59 Okla. Stat. § 480 *et seq.*
2. Defendant, Stephanie Marie Berg, M.D, holds Oklahoma medical license no. 22391.
3. Beginning on or about March 8, 2007 and continuing through March 31, 2009, Defendant was the supervising physician for Kathleen Ellen Mason-Morton, P.A.
4. At the time of the events which are the subject of this Complaint, Physician Assistant Mason-Morton practiced at the Jon Ric International Medical Spa and Salon, also known as Jon Ric MMG LP ("Jon Ric Salon"), a limited liability company formed by Physician Assistant Mason-Morton on or about January 12, 2005. Physician Assistant Mason-Morton and her husband owned ninety percent (90%) of the spa and the remaining ten percent (10%) was owned by a nurse, Gayla Campbell, and her husband. Physician Assistant Mason-Morton operated the spa on a daily basis.

5. During this time that Defendant was her supervising physician, Physician Assistant Mason-Morton employed Defendant at the Jon Ric Salon. Physician Assistant Mason-Morton, by and through her company, the Jon Ric Salon, paid Defendant a fee to act as her supervising physician in the amount of ten percent (10%) of all procedures performed at the spa that required physician supervision. Bank records reveal the following checks were given to Defendant:

05/01/07	856.35
05/18/07	1,282.00
06/10/07	1,054.30
07/10/07	929.05

6. In or around August 2007, Board staff learned that Physician Assistant Mason-Morton was employing Defendant, her supervising physician. Board staff contacted Defendant and the physician assistant and advised them that this arrangement was unacceptable, in that a physician assistant is not allowed to employ his or her supervising physician. Board staff followed up with a letter to Physician Assistant Mason-Morton dated October 1, 2007 whereby she was directed to 59 O.S. §519.6(B)(e), which provides as follows:

[I]t remains clear that the physician assistant is an agent of the supervising physician; but, **in no event shall the supervising physician be an employee of the physician assistant.**

7. Defendant admits that she was made aware of this prohibition of a physician assistant employing his or her supervising physician in 2007 when Board investigators spoke with her.

8. After being notified that the State was investigating her and Physician Assistant Mason-Morton for violation of 59 O.S. §519.6(B)(e) as set forth above, on or about August 28, 2007, Defendant and Physician Assistant Mason-Morton attempted to get around this law by paying Defendant indirectly through OU Physicians, which would then pay her. Bank records reveal the following checks were given by Physician Assistant Mason-Morton, through the Jon Ric Salon, to OU Physicians, which then paid Defendant after a small deduction:

08/14/07	683.76
09/19/07	1,257.25
10/10/07	1,206.47
11/27/07	1,009.82
01/17/08	1,028.80
02/18/08	1,197.26
03/20/08	1,546.72
04/19/08	1,281.18
05/20/08	805.25
06/16/08	806.41

07/15/08	795.36
08/16/08	1,568.20
09/20/08	1,457.62
10/10/08	1,003.13
11/10/08	1,379.67
12/15/08	1,762.28
01/10/09	699.32

9. Based on the allegations stated above, Defendant is guilty of unprofessional conduct as follows:

- A. Violated, directly or indirectly, the provisions of the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, and the rules and regulations of the Board, either as a principal, accessory or accomplice in violation of 59 Okla. Stat. §509(13) and OAC 435:10-7-4(39).
- B. Engaged in conduct which is likely to deceive, defraud or harm the public in violation of 59 O.S. §509(9) and OAC 435:10-7-4(11).

WHEREFORE, plaintiff requests that the Board conduct a hearing, and upon proof of the allegations contained herein, impose such disciplinary action as authorized by law, up to and including suspension or revocation, the assessment of costs and fees incurred in this action, and any other appropriate action with respect to Defendant's license to practice as a physician and surgeon in the State of Oklahoma.

Dated this 6th day of November, 2009 at 8:00 a.m.

Respectfully submitted,



Elizabeth A. Scott (OBA #12470)

Assistant Attorney General

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Attorney for State ex rel.

Oklahoma State Board of Medical Licensure
and Supervision