

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

SADHISH K. SIVA,

Plaintiff,

vs.

AMERICAN BOARD OF RADIOLOGY,

Defendant.

CASE NO. 1:19-CV-01407
HON. JORGE L. ALONSO

**DEFENDANT AMERICAN BOARD OF RADIOLOGY’S MOTION TO DISMISS
PLAINTIFF’S FIRST AMENDED COMPLAINT**

Defendant American Board of Radiology (“ABR”), hereby moves the Court, pursuant to Federal Rule of Civil Procedure 12(b)(6), to dismiss Plaintiff’s First Amended Complaint in its entirety. This Motion is based upon all the files, records, and proceedings herein, as well as on the grounds set forth in the accompanying Memorandum of Law and supporting exhibits.

Dated: March 13, 2020

Respectfully Submitted,

By: s/ Jaime Stilson

Jaime Stilson (IL attorney no. 6287484)
DORSEY & WHITNEY LLP
50 South Sixth Street, Suite 1500
Minneapolis, MN 55402
Telephone: (612) 340-2600
Facsimile: (612) 340-2868
stilson.jaime@dorsey.com

Matthew Stromquist
Kevin Liu
PILGRIM CHRISTAKIS LLP
321 North Clark Street, 26th Floor
Chicago, IL 60654
Telephone: (312) 939-6580
mstromquist@pilgrimchristakis.com
kliu@pilgrimchristakis.com

CERTIFICATE OF SERVICE

I certify that I have on this 13th day of March, 2020, filed the foregoing **DEFENDANT AMERICAN BOARD OF RADIOLOGY'S MOTION TO DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT** using the Court's ECF system, which will give electronic notification to the following parties of record:

Brian M. Hogan
Michael Jerry Freed
FREED KANNER LONDON & MILLEN,
LLC
2201 Waukegan Road, Suite 130
Bannockburn, IL 60015
bhogan@fklmlaw.com
mfreed@fklmlaw.com

Jonathan M. Jagher
FREED KANNER LONDON & MILLEN
923 Fayette Street
Conshohocken, PA 19428
jjagher@srkattorneys.com

C. Philip Curley
Benjamin E. Schwab
Cynthia H. Hyndman
ROBINSON CURLEY PC
300 South Wacker Drive, Suite 1700
Chicago, IL 60606
pcurley@robinsoncurley.com
chyndman@robinscurley.com
bschwab@robinsoncurley.com

Katrina Carroll
Carlson Lynch LLP
111 W. Washington Street
Suite 1240
Chicago, IL 60602
Email: kcarroll@carlsonlynch.com
Phone: 312-750-1265

s/ Jaime Stilson

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**DEFENDANT AMERICAN BOARD OF RADIOLOGY'S MEMORANDUM IN
SUPPORT OF MOTION TO DISMISS PLAINTIFF'S FIRST AMENDED
COMPLAINT**

INTRODUCTION

On November 19, 2019, this Court dismissed Plaintiff Dr. Sathish K. Siva's original Complaint for failure to state a claim. ECF No. 48. The Court properly dismissed Plaintiff's tying claim under Section 1 of the Sherman Act because Plaintiff did not "plausibly show" that there were two separate products at issue—a requirement under the Act.¹ *Id.* at 13. In so holding, the Court explicitly rejected Plaintiff's theory that Defendant American Board of Radiology's ("ABR['s]") certification of radiologists encompassed two "products"—*i.e.*, initial certification as separate and distinct from ABR's maintenance of certification ("MOC") requirements designed to ensure that radiologists who wish to maintain their board certification remain current in the field. *Id.* at 9. Instead, the Court recognized that "now as ever, there is only one product." *Id.* at 7. The Court, however, permitted Plaintiff an opportunity to replead.

Following the Court's dismissal of his Complaint, Plaintiff filed his First Amended Complaint ("FAC") on January 24, 2020. ECF No. 55. The FAC has ballooned to over 70 pages and almost 400 paragraphs of allegations. However, the gist of Plaintiff's claims remains the same and the volume of additional allegations does nothing to change the result—*all* of Plaintiffs' claims should be dismissed with prejudice. As before, Plaintiff alleges in the FAC that ABR unlawfully ties two products—initial certification and MOC under a *per se* tying theory (Count I). Plaintiff also brings a separate tying claim, in the alternative, under the rule of reason (Count II) and again raises a claim for unjust enrichment (Count III). Plaintiff brings all claims on behalf of a purported putative class of radiologists certified by ABR.

¹ In its November 19 Order, the Court also dismissed Plaintiff's monopolization claim under Section 2 of the Sherman Act and declined to exercise supplemental jurisdiction over Plaintiff's unjust enrichment claim from his original Complaint. Plaintiff did not resurrect his Section 2 monopolization claim in the FAC.

Plaintiff's transparent efforts to plead around the Court's previous Order fall far short. The pages upon pages of additional, irrelevant, and otherwise conclusory allegations in Plaintiff's FAC do not remedy the fatal flaw underlying all of Plaintiff's claims: ABR's certification is a single product. Radiologists do not purchase "initial certification" or "MOC," but rather ABR certification generally, including all its component parts. Both Plaintiff's factual allegations and the law confirm that result. As Plaintiff must acknowledge, Plaintiff's own application materials with ABR, embraced by the FAC, confirm that Plaintiff willingly sought out a single product—certification by ABR; that the terms applicable in 2003 when Plaintiff sought certification included both his initial certification and continuing MOC components; and that Plaintiff benefited from the relationship. ABR did not—and could not—force Plaintiff to "buy" its certification or to pay the fees associated with its continuing MOC components or place any restriction on Plaintiff's practice as a radiologist. Moreover, when considering multi-stage certification processes like this one, courts, including this Court, have concluded that they do not—as a matter of law—run afoul of the antitrust laws.

Because the material allegations in Plaintiff's FAC mirror those allegations from the original (and now dismissed) Complaint, and because Plaintiff's fundamental misconception about the nature of the entire certification product offered by ABR remains unchanged, this Court can and should apply the same analysis it did before to reach the same conclusion. As set forth more fully below, Plaintiff's allegations in the FAC are not sufficient to plausibly state an antitrust claim or an unjust enrichment claim, and must be dismissed with prejudice.

BACKGROUND

ABR's motion to dismiss Plaintiff's original Complaint sets forth the relevant background for this case. ABR respectfully refers the Court to those filings and related exhibits as well as the legal analyses set forth therein. *See* ECF No. 33-1 (opening memorandum); ECF No. 42 (reply

memorandum). To briefly summarize, ABR is an independent, not-for-profit national medical specialty board² that provides assessment and certification of radiologists. FAC ¶¶ 21, 40. ABR's certification process is designed to determine if candidates have acquired the requisite standard of knowledge, skill, and understanding essential to the practice of radiology. *Id.* ¶¶ 23–24. MOC exists “to provide continuous quality improvement, professional development, and quality patient care.” Ex. 1, ABR's 2016 IRS Form 990, at 2.³ Since 2002, ABR has required that all ABR-certified radiologists participate in MOC in order to maintain certification. FAC ¶ 171.

ABR certification is separate from state licensure of physicians. *Id.* ¶ 22. ABR certification is also voluntary; ABR cannot and does not force physicians to obtain certification.⁴ Still, most clinical radiologists purchase ABR certification. *Id.* ¶ 59. Many independent third parties in the health care industry, including hospitals and insurers, have concluded that ABR's certification is valuable and accordingly may make decisions regarding the physicians they choose to work with based on a physician's certification status. *Id.* ¶¶ 57, 60. That certification provides value is not in dispute.

Plaintiff is a radiologist who ABR certified in 2003. *Id.* ¶ 251; Ex. 2.⁵ By the explicit

² ABR is one of twenty-four boards that are members of the American Board of Medical Specialties (“ABMS”). FAC ¶ 21.

³ ABR's publicly available 2016 IRS Form 990 is attached as Exhibit 1. This Form is incorporated by reference and quotation in Plaintiff's FAC at ¶ 168, and is therefore appropriately considered by the Court on ABR's motion to dismiss. *See Griswold v. E.F. Hutton*, 622 F. Supp. 1397, 1402 (N.D. Ill. 1985).

⁴ Plaintiff attempts to plead around the voluntary nature of ABR certification by suggesting that economic circumstances “necessitate” board certification. *See, e.g.*, FAC ¶¶ 59, 60. That allegation, however, is a red herring, as Plaintiff has plead no facts that plausibly infer that ABR can force certification on anyone. Instead, because ABR certification has value, Plaintiff sought it out—a decision that he made on his own (*see, e.g., id.* ¶¶ 248, 250)—and that was not dictated by any professional requirements, including state licensure (*id.* ¶ 22), or by ABR.

⁵ Exhibit 2 constitutes all forms and agreements executed by Dr. Siva related to his application for

terms of his certification with ABR agreed to by Plaintiff, Plaintiff is required to participate in MOC in order to maintain his ABR certification. FAC ¶¶ 254–56; *see also* Ex. 2 at 17 (“I, the undersigned applicant, recognize the Trustees of [ABR] as the sole and only judge of my qualification to receive *and retain* a certificate issued by the Board”). Plaintiff enrolled in MOC and passed the required examination to maintain his certification in 2012. *Id.* ¶ 256. He again enrolled in MOC in 2019 by beginning participation in the Online Longitudinal Assessment (“OLA”) cognitive test, and alleges that he is completing MOC activities towards maintaining his ABR certification going forward. *Id.* ¶ 258. Plaintiff complains that he suffered harm because he was “forced” by ABR to purchase enrollment in MOC to maintain his ABR certification and incurred costs and fees in the process. *Id.* ¶¶ 260–62, 268.

LEGAL STANDARD

Federal Rule of Civil Procedure 12(b)(6) permits the Court to dismiss a complaint if a plaintiff fails to state a claim upon which relief may be granted. To survive a motion to dismiss for failure to state a claim, Plaintiff’s allegations against ABR must “raise [his] right to relief above the speculative level.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007); *see also Ashcroft v. Iqbal*, 556 U.S. 662, 680 (2009). Allegations that are as consistent with lawful conduct as they are with unlawful conduct are not sufficient. *Twombly*, 559 U.S. at 570. In reviewing a complaint under Rule 12(b)(6), the court must first identify pleadings that, “because they are no more than conclusions, are not entitled to the assumption of truth.” *Iqbal*, 556 U.S. at 679; *see also McCauley v. City of Chi.*, 671 F.3d 611, 616 (7th Cir. 2011) (“[W]e accept the well-pleaded facts in the complaint as true, but legal conclusions and conclusory allegations merely reciting the

examination leading to a Certificate of Qualification in Diagnostic Radiology and his enrollment in the MOC program administered by ABR. These forms and agreements are clearly incorporated and referenced in the FAC. *See* FAC ¶¶ 250–52, 254–55; *see also Griswold*, 622 F. Supp. at 1402.

elements of the claim are not entitled to this presumption of truth.”). Second, the court should “determine whether [the non-conclusory factual allegations] plausibly give rise to an entitlement to relief.” *Iqbal*, 556 U.S. at 679. If a plaintiff’s complaint fails to meet these standards, “this basic deficiency should . . . be exposed at the point of minimum expenditure of time and money by the parties and the court,” warranting dismissal. *Twombly*, 550 U.S. at 558 (quotations omitted).

ARGUMENT

I. PLAINTIFF’S TYING CLAIMS FAIL AS A MATTER OF LAW (COUNTS I-II)

As he did in his original, now-dismissed Complaint, Plaintiff asserts in the FAC that ABR engaged in an illegal tying arrangement in violation of Section 1 of the Sherman Act. FAC ¶¶ 277–345. Unlike his original complaint, Plaintiff now explicitly raises an alternative tying claim under the rule of reason. *Id.* ¶¶ 346–66.⁶ But to prevail on *either* of his tying claims, this Court has already found Plaintiff must plausibly allege the existence of two separate products. ECF No. 48 at 5 n.1 (“[U]nder either the *per se* rule or the rule of reason, plaintiff must plausibly allege that there are two separate tied products”); *see also Reifert v. S. Cent. Wis. MLS Corp.*, 450 F.3d 312, 316–17 (7th Cir. 2006).

Nothing in Plaintiff’s FAC changes the fate of his tying claims because Plaintiff has not and cannot plausibly allege two distinct products. “[N]ow as ever” ABR’s initial certification and MOC constitute a single product—certification of radiologists. ECF No. 48 at 7. In the absence of plausible factual allegations of two distinct products, tying cannot exist as a matter of law and Plaintiff’s tying claims must be dismissed.

⁶ Indeed, the Seventh Circuit recently recognized that “the factual elements that must be proven in a tying claim capture much of what must be demonstrated in a rule of reason case,” including assessment of market power, predictions of anticompetitive harm, and consideration of procompetitive justifications. *See Viamedia, Inc. v. Comcast Corp.*, No. 18-2852, 2020 WL 879396, at *29 (7th Cir. Feb. 24, 2020).

In addition, Plaintiff's Sherman Act Section 1 claims must be dismissed in light of the absence of any other well-plead factual allegations of anticompetitive conduct by ABR and for lack of plausible allegations of antitrust injury. Finally, to the extent the Court disagrees dismissal is again appropriate, Plaintiff's claims must be significantly narrowed by the applicable four-year statute of limitations.

A. Plaintiff's Tying Claims Fail Because He Cannot Plausibly Allege that MOC Is a Distinct Product From Initial Certification

In order for a tying claim to survive dismissal, a plaintiff must allege sufficient facts with respect to each of the following elements: “(1) a tie exists between two separate products;” (2) the defendant “has sufficient economic power in the market for the tying product to restrain free competition in the tied product market . . . ; (3) the tie affects a not-insubstantial amount of interstate commerce in the tied market;” and (4) the defendant “has some economic interest in the sales of the tied product.” *Reifert*, 450 F.3d at 317.

As before, Plaintiff's tying claims fail on the first element because Plaintiff does not allege plausible facts supporting the existence of two distinct products—initial certification and MOC—that are being tied. Rather, Plaintiff's FAC impermissibly relies on the same defective assumptions already squarely rejected by this Court (*e.g.*, “ABR sells its certification product separately from MOC”⁷; “radiologists may purchase ABR's certification without buying MOC,” FAC ¶¶ 285, 294) and unsupported legal conclusions (*e.g.*, “[t]here is a separate market for certification products and

⁷ This particular allegation was raised in the original Complaint and *explicitly* rejected in the Court's November 19, 2019 Order. There, the Court concluded that “there never was a time when [initial certification and MOC] were sold separately.” ECF No. 48 at 7. Plaintiff offers no plausible new factual allegations that demonstrate otherwise. *See Weslowski v. Zugibe*, 96 F. Supp. 3d 308, 316–18 (S.D.N.Y. 2015) (holding that “[t]he mere filing of an Amended Complaint does not entitle Plaintiff to re-litigate his claims absent new factual allegations;” and applying the doctrine of law of the case in support of dismissal again where “Plaintiff advance[d] no new allegations addressing the deficiencies the Court [previously] identified”).

[MOC],” *id.* ¶ 283) and that led to dismissal of Plaintiff’s original Complaint. Stripped of those assumptions and conclusions, well-settled case law (and Plaintiff’s remaining allegations) actually support the opposite conclusion: ABR offers a single product, the certification of radiologists, first achieved by passing a certification exam and then maintained by participation in programs that permit that certification to remain in effect. Plaintiff’s attempt to redefine that certification in his FAC does not make it so—and indeed, his own allegations acknowledge they are not distinct. *See, e.g.*, FAC ¶ 9 (“Validity of certification is contingent upon participation in Maintenance of Certification”). And when the alleged products of a tying arrangement “are not [] separate and distinct . . . they combine in the form of one product, not two tied products. Without two products, the alleged tying arrangement is impossible.” *Collins v. Assoc. Pathologists, Ltd.*, 844 F.2d 473, 478 (7th Cir. 1988). Such is the case here.

A comparison between Plaintiff’s original (and dismissed) Complaint and the FAC make clear that Plaintiff’s “new” allegations do not move the needle with respect to the controlling legal issue: the existence—or more precisely, the *lack* of existence—of two distinct products. For example, Plaintiff raises new attacks on the value of MOC generally. *See, e.g.*, FAC ¶¶ 13 (characterizing MOC as “redundant, worthless, and superfluous”), 166 (“[N]o causal relationship has ever been established between MOC and a beneficial impact on radiologists, patient care, or the public”), 167 (“MOC is nothing more than a device to force radiologists to pay tens of millions of dollars in MOC-related fees”), 211–33 (same). Plaintiff’s personal views on MOC—with which ABR strongly disagrees but accepts the Court must take as true for purposes of this motion—are wholly irrelevant to the determination of whether ABR’s initial certification and MOC are separate products. ECF No. 48 at 11 (Plaintiff’s criticisms of MOC did not make it an independent product). They are not.

As another example, Plaintiff embarks on an irrelevant exploration of the history of “[t]he practice of medicine in the United States,” the genesis of specialty medical boards, and the history of continuing medical education. FAC ¶¶ 25–28, 29–47, 48–52, 57–58, 94–115. Plaintiff then selectively quotes purported medical literature—not authored by ABR, and, in many cases, attributed to unknown authors and publications—to seemingly extrapolate that ABR certification is a “snapshot assessment” and therefore categorically different from MOC. *See, e.g., id.* ¶¶ 52, 58. But even if initial certification is aimed at assessing a candidate’s qualifications for entry into radiology practice, MOC ensures (as Plaintiff concedes) that the candidate remains deserving of certification in the future. *Id.* ¶ 9. In other words, ABR certification is a multi-stage process for a single product: board certification. Accordingly, Plaintiff’s “new” allegations do not plausibly support a finding of two products. ECF No. 48 at 7 (“[U]ltimately ABR sells only one product: certification of radiologists This was once a one-stage process, and it is now a multi-stage process, but it does not follow that the certification process consists of separate products”)

Similarly, Plaintiff summarily concludes that “[t]here is separate consumer demand by radiologists for ABR’s certification product and [MOC] products” because “other vendors have sold [MOC] products for decades without selling a certification product.” FAC ¶ 11; *see also id.* ¶¶ 115 (“No CME vendor sells a certification product to radiologists.”), 118 (“No medical school sells a certification product to radiologists.”), 125 (“[National Board of Physicians and Surgeons] does not sell a certification product to radiologists.”). But the relevant inquiry is not whether other sellers offer distinct MOC services for radiologists, but instead whether there is a demand for ABR’s MOC program separate and apart from ABR’s initial certification. *Casey v. Diet Ctr., Inc.*, 590 F. Supp. 1561, 1564 (N.D. Cal. 1984) (recognizing that there is no tie-in where demand for the tied product was generated wholly by the customer’s purchase of the tying product). Here,

Plaintiff admits there is not; according to Plaintiff, ABR's MOC program "would never be successful on its own merits." FAC ¶ 144.

To the extent that Plaintiff raises these allegations to suggest that he would like to buy MOC services but not from ABR, and have the Court determine that as a result of his claims ABR must acknowledge those services for certification to continue, the result is the same. As this Court previously stated, "there can be no foreclosure of competitive access to any market for certification from ABR, whether at the initial or MOC stage, because no one *can* provide certification in ABR's name but ABR." ECF No. 48 at 12 (quotations omitted) (emphasis in original); *see also Ohio-Sealy Mattress Mfg. Co. v. Sealy, Inc.*, 585 F.2d 821, 835 (7th Cir. 1978).

As yet another example, Plaintiff alleges in great detail the many reasons why hospitals and insurers often incorporate ABR certification into privileging, employment, compensation, and coverage decisions. FAC ¶¶ 60–93. But there is no punchline. Nor could there be, because even taking those allegations as true, none plausibly infer that *ABR* controls those decisions or somehow interfered with the ability of those third parties to make their own independent assessment and decisions regarding the value of board certification. *See Pirelli Armstrong Tire Corp. Retiree Med. Benefits Trust v. Walgreen Co.*, 631 F. 3d 436, 444–45 (7th Cir. 2011). Any alleged harm to Plaintiff caused by employment or similar decisions made by third parties such as hospitals or insurers is not antitrust injury. *Sanjuan v. Am. Bd. of Psychiatry & Neurology*, 40 F.3d 247, 251–52 (7th Cir. 1994) ("The claim that a practice reduces [physicians'] incomes has nothing to do with the antitrust laws [I]t does not even state an antitrust injury."); *see also Allyn v. Am. Bd. of Med. Specialties, Inc.*, No. 5:18-cv-355-Oc-30PRL, 2019 WL 297459, at *6 (M.D. Fla. Jan. 3, 2019), *adopted by* 2019 WL 293277 (M.D. Fla. Jan 23, 2019).

As a final example, Plaintiff criticizes ABR's MOC process because it was "recently" instituted and, according to Plaintiff, was strategically named in order to avoid antitrust suspicion. FAC ¶¶ 143, 145–46. Regarding the former, the Court previously made clear that there is "no reason why ABR should not be allowed to modify its certification process over time." ECF No. 48 at 13 (citation omitted) (quotations omitted); *see also Kentmaster Mfg. Co. v. Jarvis Prods. Corp.*, 146 F.3d 691, 694–95 (9th Cir. 1998) (concluding that slaughterhouse equipment and spare blades were a single product, sold over time). Regarding the latter, there are no well-pleaded facts—not a single one—supporting Plaintiff's wild speculation regarding ABR's decision to label its MOC program to "avoid" antitrust scrutiny. The Court should recognize this allegation for what it is and disregard it.

The conclusory and irrelevant allegations highlighted above are further belied by the decisions of numerous courts, including this Court, in which analogous tying claims have been squarely rejected. As ABR established in its motion to dismiss Plaintiff's original Complaint, the Middle District of Florida recently dismissed a tying claim against ABMS and the American Board of Dermatology, Inc. ("ABD") based on allegations concerning ABD's certification of dermatologists in a surgical subspecialty because "it [was] not clear from the complaint what two separate products are allegedly being tied together." *Allyn*, 2019 WL 297459, at *6. Likewise, courts have found that continuing requirements related to an overall composite package purchased at the outset do not constitute two separate, distinct products. *See Principe v. McDonald's Corp.*, 631 F.2d 303, 304, 308 (4th Cir. 1980) (a lease on the restaurant location, security deposit note, and license from McDonalds to operate with its trademark were "not separate products but component parts of the overall franchise package"); *see also Kenney v. Am. Bd. of Internal Med.*, No. cv-18-5260, 2019 WL 4697575, at *11 (E.D. Pa. Sept. 26, 2019) (concluding that the character

of the demand for the initial certification and the MOC is the same). These cases remain good law and their principles apply here. Plaintiff purchased a single product—certification—which, by its terms, required at the outset that Plaintiff take an examination to qualify in the first instance and then to take certain steps in order to maintain it, including meeting the MOC requirements. *See* Ex. 2, at 12 (Plaintiff acknowledging ABR “as the sole and only judge of my qualifications to *receive and maintain*” certification (emphasis added)).

The underlying principle that demand of the tied product must be distinct from the demand of the tying product is further fatal to Plaintiff’s claim. *Collins*, 844 F.2d at 477–78 (pathology services not distinct product from hospital services, rendering tying claim “impossible”). No such plausible showing can be made here, and in fact, Plaintiff concedes the opposite: “[MOC] would never be successful on its own merits.” FAC ¶ 144; *see also Debjo Sales, LLC v. Houghton Mifflin Harcourt Publ’g Co.*, No. 14-4657, 2015 WL 1969380, at *4 (D.N.J. Apr. 29, 2015) (plaintiff could not plead facts to show that consumer demand for *delivery* of educational materials was independent from the actual *sale* of the materials, and thus were not separate and distinct products); *Young v. Lehigh Corp.*, No. 80 C 4376, 1989 WL 117960, at *13 (N.D. Ill. Sep. 28, 1989) (“A tying arrangement exists only when two products, distinct in the eyes of the buyers, are linked.” (citing *Jefferson Parish Hosp. Dist. No. 2 v. Hyde*, 466 U.S. 2, 18-22 (1984))).

Nor does Plaintiff plausibly allege that initial certification and MOC are distinct products from the perspective of a radiologist. He admits he knew that MOC would be a requirement to continue to maintain ABR certification when he was initially certified in 2003. FAC ¶ 255. This admission is also fatal to his claim. *See SubSolutions, Inc. v. Doctor’s Assocs., Inc.*, 436 F. Supp. 2d 348, 355 (D. Conn. 2006) (inability to “demonstrate that anyone other than a Subway franchisee would want to purchase a Subway-tailored POS-system” meant that plaintiffs could not satisfy the

“essential element of their tying claims [] that a Subway franchise and a POS-system are two distinct products”). It is implausible, contrary to judicial experience and common sense, and in fact not alleged by Plaintiff that anyone—radiologist or not—would have any interest in purchasing MOC *were they not already ABR-certified*.

Finally, the lack of a plausible tying arrangement with two separate products illustrates Plaintiff’s further inability to adequately allege that ABR has (and used) sufficient economic market power to force him to enroll in MOC (as opposed to contractual power). *See Rocha v. FedEx Corp.*, 15 F. Supp. 3d 796, 811 (N.D. Ill. 2014) (granting motion to dismiss tying claims where “Plaintiffs purchased [the allegedly tied products] because they contractually agreed to do so, . . . not because of FedEx’s overwhelming market power.”); *see also Oracle Am., Inc. v. CedarCrestone, Inc.*, 938 F. Supp. 2d 895, 902–03 (N.D. Cal. 2013). Plaintiff *knew* when he sought certification that MOC was part of the package deal, and nonetheless agreed to it. *See* FAC ¶¶ 255–58; *see also* Ex. 2, at 13 (“This is a ten-year time-limited certificate. Information relative to Maintenance of Certification will be sent to you in the near future.”). That Plaintiff desires certification (and all that comes with it, including MOC) in order to take advantage of opportunities with independent third parties, like hospitals, insurers or other health care entities—does not mean that ABR coercively “forces” it upon him. Indeed, Plaintiff admits those entities are independent of ABR, FAC ¶¶ 60, 62–64, and determine their own criteria, *id.* For all these reasons, both of Plaintiff’s tying claims must be dismissed.

B. Plaintiff’s Tying Claims Also Fail As A Matter of Law for Lack of Antitrust Injury

Plaintiff’s Sherman Act tying claims also fail based on his failure to properly plead “antitrust injury.” In order to do so, Plaintiff “must show injuries that reflect the anticompetitive effect of either the violation or the anticompetitive acts made possible by the violation.” *James*

Cape & Sons Co. v. PCC Constr. Co., 453 F.3d 396, 399 (7th Cir. 2006) (citing *Brunswick Corp. v. Pueblo Bowl-o-Mat, Inc.*, 429 U.S. 477, 489 (1977)). Antitrust injury must involve “loss [that] comes from acts that reduce output or raise prices to consumers.” *Chi. Prof’l Sports Ltd. P’ship v. Nat’l Basketball Ass’n*, 961 F.2d 667, 670 (7th Cir. 1992) (citations omitted).

Plaintiff’s claimed antitrust injury that he was “forced” to purchase enrollment in MOC from ABR at an elevated price, when he otherwise would not have purchased it is insufficient as a matter of law. FAC ¶¶ 329, 338, 364. “Forcing a buyer to purchase a product he otherwise would not have purchased is insufficient to establish the foreclosure of competition.” *Reifert*, 450 F.3d at 318 (7th Cir. 2006). Because the “crux of the plaintiff’s ‘tying’ claim . . . is that he was ‘forced’ to purchase a product that he did not want and would not have purchased from anyone[,] . . . competition in the [relevant] market could not have been affected adversely[.]” *Young*, 1989 WL 117960, at *14–15 (citing *Jefferson Parish*, 466 U.S. at 16). Plaintiff lacks antitrust injury because he would prefer not to have purchased and enrolled in MOC from ABR at all, requiring dismissal of his Sherman Act claims.⁸

C. Plaintiff’s Tying Claims Are Partially Barred by the Statute of Limitations

Should the Court conclude that Plaintiffs’ tying claims do survive Rule 12(b)(6)—which as articulated above ABR contends they do not—Plaintiff’s Sherman Act claims must be narrowed to the extent that they are rooted in any alleged “harm” four years prior to February 26, 2019, the date of the filing of the original Complaint. Federal antitrust claims must be filed “within four years after the cause of action accrued.” 15 U.S.C. § 15b. “There is no question that, absent tolling for one reason or another, the four year antitrust statute of limitations begins to run at the time that

⁸ Plaintiff does not allege that he would have purchased a maintenance product from NBPAS—or any other entity. Indeed, he cannot plausibly do so in light of his allegations that the NBPAS product has no current value. FAC ¶ 123.

the alleged violation occurs.” *Jackson v. Union Nat’l Bank*, 715 F. Supp. 892, 895 (C.D. Ill. 1989) (citing *Brunswick Corp. v. Riegel Textile Corp.*, 752 F.2d 261, 268 (7th Cir. 1984)). “In the context of a tying arrangement, this typically means that a plaintiff must show that the defendant had the ability to and actually did enforce the tie during the limitations period.” *Gumwood HP Shopping Partners, L.P. v. Simon Prop. Grp., Inc.*, No. 3:11-CV-268, 2016 WL 8292207, at *11 (N.D. Ind. Mar. 18, 2016) (quotations omitted). “[T]he harm that creates the . . . cause of action must be *antitrust* harm, i.e., a continuing injury to *competition*, not merely a continuing pecuniary injury to a plaintiff.” *Young*, 1989 WL 117960, at *18 (quotations omitted) (emphasis in original).

Here, while the full basis of Plaintiff’s alleged harm is unclear, it is clear that any alleged injury—including any alleged injury arising out of Plaintiff’s initial certification and his 2012 MOC participation fall outside the four-year limitations period. Even assuming that Plaintiff has stated some valid antitrust claim at the pleading stage, his claims should be dismissed to the extent that he proceeds on a theory based on any alleged “harm” suffered before February 26, 2015.

II. PLAINTIFF FAILS TO STATE AN UNJUST ENRICHMENT CLAIM (COUNT III)

Plaintiff re-alleges that ABR has been unjustly enriched when Plaintiff was forced to pay MOC-related fees. FAC ¶¶ 368–72. But Plaintiff clearly purchased his certification and paid MOC-related fees pursuant to contracts with ABR, *see, e.g.*, Ex. 2 at 5, 7, and makes no claim that those contracts are invalid. “[A] plaintiff may not state a claim for unjust enrichment when a contract governs the relationship between the parties.” *First Commodity Traders, Inc. v. Heinold Commodities, Inc.*, 766 F.2d 1007, 1011 (7th Cir. 1985) (citations omitted).⁹ “This is true even

⁹ For the purposes of this motion, ABR assumes that Illinois law applies. *Transamerica Commercial Fin. Corp. v. Stockholder Sys., Inc.*, No. 89 C 917, 1990 WL 186088, at *2 n.2 (N.D. Ill. Nov. 8, 1990) (citing *Checkers, Simon & Rosner v. Lurie Corp.*, 864 F.2d 1338, 1345 (7th Cir. 1988)).

when the contract does not address the specific issue in contention.” *Pace Am., Inc. v. Elixir Indus.*, No. 06 C 4661, 2009 WL 211953, at *7 (N.D. Ill. Jan. 27, 2009). Further, Illinois unjust enrichment law requires that “[f]or a cause of action based on a theory of unjust enrichment to exist, there must be an independent basis that establishes a duty on the part of the defendant to act and the defendant must have failed to abide by that duty.” *Phila. Indem. Ins. Co. v. Pace Suburban Bus Serv.*, No. 1-15-1659, 2016 WL 6804622, at *11 (Ill. App. Ct. Nov. 17, 2016). Plaintiff alleges no such duty. *See* FAC ¶¶ 368–72. Plaintiff’s unjust enrichment claim thus fails.

CONCLUSION

Plaintiff has not and cannot plausibly allege any tying claim under the Sherman Act against ABR because, as this Court has already acknowledged, ABR’s certification, a multi-stage certification comprised of initial certification and continuing MOC requirements to confirm that a radiologist continues to possess the qualities commensurate with the standards for a board-certified radiologist, is “now, as ever” a single product. Nothing in Plaintiff’s FAC supports otherwise, as Plaintiff does not allege plausible factual allegations that suggest the existence of two separate products—certification as separate and distinct from MOC. As a result, Plaintiff’s second bite at the apple on his tying claims suffers from the same fatal flaws as his first, requiring dismissal. Nor has Plaintiff plead any plausible allegations that ABR has been unjustly enriched when Plaintiff himself admits he *agreed* to certification with MOC from the outset pursuant to his original application. The Court should grant ABR’s Motion to Dismiss Plaintiff’s FAC in its entirety with prejudice.

Dated: March 13, 2020

By: s/ Jaime Stilson

Jaime Stilson (IL attorney no. 6287484)
DORSEY & WHITNEY LLP
50 South Sixth Street, Suite 1500
Minneapolis, MN 55402
Telephone: (612) 340-2600
Facsimile: (612) 340-2868
stilson.jaime@dorsey.com

Matthew Stromquist
Kevin Liu
PILGRIM CHRISTAKIS LLP
321 North Clark Street, 26th Floor
Chicago, IL 60654
Telephone: (312) 939-6580
mstromquist@pilgrimchristakis.com
kliu@pilgrimchristakis.com

CERTIFICATE OF SERVICE

I certify that I have on this 13th day of March, 2020, filed the foregoing **DEFENDANT AMERICAN BOARD OF RADIOLOGY'S MEMORANDUM IN SUPPORT OF MOTION TO DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT** using the Court's ECF system, which will give electronic notification to the following parties of record:

Brian M. Hogan
Michael Jerry Freed
FREED KANNER LONDON & MILLEN,
LLC
2201 Waukegan Road, Suite 130
Bannockburn, IL 60015
bhogan@fklmlaw.com
mfreed@fklmlaw.com

C. Philip Curley
Benjamin E. Schwab
Cynthia H. Hyndman
ROBINSON CURLEY PC
300 South Wacker Drive, Suite 1700
Chicago, IL 60606
pcurley@robinsoncurley.com
bschwab@robinsoncurley.com

Jonathan M. Jagher
FREED KANNER LONDON & MILLEN
923 Fayette Street
Conshohocken, PA 19428
jjagher@srkattorneys.com

Katrina Carroll
Carlson Lynch LLP
111 W. Washington Street
Suite 1240
Chicago, IL 60602
Email: kcarroll@carlsonlynch.com
Phone: 312-750-1265

s/ Jaime Stilson

Exhibit 1

Statement of Program Service Accomplishments

Check if Schedule O contains a response or note to any line in this Part III

1 Briefly describe the organization's mission

TO CERTIFY THAT OUR DIPLOMATES DEMONSTRATE THE REQUISITE KNOWLEDGE, SKILL, AND UNDERSTANDING OF THEIR DISCIPLINES TO THE BENEFIT OF PATIENTS

2 Did the organization undertake any significant program services during the year which were not listed on the prior Form 990 or 990-EZ? Yes No

If "Yes," describe these new services on Schedule O

3 Did the organization cease conducting, or make significant changes in how it conducts, any program services? Yes No

If "Yes," describe these changes on Schedule O

4 Describe the organization's program service accomplishments for each of its three largest program services, as measured by expenses Section 501(c)(3) and 501(c)(4) organizations are required to report the amount of grants and allocations to others, the total expenses, and revenue, if any, for each program service reported

4a (Code) (Expenses \$ including grants of \$) (Revenue \$)
ADMINISTERED APPROXIMATELY 4,916 EXAMS IN DIAGNOSTIC RADIOLOGY, RADIATION ONCOLOGY, MEDICAL PHYSICS AND SUBSPECIALTIES ACTIVITY OBJECTIVE IS TO DETERMINE IF CANDIDATES HAVE ACQUIRED REQUISITE STANDARD OF KNOWLEDGE SKILL AND UNDERSTANDING ESSENTIAL TO THE PRACTICE OF DIAGNOSTIC RADIOLOGY, RADIATION ONCOLOGY AND MEDICAL PHYSICS MAINTAINED CERTIFICATION TO PROVIDE CONTINUOUS QUALITY IMPROVMENT, PROFESSIONAL DEVELOPMENT AND QUALITY PATIENT CARE ENROLLMENT IN THE MAINTENANCE OF CERTIFICATION WAS APPROXIMATELY 25,000 DIPLOMATES














4b (Code) (Expenses \$ including grants of \$) (Revenue \$)

4c (Code) (Expenses \$ including grants of \$) (Revenue \$)

4d Other program services (Describe in Schedule O)
(Expenses \$ including grants of \$) (Revenue \$)

4e Total program service expenses

Part IV Checklist of Required Schedules

	Yes	No
1 Is the organization described in section 501(c)(3) or 4947(a)(1) (other than a private foundation)? <i>If "Yes," complete Schedule A</i>	1	No
2 Is the organization required to complete <i>Schedule B, Schedule of Contributors</i> (see instructions)?	2	No
3 Did the organization engage in direct or indirect political campaign activities on behalf of or in opposition to candidates for public office? <i>If "Yes," complete Schedule C, Part I</i>	3	No
4 Section 501(c)(3) organizations. Did the organization engage in lobbying activities, or have a section 501(h) election in effect during the tax year? <i>If "Yes," complete Schedule C, Part II</i>	4	
5 Is the organization a section 501(c)(4), 501(c)(5), or 501(c)(6) organization that receives membership dues, assessments, or similar amounts as defined in Revenue Procedure 98-19? <i>If "Yes," complete Schedule C, Part III</i>	5	No
6 Did the organization maintain any donor advised funds or any similar funds or accounts for which donors have the right to provide advice on the distribution or investment of amounts in such funds or accounts? <i>If "Yes," complete Schedule D, Part I</i> 	6	No
7 Did the organization receive or hold a conservation easement, including easements to preserve open space, the environment, historic land areas, or historic structures? <i>If "Yes," complete Schedule D, Part II</i> 	7	No
8 Did the organization maintain collections of works of art, historical treasures, or other similar assets? <i>If "Yes," complete Schedule D, Part III</i> 	8	No
9 Did the organization report an amount in Part X, line 21 for escrow or custodial account liability, serve as a custodian for amounts not listed in Part X, or provide credit counseling, debt management, credit repair, or debt negotiation services? <i>If "Yes," complete Schedule D, Part IV</i> 	9	No
10 Did the organization, directly or through a related organization, hold assets in temporarily restricted endowments, permanent endowments, or quasi-endowments? <i>If "Yes," complete Schedule D, Part V</i> 	10	No
11 If the organization's answer to any of the following questions is "Yes," then complete Schedule D, Parts VI, VII, VIII, IX, or X as applicable		
a Did the organization report an amount for land, buildings, and equipment in Part X, line 10? <i>If "Yes," complete Schedule D, Part VI</i> 	11a Yes	
b Did the organization report an amount for investments—other securities in Part X, line 12 that is 5% or more of its total assets reported in Part X, line 16? <i>If "Yes," complete Schedule D, Part VII</i> 	11b	No
c Did the organization report an amount for investments—program related in Part X, line 13 that is 5% or more of its total assets reported in Part X, line 16? <i>If "Yes," complete Schedule D, Part VIII</i> 	11c	No
d Did the organization report an amount for other assets in Part X, line 15 that is 5% or more of its total assets reported in Part X, line 16? <i>If "Yes," complete Schedule D, Part IX</i> 	11d	No
e Did the organization report an amount for other liabilities in Part X, line 25? <i>If "Yes," complete Schedule D, Part X</i> 	11e Yes	
f Did the organization's separate or consolidated financial statements for the tax year include a footnote that addresses the organization's liability for uncertain tax positions under FIN 48 (ASC 740)? <i>If "Yes," complete Schedule D, Part X</i> 	11f Yes	
12a Did the organization obtain separate, independent audited financial statements for the tax year? <i>If "Yes," complete Schedule D, Parts XI and XII</i> 	12a	No
b Was the organization included in consolidated, independent audited financial statements for the tax year? <i>If "Yes," and if the organization answered "No" to line 12a, then completing Schedule D, Parts XI and XII is optional</i> 	12b Yes	
13 Is the organization a school described in section 170(b)(1)(A)(ii)? <i>If "Yes," complete Schedule E</i>	13	No
14a Did the organization maintain an office, employees, or agents outside of the United States?	14a	No
b Did the organization have aggregate revenues or expenses of more than \$10,000 from grantmaking, fundraising, business, investment, and program service activities outside the United States, or aggregate foreign investments valued at \$100,000 or more? <i>If "Yes," complete Schedule F, Parts I and IV</i>	14b	No
15 Did the organization report on Part IX, column (A), line 3, more than \$5,000 of grants or other assistance to or for any foreign organization? <i>If "Yes," complete Schedule F, Parts II and IV</i>	15	No
16 Did the organization report on Part IX, column (A), line 3, more than \$5,000 of aggregate grants or other assistance to or for foreign individuals? <i>If "Yes," complete Schedule F, Parts III and IV</i>	16	No
17 Did the organization report a total of more than \$15,000 of expenses for professional fundraising services on Part IX, column (A), lines 6 and 11e? <i>If "Yes," complete Schedule G, Part I</i> (see instructions)	17	No
18 Did the organization report more than \$15,000 total of fundraising event gross income and contributions on Part VIII, lines 1c and 8a? <i>If "Yes," complete Schedule G, Part II</i>	18	No
19 Did the organization report more than \$15,000 of gross income from gaming activities on Part VIII, line 9a? <i>If "Yes," complete Schedule G, Part III</i>	19	No
20a Did the organization operate one or more hospital facilities? <i>If "Yes," complete Schedule H</i>	20a	No
b If "Yes" to line 20a, did the organization attach a copy of its audited financial statements to this return?	20b	

21	Did the organization report more than \$5,000 of grants or other assistance to any domestic organization or domestic government on Part IX, column (A), line 1? <i>If "Yes," complete Schedule I, Parts I and II</i>	21		No
22	Did the organization report more than \$5,000 of grants or other assistance to or for domestic individuals on Part IX, column (A), line 2? <i>If "Yes," complete Schedule I, Parts I and III</i>	22		No
23	Did the organization answer "Yes" to Part VII, Section A, line 3, 4, or 5 about compensation of the organization's current and former officers, directors, trustees, key employees, and highest compensated employees? <i>If "Yes," complete Schedule J</i>	23	Yes	
24a	Did the organization have a tax-exempt bond issue with an outstanding principal amount of more than \$100,000 as of the last day of the year, that was issued after December 31, 2002? <i>If "Yes," answer lines 24b through 24d and complete Schedule K. If "No," go to line 25a</i>	24a		No
b	Did the organization invest any proceeds of tax-exempt bonds beyond a temporary period exception?	24b		
c	Did the organization maintain an escrow account other than a refunding escrow at any time during the year to defease any tax-exempt bonds?	24c		
d	Did the organization act as an "on behalf of" issuer for bonds outstanding at any time during the year?	24d		
25a	Section 501(c)(3), 501(c)(4), and 501(c)(29) organizations. Did the organization engage in an excess benefit transaction with a disqualified person during the year? <i>If "Yes," complete Schedule L, Part I</i>	25a		
b	Is the organization aware that it engaged in an excess benefit transaction with a disqualified person in a prior year, and that the transaction has not been reported on any of the organization's prior Forms 990 or 990-EZ? <i>If "Yes," complete Schedule L, Part I</i>	25b		
26	Did the organization report any amount on Part X, line 5, 6, or 22 for receivables from or payables to any current or former officers, directors, trustees, key employees, highest compensated employees, or disqualified persons? <i>If "Yes," complete Schedule L, Part II</i>	26		No
27	Did the organization provide a grant or other assistance to an officer, director, trustee, key employee, substantial contributor or employee thereof, a grant selection committee member, or to a 35% controlled entity or family member of any of these persons? <i>If "Yes," complete Schedule L, Part III</i>	27		No
28	Was the organization a party to a business transaction with one of the following parties (see Schedule L, Part IV instructions for applicable filing thresholds, conditions, and exceptions)			
a	A current or former officer, director, trustee, or key employee? <i>If "Yes," complete Schedule L, Part IV</i>	28a		No
b	A family member of a current or former officer, director, trustee, or key employee? <i>If "Yes," complete Schedule L, Part IV</i>	28b		No
c	An entity of which a current or former officer, director, trustee, or key employee (or a family member thereof) was an officer, director, trustee, or direct or indirect owner? <i>If "Yes," complete Schedule L, Part IV</i>	28c		No
29	Did the organization receive more than \$25,000 in non-cash contributions? <i>If "Yes," complete Schedule M</i>	29		No
30	Did the organization receive contributions of art, historical treasures, or other similar assets, or qualified conservation contributions? <i>If "Yes," complete Schedule M</i>	30		No
31	Did the organization liquidate, terminate, or dissolve and cease operations? <i>If "Yes," complete Schedule N, Part I</i>	31		No
32	Did the organization sell, exchange, dispose of, or transfer more than 25% of its net assets? <i>If "Yes," complete Schedule N, Part II</i>	32		No
33	Did the organization own 100% of an entity disregarded as separate from the organization under Regulations sections 301.7701-2 and 301.7701-3? <i>If "Yes," complete Schedule R, Part I</i>	33	Yes	
34	Was the organization related to any tax-exempt or taxable entity? <i>If "Yes," complete Schedule R, Part II, III, or IV, and Part V, line 1</i>	34	Yes	
35a	Did the organization have a controlled entity within the meaning of section 512(b)(13)?	35a	Yes	
b	If 'Yes' to line 35a, did the organization receive any payment from or engage in any transaction with a controlled entity within the meaning of section 512(b)(13)? <i>If "Yes," complete Schedule R, Part V, line 2</i>	35b		No
36	Section 501(c)(3) organizations. Did the organization make any transfers to an exempt non-charitable related organization? <i>If "Yes," complete Schedule R, Part V, line 2</i>	36		
37	Did the organization conduct more than 5% of its activities through an entity that is not a related organization and that is treated as a partnership for federal income tax purposes? <i>If "Yes," complete Schedule R, Part VI</i>	37		No
38	Did the organization complete Schedule O and provide explanations in Schedule O for Part VI, lines 11b and 19? Note. All Form 990 filers are required to complete Schedule O	38	Yes	

Part V Statements Regarding Other IRS Filings and Tax Compliance

Check if Schedule O contains a response or note to any line in this Part V ☐

		Yes	No
1a Enter the number reported in Box 3 of Form 1096 Enter -0- if not applicable	1a 53		
b Enter the number of Forms W-2G included in line 1a Enter -0- if not applicable	1b 0		
c Did the organization comply with backup withholding rules for reportable payments to vendors and reportable gaming (gambling) winnings to prize winners?		1c	
2a Enter the number of employees reported on Form W-3, Transmittal of Wage and Tax Statements, filed for the calendar year ending with or within the year covered by this return	2a 122		
b If at least one is reported on line 2a, did the organization file all required federal employment tax returns? Note. If the sum of lines 1a and 2a is greater than 250, you may be required to e-file (see instructions)		2b Yes	
3a Did the organization have unrelated business gross income of \$1,000 or more during the year?		3a	No
b If "Yes," has it filed a Form 990-T for this year?If "No" to line 3b, provide an explanation in Schedule O		3b	
4a At any time during the calendar year, did the organization have an interest in, or a signature or other authority over, a financial account in a foreign country (such as a bank account, securities account, or other financial account)?		4a	No
b If "Yes," enter the name of the foreign country ► See instructions for filing requirements for FinCEN Form 114, Report of Foreign Bank and Financial Accounts (FBAR)			
5a Was the organization a party to a prohibited tax shelter transaction at any time during the tax year?		5a	No
b Did any taxable party notify the organization that it was or is a party to a prohibited tax shelter transaction?		5b	No
c If "Yes," to line 5a or 5b, did the organization file Form 8886-T?		5c	
6a Does the organization have annual gross receipts that are normally greater than \$100,000, and did the organization solicit any contributions that were not tax deductible as charitable contributions?		6a	No
b If "Yes," did the organization include with every solicitation an express statement that such contributions or gifts were not tax deductible?		6b	
7 Organizations that may receive deductible contributions under section 170(c).			
a Did the organization receive a payment in excess of \$75 made partly as a contribution and partly for goods and services provided to the payor?		7a	
b If "Yes," did the organization notify the donor of the value of the goods or services provided?		7b	
c Did the organization sell, exchange, or otherwise dispose of tangible personal property for which it was required to file Form 8282?		7c	
d If "Yes," indicate the number of Forms 8282 filed during the year	7d		
e Did the organization receive any funds, directly or indirectly, to pay premiums on a personal benefit contract?		7e	
f Did the organization, during the year, pay premiums, directly or indirectly, on a personal benefit contract?		7f	
g If the organization received a contribution of qualified intellectual property, did the organization file Form 8899 as required?		7g	
h If the organization received a contribution of cars, boats, airplanes, or other vehicles, did the organization file a Form 1098-C?		7h	
8 Sponsoring organizations maintaining donor advised funds. Did a donor advised fund maintained by the sponsoring organization have excess business holdings at any time during the year?		8	
9a Did the sponsoring organization make any taxable distributions under section 4966?		9a	
b Did the sponsoring organization make a distribution to a donor, donor advisor, or related person?		9b	
10 Section 501(c)(7) organizations. Enter			
a Initiation fees and capital contributions included on Part VIII, line 12	10a		
b Gross receipts, included on Form 990, Part VIII, line 12, for public use of club facilities	10b		
11 Section 501(c)(12) organizations. Enter			
a Gross income from members or shareholders	11a		
b Gross income from other sources (Do not net amounts due or paid to other sources against amounts due or received from them)	11b		
12a Section 4947(a)(1) non-exempt charitable trusts. Is the organization filing Form 990 in lieu of Form 1041?		12a	
b If "Yes," enter the amount of tax-exempt interest received or accrued during the year	12b		
13 Section 501(c)(29) qualified nonprofit health insurance issuers.			
a Is the organization licensed to issue qualified health plans in more than one state? Note. See the instructions for additional information the organization must report on Schedule O		13a	
b Enter the amount of reserves the organization is required to maintain by the states in which the organization is licensed to issue qualified health plans	13b		
c Enter the amount of reserves on hand	13c		
14a Did the organization receive any payments for indoor tanning services during the tax year?		14a	No
b If "Yes," has it filed a Form 720 to report these payments?If "No," provide an explanation in Schedule O		14b	

For each "Yes" response to lines 2 through 7b below, and for a "No" response to lines 8a, 8b, or 10b below, describe the circumstances, processes, or changes in Schedule O. See instructions.

Check if Schedule O contains a response or note to any line in this Part VI ☒

Section A. Governing Body and Management

		Yes	No
1a Enter the number of voting members of the governing body at the end of the tax year	1a 27		
If there are material differences in voting rights among members of the governing body, or if the governing body delegated broad authority to an executive committee or similar committee, explain in Schedule O			
b Enter the number of voting members included in line 1a, above, who are independent	1b 27		
2 Did any officer, director, trustee, or key employee have a family relationship or a business relationship with any other officer, director, trustee, or key employee?	2		No
3 Did the organization delegate control over management duties customarily performed by or under the direct supervision of officers, directors or trustees, or key employees to a management company or other person?	3		No
4 Did the organization make any significant changes to its governing documents since the prior Form 990 was filed?	4		No
5 Did the organization become aware during the year of a significant diversion of the organization's assets?	5		No
6 Did the organization have members or stockholders?	6		No
7a Did the organization have members, stockholders, or other persons who had the power to elect or appoint one or more members of the governing body?	7a		No
b Are any governance decisions of the organization reserved to (or subject to approval by) members, stockholders, or persons other than the governing body?	7b		No
8 Did the organization contemporaneously document the meetings held or written actions undertaken during the year by the following			
a The governing body?	8a	Yes	
b Each committee with authority to act on behalf of the governing body?	8b	Yes	
9 Is there any officer, director, trustee, or key employee listed in Part VII, Section A, who cannot be reached at the organization's mailing address? If "Yes," provide the names and addresses in Schedule O	9		No

Section B. Policies (This Section B requests information about policies not required by the Internal Revenue Code.)

	Yes	No
10a Did the organization have local chapters, branches, or affiliates?	10a	No
b If "Yes," did the organization have written policies and procedures governing the activities of such chapters, affiliates, and branches to ensure their operations are consistent with the organization's exempt purposes?	10b	
11a Has the organization provided a complete copy of this Form 990 to all members of its governing body before filing the form?	11a	Yes
b Describe in Schedule O the process, if any, used by the organization to review this Form 990		
12a Did the organization have a written conflict of interest policy? If "No," go to line 13	12a	Yes
b Were officers, directors, or trustees, and key employees required to disclose annually interests that could give rise to conflicts?	12b	Yes
c Did the organization regularly and consistently monitor and enforce compliance with the policy? If "Yes," describe in Schedule O how this was done	12c	Yes
13 Did the organization have a written whistleblower policy?	13	Yes
14 Did the organization have a written document retention and destruction policy?	14	Yes
15 Did the process for determining compensation of the following persons include a review and approval by independent persons, comparability data, and contemporaneous substantiation of the deliberation and decision?		
a The organization's CEO, Executive Director, or top management official	15a	Yes
b Other officers or key employees of the organization	15b	Yes
If "Yes" to line 15a or 15b, describe the process in Schedule O (see instructions)		
16a Did the organization invest in, contribute assets to, or participate in a joint venture or similar arrangement with a taxable entity during the year?	16a	No
b If "Yes," did the organization follow a written policy or procedure requiring the organization to evaluate its participation in joint venture arrangements under applicable federal tax law, and take steps to safeguard the organization's exempt status with respect to such arrangements?	16b	

Section C. Disclosure

17 List the States with which a copy of this Form 990 is required to be filed **AZ, CA**

18 Section 6104 requires an organization to make its Form 1023 (or 1024 if applicable), 990, and 990-T (501(c)(3)s only) available for public inspection. Indicate how you made these available. Check all that apply.
☐ Own website ☒ Another's website ☒ Upon request ☐ Other (explain in Schedule O)

19 Describe in Schedule O whether (and if so, how) the organization made its governing documents, conflict of interest policy, and financial statements available to the public during the tax year

20 State the name, address, and telephone number of the person who possesses the organization's books and records
►VALERIE P JACKSON MD EXECUTIVE DIRECTOR 5441 E WILLIAMS CIRCLE TUCSON, AZ 85711 (520) 790-2900

Part VIII Statement of Revenue

Check if Schedule O contains a response or note to any line in this Part VIII

			(A) Total revenue	(B) Related or exempt function revenue	(C) Unrelated business revenue	(D) Revenue excluded from tax under sections 512-514		
Contributions, Gifts, Grants and Other Similar Amounts	1a	Federated campaigns 1a						
	b	Membership dues 1b						
	c	Fundraising events 1c						
	d	Related organizations 1d						
	e	Government grants (contributions) 1e						
	f	All other contributions, gifts, grants, and similar amounts not included above 1f						
	g	Noncash contributions included in lines 1a-1f \$						
	h	Total. Add lines 1a-1f ▶						
Program Service Revenue	2a	CERTIFICATION FEES	Business Code 900099	15,761,020	15,761,020			
	b							
	c							
	d							
	e							
	f	All other program service revenue						
	g	Total. Add lines 2a-2f ▶		15,761,020				
	Other Revenue	3	Investment income (including dividends, interest, and other similar amounts) ▶	503,453			503,453	
4		Income from investment of tax-exempt bond proceeds . . ▶						
5		Royalties ▶						
6a		Gross rents	(i) Real	(ii) Personal				
			11,700					
			b	Less rental expenses	0			
			c	Rental income or (loss)	11,700			
d		Net rental income or (loss) ▶	11,700			11,700		
7a		Gross amount from sales of assets other than inventory	(i) Securities	(ii) Other				
			2,031,411					
			b	Less cost or other basis and sales expenses	2,012,674	34,180		
			c	Gain or (loss)	18,737	-34,180		
d		Net gain or (loss) ▶	-15,443	-34,180		18,737		
8a		Gross income from fundraising events (not including \$ _____ of contributions reported on line 1c) See Part IV, line 18 a						
b		Less direct expenses b						
c		Net income or (loss) from fundraising events . . ▶						
9a		Gross income from gaming activities See Part IV, line 19 a						
b		Less direct expenses b						
c		Net income or (loss) from gaming activities . . . ▶						
10a		Gross sales of inventory, less returns and allowances a						
	b		Less cost of goods sold b					
	c		Net income or (loss) from sales of inventory . . ▶					
	Miscellaneous Revenue		Business Code					
11a								
b								
c								
d	All other revenue							
e	Total. Add lines 11a-11d ▶							
12	Total revenue. See Instructions ▶	16,260,730	15,726,840	0	533,890			

Part IX Statement of Functional Expenses

Section 501(c)(3) and 501(c)(4) organizations must complete all columns. All other organizations must complete column (A)

Check if Schedule O contains a response or note to any line in this Part IX

Do not include amounts reported on lines 6b, 7b, 8b, 9b, and 10b of Part VIII.		(A) Total expenses	(B) Program service expenses	(C) Management and general expenses	(D) Fundraising expenses
1	Grants and other assistance to domestic organizations and domestic governments. See Part IV, line 21.				
2	Grants and other assistance to domestic individuals. See Part IV, line 22.				
3	Grants and other assistance to foreign organizations, foreign governments, and foreign individuals. See Part IV, lines 15 and 16.				
4	Benefits paid to or for members.				
5	Compensation of current officers, directors, trustees, and key employees.	1,965,789			
6	Compensation not included above, to disqualified persons (as defined under section 4958(f)(1)) and persons described in section 4958(c)(3)(B).				
7	Other salaries and wages.	3,427,598			
8	Pension plan accruals and contributions (include section 401(k) and 403(b) employer contributions).	609,366			
9	Other employee benefits.	560,274			
10	Payroll taxes.	369,112			
11	Fees for services (non-employees):				
a	Management.				
b	Legal.	44,776			
c	Accounting.	75,466			
d	Lobbying.				
e	Professional fundraising services. See Part IV, line 17.				
f	Investment management fees.				
g	Other (If line 11g amount exceeds 10% of line 25, column (A) amount, list line 11g expenses on Schedule O).				
12	Advertising and promotion.				
13	Office expenses.	581,359			
14	Information technology.				
15	Royalties.				
16	Occupancy.	383,165			
17	Travel.				
18	Payments of travel or entertainment expenses for any federal, state, or local public officials.				
19	Conferences, conventions, and meetings.	1,292,044			
20	Interest.	2,572			
21	Payments to affiliates.				
22	Depreciation, depletion, and amortization.	1,233,235			
23	Insurance.	137,630			
24	Other expenses. Itemize expenses not covered above (List miscellaneous expenses in line 24e. If line 24e amount exceeds 10% of line 25, column (A) amount, list line 24e expenses on Schedule O).				
a	EXAMINATION SERVICES	2,075,638			
b	CREDIT CARD FEES	402,206			
c	BAD DEBT	374,602			
d	OUTSIDE SERVICES	223,467			
e	All other expenses				
25	Total functional expenses. Add lines 1 through 24e	13,758,299			
26	Joint costs. Complete this line only if the organization reported in column (B) joint costs from a combined educational campaign and fundraising solicitation. Check here <input type="checkbox"/> if following SOP 98-2 (ASC 958-720).				

Part X Balance SheetCheck if Schedule O contains a response or note to any line in this Part X ☐

		(A) Beginning of year		(B) End of year
Assets	1 Cash—non-interest-bearing	11,691,834	1	12,059,447
	2 Savings and temporary cash investments		2	
	3 Pledges and grants receivable, net		3	
	4 Accounts receivable, net	1,396,765	4	1,359,762
	5 Loans and other receivables from current and former officers, directors, trustees, key employees, and highest compensated employees. Complete Part II of Schedule L		5	
	6 Loans and other receivables from other disqualified persons (as defined under section 4958(f)(1)), persons described in section 4958(c)(3)(B), and contributing employers and sponsoring organizations of section 501(c)(9) voluntary employees' beneficiary organizations (see instructions). Complete Part II of Schedule L		6	
	7 Notes and loans receivable, net		7	
	8 Inventories for sale or use		8	
	9 Prepaid expenses and deferred charges	645,812	9	566,209
	10a Land, buildings, and equipment: cost or other basis. Complete Part VI of Schedule D	10a 14,691,360		
	b Less: accumulated depreciation	10b 6,276,853	8,613,364	10c 8,414,507
	11 Investments—publicly traded securities	21,271,300	11	23,351,630
	12 Investments—other securities. See Part IV, line 11		12	
	13 Investments—program-related. See Part IV, line 11		13	
	14 Intangible assets		14	
	15 Other assets. See Part IV, line 11		15	
16 Total assets. Add lines 1 through 15 (must equal line 34)	43,619,075	16	45,751,555	
Liabilities	17 Accounts payable and accrued expenses	1,174,511	17	996,101
	18 Grants payable		18	
	19 Deferred revenue	8,124,690	19	8,900,487
	20 Tax-exempt bond liabilities		20	
	21 Escrow or custodial account liability. Complete Part IV of Schedule D		21	
	22 Loans and other payables to current and former officers, directors, trustees, key employees, highest compensated employees, and disqualified persons. Complete Part II of Schedule L		22	
	23 Secured mortgages and notes payable to unrelated third parties		23	
	24 Unsecured notes and loans payable to unrelated third parties		24	
	25 Other liabilities (including federal income tax, payables to related third parties, and other liabilities not included on lines 17–24). Complete Part X of Schedule D	342,677	25	189,460
	26 Total liabilities. Add lines 17 through 25	9,641,878	26	10,086,048
Net Assets or Fund Balances	Organizations that follow SFAS 117 (ASC 958), check here <input checked="" type="checkbox"/> and complete lines 27 through 29, and lines 33 and 34.			
	27 Unrestricted net assets	33,977,197	27	35,665,507
	28 Temporarily restricted net assets		28	
	29 Permanently restricted net assets		29	
	Organizations that do not follow SFAS 117 (ASC 958), check here <input type="checkbox"/> and complete lines 30 through 34.			
	30 Capital stock or trust principal, or current funds		30	
	31 Paid-in or capital surplus, or land, building or equipment fund		31	
	32 Retained earnings, endowment, accumulated income, or other funds		32	
	33 Total net assets or fund balances	33,977,197	33	35,665,507
34 Total liabilities and net assets/fund balances	43,619,075	34	45,751,555	

Part XI Reconciliation of Net AssetsCheck if Schedule O contains a response or note to any line in this Part XI ☐

1	Total revenue (must equal Part VIII, column (A), line 12)	1	16,260,730
2	Total expenses (must equal Part IX, column (A), line 25)	2	13,758,299
3	Revenue less expenses Subtract line 2 from line 1	3	2,502,431
4	Net assets or fund balances at beginning of year (must equal Part X, line 33, column (A))	4	33,977,197
5	Net unrealized gains (losses) on investments	5	-814,121
6	Donated services and use of facilities	6	
7	Investment expenses	7	
8	Prior period adjustments	8	
9	Other changes in net assets or fund balances (explain in Schedule O)	9	0
10	Net assets or fund balances at end of year Combine lines 3 through 9 (must equal Part X, line 33, column (B))	10	35,665,507

Part XII Financial Statements and ReportingCheck if Schedule O contains a response or note to any line in this Part XII ☒

- 1** Accounting method used to prepare the Form 990 ☐ Cash ☒ Accrual ☐ Other _____
If the organization changed its method of accounting from a prior year or checked "Other," explain in Schedule O
- 2a** Were the organization's financial statements compiled or reviewed by an independent accountant?
If "Yes," check a box below to indicate whether the financial statements for the year were compiled or reviewed on a separate basis, consolidated basis, or both
☐ Separate basis ☐ Consolidated basis ☐ Both consolidated and separate basis
- b** Were the organization's financial statements audited by an independent accountant?
If "Yes," check a box below to indicate whether the financial statements for the year were audited on a separate basis, consolidated basis, or both
☐ Separate basis ☒ Consolidated basis ☐ Both consolidated and separate basis
- c** If "Yes," to line 2a or 2b, does the organization have a committee that assumes responsibility for oversight of the audit, review, or compilation of its financial statements and selection of an independent accountant?
If the organization changed either its oversight process or selection process during the tax year, explain in Schedule O
- 3a** As a result of a federal award, was the organization required to undergo an audit or audits as set forth in the Single Audit Act and OMB Circular A-133?
- b** If "Yes," did the organization undergo the required audit or audits? If the organization did not undergo the required audit or audits, explain why in Schedule O and describe any steps taken to undergo such audits

	Yes	No
2a		No
2b	Yes	
2c	Yes	
3a		No
3b		

Software ID:

Software Version:

EIN: 41-0773787

Name: THE AMERICAN BOARD OF RADIOLOGY

Form 990, Part VII - Compensation of Officers, Directors, Trustees, Key Employees, Highest Compensated Employees, and Independent Contractors

(A) Name and Title	(B) Average hours per week (list any hours for related organizations below dotted line)	(C) Position (do not check more than one box, unless person is both an officer and a director/trustee)						(D) Reportable compensation from the organization (W- 2/1099-MISC)	(E) Reportable compensation from related organizations (W- 2/1099-MISC)	(F) Estimated amount of other compensation from the organization and related organizations
		Individual trustee or director	Institutional Trustee	Officer	Key employee	Highest compensated employee	Former			
DUANE MEZWA MD TRUSTEE	3 00	X						3,582	0	0
DONALD FRUSH MD TRUSTEE	3 00	X						0	0	0
LANE DONNELLY MD TRUSTEE	3 00	X						2,977	0	0
LISA KACHNIC MD PRESIDENT ELECT	3 00	X		X				1,628	0	0
JEANNE LABERGE MD TRUSTEE	3 00	X						0	0	0
ROBERT ZIMMERMAN MD TRUSTEE	3 00	X						1,028	0	0
ELLA A KAZEROONI MD TRUSTEE	3 00	X						2,356	0	0
JOHN KAUFMAN MD TRUSTEE	3 00	X						0	0	0
DENNIS SHRIEVE MD PHD TRUSTEE	3 00	X						1,727	0	0
LYNN WILSON MD TRUSTEE	3 00	X						2,589	0	0

(A) Name and Title	(B) Average hours per week (list any hours for related organizations below dotted line)	(C) Position (do not check more than one box, unless person is both an officer and a director/trustee)						(D) Reportable compensation from the organization (W- 2/1099-MISC)	(E) Reportable compensation from related organizations (W- 2/1099-MISC)	(F) Estimated amount of other compensation from the organization and related organizations
		Individual trustee or director	Institutional Trustee	Officer	Key employee	Highest compensated employee	Former			
DENNIS M BALFE MD TRUSTEE	3 00	X						2,491	0	
KALED ALEKTIAR MD TRUSTEE	3 00	X						0	0	
DONALD FLEMMING MD TRUSTEE	3 00	X						1,757	0	
VINCENT MATHEWS MD TRUSTEE	3 00	X						3,692	0	
MATTHEW A MAURO MD TRUSTEE	3 00	X						2,221	0	
MARY MAHONEY MD TRUSTEE	3 00	X						0	0	
GEOFFREY S IBBOTT PHD SECRETARY-TREASURER	3 00 0 25	X		X				3,200	0	
ANTHONY L ZIETMAN MD TRUSTEE	3 00	X						3,371	0	
M ELIZABETH OATES MD TRUSTEE	3 00	X						1,486	0	
MILTON J GUIBERTEAUMD PRESIDENT	10 00 0 25	X		X				0	0	

(A) Name and Title	(B) Average hours per week (list any hours for related organizations below dotted line)	(C) Position (do not check more than one box, unless person is both an officer and a director/trustee)						(D) Reportable compensation from the organization (W- 2/1099- MISC)	(E) Reportable compensation from related organizations (W- 2/1099- MISC)	(F) Estimated amount of other compensation from the organization and related organizations
		Individual trustee or director	Institutional Trustee	Officer	Key employee	Highest compensated employee	Former			
J ANTHONY SEIBERT PHD TRUSTEE	3 00	X						3,422	0	
BRENT JWAGNER MD TRUSTEE	3 00	X						0	0	
JERRY D ALLISON PHD TRUSTEE	3 00	X						3,947	0	
STEPHEN M HAHN MD TRUSTEE	3 00	X						1,567	0	
MARY NEWELL MD TRUSTEE	3 00	X						0	0	
MICHAEL HERMAN PHD TRUSTEE	3 00	X						0	0	
JAMES SPIES MD MPH TRUSTEE	3 00	X						0	0	
VALERIE JACKSON MD EXECUTIVE DIRECTOR	50 00 1 00			X				719,161	0	32,140
VICTORIA FRANZ CFO	50 00 1 00					X		155,114	0	29,300
PAUL WALLNER MD ASSOC EXECUTIVE DIRECTOR	20 00					X		237,031	0	35,550

Exhibit 2



Policy and Agreement
Use of Biometric Identifiers and Information

The American Board of Radiology (ABR) uses biometric scanning to ensure the identity of ABR candidates and diplomates in their interactions with the ABR. It is essential that colleagues, employers, credentialing bodies and, most importantly, patients are confident that those individuals who are certified by the ABR took their own examinations.

This system scans the palm veins with near-infrared light and creates a "vein map" that is unique to each individual's palm. The data are saved in the ABR board office, along with other personal candidate and diplomate information, including photographs. The combination of photographs and palm vein scans enables accurate candidate and diplomate identification and association of exam responses with the correct person.

What is collected:

- Palm vein scan
- Photograph

How data are secured:

- The palm vein scanners utilize data encryption.
- A private encryption key ensures that data collected by the ABR are only readable by the ABR system.
- All palm-vein data are stored on a private secured network in the encrypted format.
- Access to the ABR network where data are stored is limited to staff with "need to know."

Palm vein scan data are destroyed either as soon as the purpose for the collection has been satisfied or three years after the ABR's last interaction with the individual, whichever occurs first. The ABR will not sell, lease, trade, transfer or otherwise release externally an individual's palm vein scan and/or photograph.

Note:

Please complete and bring this form with you on your scheduled exam delivery date and time.

Biometric Release Form

I hereby grant the American Board of Radiology permission to collect, store, and transmit my biometric data as outlined above.

Name (print): SADHISH KUMAR SIVA, M.D

ABR ID: 499035 Date of Birth (mm/yyyy): [REDACTED]

Signature: [Signature] Date: 10/7/12



5441 E. Williams Boulevard, Suite 200 • Tucson, Arizona 85711-4458
Phone (520) 790-2900 • Fax (520) 790-3200 • www.theabr.org

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James P. Borgstede, M.D.
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Royal Oak, Michigan
Brent J. Wagner, M.D.
Reading, Pennsylvania
Robert D. Zimmerman, M.D.
New York, New York

Radiation Oncology

K. Kian Ang, M.D., Ph.D.
Houston, Texas
Bruce G. Haffty, M.D.
New Brunswick, New Jersey
Lisa A. Kachnic, M.D.
Boston, Massachusetts
Dennis C. Shrieve, M.D., Ph.D.
Salt Lake City, Utah
Lynn D. Wilson, M.D., M.P.H.
New Haven, Connecticut
Anthony L. Zietman, M.D.
Boston, Massachusetts

Radiologic Physics

Jerry D. Allison, Ph.D.
Augusta, Georgia
Geoffrey S. Ibbott, Ph.D.
Houston, Texas
Richard L. Morin, Ph.D.
Jacksonville, Florida

Thursday, February 23, 2012

Sadhish Kumar Siva, MD
Murfreesboro Medical Clinic
Department of Radiology
1004 N. Highland Ave
Murfreesboro, TN 37130

Dear Dr. Siva,

ABRID 49835

This letter verifies your registration for the American Board of Radiology (ABR) Maintenance of Certification (MOC) practice-profiled examination. Please make note of the date, time, and location of your examination as this letter is final confirmation of your registration and is the only form of communication you will receive from the board prior to your examination.

Maintenance of Certification (MOC) practice-profiled examination in Diagnostic Radiology

Friday, October 19, 2012 1:30PM - 5:30PM

Please report to the exam center at least half an hour prior to exam start time for check in. The exam center is located at:

American Board of Radiology
Chicago Test Center
5440 North Cumberland Avenue, Suite 200
Chicago, IL 60656

Your exam content will include:

Non-Interpretive Skills (NIS) Module
Clinical Module 1 Gastrointestinal
Clinical Module 2 Genitourinary
Clinical Module 3 Musculoskeletal
Clinical Module 4 Ultrasound

Your clinical content modules are based on the practice profile declaration you submitted via your personal database (PDB). To view or edit your practice profile, log on to your PDB and click on Part III: Cognitive Expertise.

IMPORTANT NOTE: The clinical content modules appearing on your exam can be modified by logging on to your PDB and updating your practice profile. As of Sunday, August 19, 2012 you will be prohibited from modifying your practice profile, and therefore, your exam's clinical module content.

Upon arriving at the examination, you are required to provide a valid government-issued photo ID for identification purposes. You will not be admitted without an acceptable photo ID.

In the event that you need to cancel your examination, please notify the board office in writing as soon as possible.

If you have any questions or concerns, please feel free to contact the MOC Services Division by phone 520-519-2152 or by email at abrmocp@theabr.org.

Sincerely,

Gary J. Becker, MD
Executive Director

Gary J. Becker, M.D., Executive Director

Assistant Executive Directors: Primary Certification

Diagnostic Radiology: Dennis M. Balfe, M.D.
Radiation Oncology: Dennis C. Shrieve, M.D., Ph.D.
Medical Physics: Richard L. Morin, Ph.D.
Subspecialties: Robert D. Zimmerman, M.D.

Associate Executive Directors

Diagnostic Radiology: Kay H. Vydareny, M.D.
Radiation Oncology: Paul E. Wallner, D.O.
Medical Physics: G. Donald Frey, Ph.D.
Medical Physics: Stephen R. Thomas, Ph.D.
Administration: Jennifer L. Bosma, Ph.D.

Assistant Executive Directors: Maintenance of Certification

Diagnostic Radiology: Milton J. Guiberteau, M.D.
Radiation Oncology: Anthony L. Zietman, M.D.
Medical Physics: G. Donald Frey, Ph.D.
Subspecialties: Robert D. Zimmerman, M.D.

SIVA

Last name

SADHISH

First name

KUMAR

Middle name

MOC Exam 11/09

FEB 21 2012



Diagnostic Radiology Maintenance of Certification

Practice-Profiled Exam Registration

TYPE OR PRINT (IN INK) ALL INFORMATION

CONTACT INFORMATION

Please indicate whether any of this information has changed since you last updated us.

☐ Name: SIVA SADHISH KUMAR ☒ Male ☐ Female
New Last First Middle

What was your name when you received your last certification?

SADHISH-KUMAR SIVA MD.

Last Four Digits of Social Security No. (U.S. or Canadian)

Date of Birth:

MM/DD/YYYY

Home Address:

☐ 2011 MG ENGLAND RD
New Street Address
MANCHESTER TN 37355
City State Zip

Please list your current employer/practice name and contact information.

☐ MURFREESBORO MEDICAL CLINIC
New Employer or Practice Name

☐ 1004 N. HIGHLAND AVE
New Street Address
MURFREESBORO TN 37130
City State Zip

Please indicate the address where you wish to receive correspondence: ☐ Work ☒ Home
(If this is left blank correspondence will be sent to your home address.)

Telephone Numbers: ☐ Office: 615-867-7831 ☐ Fax: _____
New New
☐ Home: 931-723-1411 ☐ Cell: 615-796-1166
New New

E-Mail Addresses: ☐ Office: _____ ☐ Home: sadhishk.siva@yahoo.co
New New

SIVA SADHISH KUMAR
Last name First name Middle name

MOC Exam 11/09

CERTIFICATION

Please mark your certification specifics.

I hold certification in:	Which expires December 31:
<input checked="" type="checkbox"/> Diagnostic Radiology	Year: <u>2013</u>
I also hold diagnostic radiology subspecialty certification in:	Which expires December 31:
<input type="checkbox"/> Nuclear Radiology	Year:
<input type="checkbox"/> Neuroradiology	Year:
<input type="checkbox"/> Pediatric Radiology	Year:
<input type="checkbox"/> Vascular and Interventional Radiology	Year:

PROFESSIONAL STANDING

List any licensure or other regulatory agency certification required for your practice in any jurisdiction of the United States or Canada where you practice (if/as applicable):

State/Province: TN Lic./Cert. No: MD 40537 Expiration Date: 04/2013
MM / YYYY

State/Province: _____ Lic./Cert. No: _____ Expiration Date: _____
MM / YYYY

State/Province: _____ Lic./Cert. No: _____ Expiration Date: _____
MM / YYYY

State/Province: _____ Lic./Cert. No: _____ Expiration Date: _____
MM / YYYY

State/Province: _____ Lic./Cert. No: _____ Expiration Date: _____
MM / YYYY

Please attach additional pages if necessary for further licensure or clarifying comments.

Currently, or at any time since your certification with the American Board of Radiology, have you had a restriction, condition, limitation, suspension or revocation placed on any of your state licenses?

☐ Yes* ☒ No

*If "Yes" you are required to submit your statement providing the details of any disciplinary actions and restriction, condition, limitation, suspension or revocation of your state license, including the names of the disciplining agency or licensing board, the date thereof, the subject matter and any sanctions.

*Please attach appropriate documents and additional pages if necessary.

SIVA

Last name

SADNISH

First name

KUMAR

Middle name

MOC Exam 11/09

In order for your exam registration to be processed, the following must be completed:

1. You must be current in your payments to ABR-MOC. You do not have to have the entire cycle paid before you take the exam—you must only be current in your annual payments. As you will continue with your other components throughout the cycle, we expect the payments to continue as well.
2. You must complete your practice profile by logging in to your personal database (PDB) at www.abronline.org and clicking on Part 3 Cognitive Expertise. Declaring your clinical practice profile will allow the ABR to determine the content modules you will be given at the exam if selected for participation.

If you have previously logged into your PDB and need a password reminder, please go to www.abronline.org and click the "Forgot your password?" link.

To access your PDB for the first time, you will need:

- ABRID # (shown on your ABR certificate)
- Date of birth
- Confirmation # (request at <https://www.abronline.org/requestConfirm.cfm>)

To begin, go to <https://www.abronline.org/firstlogin.cfm>, enter the information listed above, and click on "Create My Account."

Note: Please remember that passing the exam is only one component of the MOC program. Unless you are at the end of your 10-year cycle, you still have continuing education credits to earn, SAMs to complete, and Practice Performance projects to finish.

- ☐ I intend to apply for special exam accommodations under the Americans with Disabilities Act, and acknowledge that my application and all required documentation must be received in the ABR office no less than six weeks before my exam date.

SIVA SADHISH KUMAR
Last name First name Middle name MOC Exam 11/09

EXAMINATION REGISTRATION

Please visit the ABR website for a list of currently scheduled exam dates. We will attempt to honor your preference. However, because of limited seating for computer-based examinations, assignments will be made on a first-come, first-served basis.

• **The selected exam date must fall within year 8, 9, or 10 of your MOC cycle or during your non-certified Grace period.**

• **MOC examination registration, date selection, and fee payment must be completed and received by the ABR 6 weeks before the selected exam date.**

Late registration may be possible, and will be considered up to 4 weeks prior to exams administered at annual society meetings OR up to 2 weeks prior to exams in Tucson. The fee for late registration is \$100.00.

• **The ABR will send you a confirmation letter specifying the day, time and location of your exam immediately after your exam registration is processed.**

• **Cancellation and No-show Fees:**
A fee of \$400.00 will be charged for cancellations received less than three weeks prior to the scheduled exam date.

Please specify your exam date choice:

10/19/12

Exam Date

Chicago EXAM CENTER

Location

Send your completed form and any fees that are due to:

THE AMERICAN BOARD OF RADIOLOGY
5441 E. WILLIAMS BLVD., SUITE 200
TUCSON, ARIZONA 85711

Or fax to: (520) 790-3200

You signed a statement similar to that on the following page when you enrolled in MOC. As some time has elapsed since that date, we require that you review the document and sign it again prior to taking your examination.

SIVA

Last name

SADHISH

First name

KUMAR

Middle name

MOC Exam 11/09

**AGREEMENT OF APPLICANT FOR ABR MAINTENANCE OF CERTIFICATION PROGRAM
PLEASE READ CAREFULLY BEFORE SIGNING**

I, the undersigned applicant, hereby make application to enroll in the Maintenance of Certification Program (ABR-MOC), administered by the American Board of Radiology, Inc. (hereinafter, the Board). I understand that this program is designed to monitor my continued career education. I agree to participate in ABR-MOC in accordance with and subject to stated rules and regulations, as amended from time to time, including the timely payment of fees. I agree to disqualification from the program or from issuance of a certificate in the event that any of the statements herein made by me are false, or if I violate any of the rules and regulations governing the program.

I accept responsibility for keeping truthful and accurate records of my participation in the program, including CME credits earned, self-assessment projects completed, and any other activities that pertain to fulfilling the requirements of ABR-MOC. I understand that I must keep the Board apprised of any changes in the status of my licensure or other regulatory agency certification. It is also my responsibility to inform the Board of any change of my address.

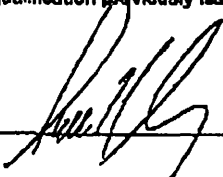
I accept that admissibility to any examination is determined by the executive committee of the Board, and that the certifying examinations will be supervised by proctors who are responsible to the Board and empowered by the Board to ensure that the examination is conducted ethically and in accordance with the rules of the Board. I understand that I must bring an unexpired government-issued photo identification to any examination that I attend. Such identification includes one of the following: state-issued driver's license, military ID, passport, state-issued ID. I further understand that no beeper, recorder, camera, PDA, cellular phone, or any device that has the capability to record or transmit pictures, text, or sound can be brought to the examination; and that I am not permitted to bring into the examination any notes, scratch paper, textbooks, calculators or other reference materials. I further understand that irregular behavior before, during or after the examination such as copying answers, sharing information, using notes, or otherwise giving or obtaining unauthorized information or aid—evidenced by observation, statistical analysis of answers, or otherwise—on any portion of the examination will be reported to the Board and will constitute grounds for the invalidation of my examination, and may lead to my being judged unacceptable for certification by the Board. I recognize that examination booklets, examination questions, props for the computer based examination, and questions on the computer based examination are copyrighted as the sole property of the American Board of Radiology and must not be removed from the test area or reproduced, in whole or in part, and that any reproduction of copyrighted material, whether from memory or otherwise, is a federal offense and that I may be liable to pay damages incurred by the Board.

I recognize the trustees of the American Board of Radiology as the sole and only judge of my qualifications to receive and to retain certificates issued by the Board and to have my name and demographic data included in any list or directory in which the names of diplomates of the specialty boards are published. I understand and agree that in the consideration of my application, my moral, ethical and professional standing will be reviewed and assessed by the Board; that the Board may make inquiry of the persons named in my application and of such other persons as the Board deems appropriate with respect to my moral, ethical and professional standing; that if information is received which would adversely affect my application, I will be so advised and given an opportunity to rebut such allegations, but I will not be advised as to the identity of any individual who has furnished adverse information concerning me; and that all statements and other information furnished to the Board in connection with such inquiry shall be confidential, and not subject to examination by me or by anyone acting on my behalf. I also pledge myself to the highest ethical standards in the practice of radiology.

In furtherance to my application to the American Board of Radiology, I hereby request and authorize any hospital or medical organization of which I am a member, have been a member, or to which I have applied for membership, and any person who may have information which is deemed by the Board to be material to its evaluation of my application, to provide such information to representatives of the Board upon their request. I agree that communication of any nature made to the Board regarding my application may be made in confidence and shall not be made available to me under any circumstances. I hereby release from liability any hospital, medical staff, medical organization or person, and the Board and its representatives, from liability for acts performed in good faith and without malice in connection with the provision, collection, or evaluation of information or opinions, whether or not requested or solicited by the Board in connection with my application. I understand and agree that as an applicant, I have the responsibility to supply the Board with information adequate for the Board's proper evaluation of my credentials. I further agree that I will not cause or attempt to cause any public disclosure of the contents of any application, including my own, or any proceedings of any committee's evaluation of such application, whether such disclosure is by operation of law or otherwise.

I waive and release and shall indemnify the Board and its directors, members, officers, committee members, employees, and agents from, against and with respect to any and all claims, losses, costs, expenses, damages, and judgments (including reasonable attorneys fees) alleged to have arisen from, out of, with respect to or in connection with any action which they, or any of them, take or fail to take as a result of or in connection with this application, any examination conducted by the Board which I apply to take or take, the grade or grades given me on the examination and, if applicable, the failure of the Board to issue me a certificate or qualification or the Board's revocation of any certificate or qualification previously issued to me.

Signature



Date

2/20/12

OCT 11 2005

MOC Enrollment

The American Board of Radiology

Maintenance of Certification

Data Form

49835
✓

TYPE OR PRINT (IN INK) ALL INFORMATION

SIVA

Last name

SADHISH

First name

KUMAR

Middle name

☒ Male ☐ Female

If your name is different on your certificate, please write your former name here.

Social Security No. (U.S. or Canadian)

Date of Birth:

MM / DD / YY

Please indicate whether any of this information has changed since you last updated us.

☐ Mailing Address:

New

677 WEST SHORE BLVD

Street

SHEFFIELD LAKE

City

OH

State

44054

Zip

☒ E-Mail Address:

New

sadhishksiva@yahoo.com

Telephone Numbers:

☒ Office:

New

216-778-4013

☐ Fax:

New

☐ Home:

New

440-949-2576

☐ Fax:

New

Please list your current workplace/practice name and contact information.

☐

New

METROHEALTH MEDICAL CENTER

Employer or Practice Name

☐

New

2500 METROHEALTH DRIVE

Street Address

CLEVELAND

City

OH

State

44109

Zip

Telephone Numbers:

☐ Office:

New

216-778-4013

☐ Fax:

New

(over)

MOC Enrollment

PLEASE READ CAREFULLY BEFORE SIGNING

I, the undersigned applicant, hereby make application to enroll in the Maintenance of Certification Program (ABR-MOC), administered by the American Board of Radiology, Inc. (hereinafter, the Board). I understand that this program is designed to monitor my continued career education. I agree to participate in ABR-MOC in accordance with and subject to stated rules and regulations. I agree to disqualification from the program or from issuance of a certificate in the event that any of the statements herein made by me are false, or if I violate any of the rules governing the program.

I accept responsibility for keeping truthful and accurate records of my participation in the program, including CME credits earned, self-assessment projects completed, and any other activities that pertain to fulfilling the requirements of ABR-MOC. I understand that I must keep the Board apprised of any changes in the status of my licensure or other regulatory agency certification.

I accept that admissibility to any examination is determined by the executive committee of the Board, and that the certifying examinations will be supervised by proctors who are responsible to the Board and empowered by the Board to ensure that the examination is conducted ethically and in accordance with the rules of the Board. I understand that I must bring a government-issued photo identification to any examination that I attend. Such identification includes one of the following: state-issued drivers license, military ID, passport, state-issued ID. I further understand that no beeper, recorder, camera, PDA, cellular phone, or any device that has the capability to record pictures, text, or sound can be brought to the examination; and that I am not permitted to bring into the examination any notes, textbooks, calculators or other reference materials and no scratch paper. I further understand that irregular behavior such as copying answers, sharing information, using notes, or otherwise giving or obtaining unauthorized information or aid—evidenced by observation, statistical analysis of answers, or otherwise—on any portion of the examination will be reported to the Board and will constitute grounds for the invalidation of my examination, and may lead to my being judged unacceptable for certification by the Board. I recognize that examination booklets, examination questions, props for the oral examination, and questions on the oral examination are copyrighted as the sole property of the American Board of Radiology and must not be removed from the test area or reproduced, in whole or in part, and that any reproduction of copyrighted material is a federal offense.

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In furtherance to my application to the American Board of Radiology, I hereby request and authorize any hospital or medical organization of which I am a member, have been a member, or to which I have applied for membership, and any person who may have information which is deemed by the Board to be material to its evaluation of my application, to provide such information to representatives of the Board upon their request. I agree that communication of any nature made to the Board regarding my application may be made in confidence and shall not be made available to me under any circumstances. I hereby release from liability any hospital, medical staff, medical organization or person, and the Board and its representatives, from liability for acts performed in good faith and without malice in connection with the provision, collection, or evaluation of information or opinions, whether or not requested or solicited by the Board in connection with my application. I understand and agree that as an applicant, I have the responsibility to supply the Board with information adequate for the Board's proper evaluation of my credentials. I further agree that I will not cause or attempt to cause any public disclosure of the contents of any application, including my own, or any proceedings of any committee's evaluation of such application, whether such disclosure is by operation of law or otherwise.

I waive and release and shall indemnify the Board and its directors, members, officers, committee members, employees, and agents from, against and with respect to any and all claims, losses, costs, expenses, damages, and judgments (including reasonable attorneys fees) alleged to have arisen from, out of, with respect to or in connection with any action which they, or any of them, take or fail to take as a result of or in connection with this application, any examination conducted by the Board which I apply to take or take, the grade or grades given me on the examination and, if applicable, the failure of the Board to issue me a certificate or qualification or the Board's revocation of any certificate or qualification previously issued to me.

Signature _____

Date _____

Send to: THE AMERICAN BOARD OF RADIOLOGY 5441 E. WILLIAMS BLVD., SUITE 200
TUCSON, ARIZONA 85711 Fax (520) 790-3200

There is no money due at this time. Refer to your personal schedule for invoicing information.

The American Board of Radiology, Inc.

5441 E. Williams Blvd, Suite 200 • Tucson, AZ 85711

Phone: (520) 790-2900 Fax: (520) 790-3200

<http://www.theabr.org>

**Diagnostic Radiology
Maintenance of Certification
Enrollment Application**

JAN 03 2004

49835

APPLICANT INFORMATION

Name: SIVA SADHISH K Degrees: M.D
Last First Middle

Social Security Number: - - Date of Birth: - -

Mailing Address: 677 WEST SHORE BLVD
Street

SHEFFIELD LAKE OH 44054
City State Zip

E-Mail Address: SADHISHKSIVA@YAHOO.COM

Telephone Numbers: Office: 216-778-4013 Fax: _____

Home: 440-949-2576 Fax: _____

PROFESSIONAL STANDING

Medical Licensure:

List all jurisdictions of the United States and Canada where you are licensed to practice medicine:

State/Province: <u>OHIO</u>	License No: <u>35-08-1763^S</u>	Expiration Date: <u>1/1/06</u> Month/Year
State/Province: _____	License No: _____	Expiration Date: _____ Month/Year
State/Province: _____	License No: _____	Expiration Date: _____ Month/Year
State/Province: _____	License No: _____	Expiration Date: _____ Month/Year
State/Province: _____	License No: _____	Expiration Date: _____ Month/Year
State/Province: _____	License No: _____	Expiration Date: _____ Month/Year
State/Province: _____	License No: _____	Expiration Date: _____ Month/Year
State/Province: _____	License No: _____	Expiration Date: _____ Month/Year
State/Province: _____	License No: _____	Expiration Date: _____ Month/Year

Currently, or at any time since your certification with the American Board of Radiology, have you had a restriction, condition, limitation, suspension or revocation placed on any of your state medical licenses?

☐ Yes ☒ No

*If "Yes" you are required to submit your statement providing the details of any disciplinary actions and restriction, condition, limitation, suspension or revocation of your medical license, including the names of the disciplining agency or licensing board, the date thereof, the subject matter and any sanctions.

From time to time the American Board of Radiology will do random validation of diplomate licensure status via the Federation of State Medical Boards database.

*Please attach appropriate documents and additional pages if necessary

FEE SCHEDULE

All funds must be in U.S. currency: personal check, money order, Visa or Mastercard. The enrollment fee is \$400 and must be included with the application.

NOTE

The Board reserves the right to make changes in its fees, policies, and procedures at any time and cannot assume responsibility for giving advance notice thereof.

WAIVER AND RELEASE OF CLAIMS AGAINST THE BOARD; AGREEMENT/AUTHORIZATION STATEMENT:

I, the undersigned applicant, recognize the Trustees of the American Board of Radiology as the sole and only judge of my qualifications to receive and maintain a certificate issued by the Board and to have my name and demographic data included in any list or directory in which the names of diplomates of the Specialty Boards are published. In consideration for the American Board of Radiology's processing of this application and/or allowing me to take the examination, I hereby waive and release, and shall indemnify and hold harmless, the American Board of Radiology and its directors, trustees, officers, employees, committee members, and agents from, against, and with respect to any and all claims, losses, costs, expenses, damages and judgments (including reasonable attorney's fees) that arise or are alleged to have arisen, from, out of, with respect to, or in connection with any action which they, or any of them, take or fail to take as a result of or in connection with this application, any examination conducted by the American Board of Radiology which I apply to take or take, the score or scores given me on the examination and, if applicable, the failure of the American Board of Radiology to issue to me a certificate or to allow me to maintain a certificate previously issued to me, and/or the revocation of any certificate previously issued to me, and/or the American Board of Radiology's notification of legitimately interested persons of such actions taken by it.

I understand and agree that in the consideration of my application my moral, ethical and professional standing may be reviewed and assessed by the American Board of Radiology; that the American Board of Radiology in its sole discretion may make inquiry of the persons named in my application and of such other persons as the American Board of Radiology deems appropriate with respect to my moral, ethical and professional standing; that if information is received which would adversely affect my application, I will be so advised and given an opportunity to rebut such allegations, but I will not be advised as to the identity of the individuals who have furnished adverse information concerning me; and that all statements and other information furnished to the American Board of Radiology in connection with such inquiry shall be confidential, and not subject to examination by me or by anyone acting on my behalf. I also pledge myself to the highest ethical standards in the practice of radiology.

In furtherance to my application to the American Board of Radiology, I hereby request and authorize any hospital or medical organization of which I am a member, have been a member or to which I have applied for membership, and any person who may have information which is deemed by the American Board of Radiology to be material to its evaluation of my application, to provide such information to representatives of the Board upon their request. I agree that communication of any nature made to the Board regarding my application may be made in confidence and shall not be made available to me under any circumstances. I hereby release from liability any hospital, medical staff, medical organization or person, and the American Board of Radiology and its representatives from liability for acts performed in good faith and without malice in connection with the provision, collection, or evaluation of information or opinions, whether or not requested or solicited in connection with my application by the American Board of Radiology. I understand and agree that as an applicant, I have the responsibility for supplying to the Board information adequate for a proper evaluation by the Board of my credentials. I further agree that I will not cause or attempt to cause any public disclosure of the contents of any application, including my own, or any proceedings of any committee's evaluation of such application, whether such disclosure is by operation of law or otherwise.

I certify that the information on the foregoing application is true and that I understand and agree to the statements thereon.

Signature: _____

Date: _____

[Handwritten Signature]
14/5/04

The American Board of Radiology

Diagnostic Radiology

Radiation Oncology

Radiologic Physics

Robert R. Hattery, M.D., Executive Director

Officers

William R. Hendee, Ph.D., *President*
Milwaukee, Wisconsin

Steven A. Leibel, M.D., *Vice President*
New York, New York

Philip O. Alderson, M.D., *Secretary-Treasurer*
New York, New York



June 2, 2003

Assistant Executive Directors

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Richmond, Virginia

Lawrence W. Davis, M.D., *Radiation Oncology*
Atlanta, Georgia

Bhudatt R. Paliwal, Ph.D., *Radiologic Physics*
Madison, Wisconsin

Sadhish Kumar Siva, MD

677 West Shore Blvd

Sheffield Lake, OH 44054

Diagnostic Radiology

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New York, New York

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Durham, North Carolina

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Ann Arbor, Michigan

Valerie Jackson, M.D.
Indianapolis, Indiana

Robert R. Lukin, M.D.
Cincinnati, Ohio

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Chicago, Illinois

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Richmond, Virginia

Anne Roberts, M.D.
La Jolla, California

Robert J. Stanley, M.D.
Birmingham, Alabama

Michael A. Sullivan, M.D.
New Orleans, Louisiana

Kay H. Vydareny, M.D.
Atlanta, Georgia

James E. Youker, M.D.
Milwaukee, Wisconsin

49835 / DR / 6 / 12

Dear Dr. Siva:

I am pleased to inform you that you passed the oral examination held on June 1-4, 2003. The American Board of Radiology grants you its Certificate in Diagnostic Radiology. This is a ten-year time-limited certificate. Information relative to Maintenance of Certification will be sent to you in the near future. The certificate will be sent to the above address in approximately three months. Your name will appear on the certificate as shown above. If you wish your name to appear differently, please notify the Board office within thirty days.

Your name and demographic information will be included in a Directory published by The American Board of Medical Specialties. It is your responsibility to notify your local and state medical organizations of your certification.

Personally and on behalf of the Board of Trustees of The American Board of Radiology, I wish to congratulate you for this distinguished achievement. You have accomplished one of the most significant milestones in your career.

Sincerely,

Robert R. Hattery, MD

Radiation Oncology

Jay R. Harris, M.D.
Boston, Massachusetts

Richard T. Hoppe, M.D.
Stanford, California

David H. Hussey, M.D.
San Antonio, Texas

Larry E. Kun, M.D.
Memphis, Tennessee

Steven A. Leibel, M.D.
New York, New York

H. Rodney Withers, M.D.
Los Angeles, California

Radiologic Physics

William R. Hendee, Ph.D.
Milwaukee, Wisconsin

Bhudatt R. Paliwal, Ph.D.
Madison, Wisconsin

Stephen R. Thomas, Ph.D.
Cincinnati, Ohio

Admissible: Written _____ Oral _____ Written _____ _____ _____ _____	<table border="1" style="margin: auto;"> <tr><td>1</td><td>2</td><td>3</td><td>4</td><td>5</td></tr> <tr><td>6</td><td>7</td><td>8</td><td>9</td><td></td></tr> </table>	1	2	3	4	5	6	7	8	9		DO NOT WRITE IN THIS SPACE	Date Reference Requested: <u>DEC 11 2000</u> <u>DEC 14 2001</u> <u>JAN 30 2002</u> _____ _____ _____
1	2	3	4	5									
6	7	8	9										

DATE RECEIVED

APPLICATION NO.

SEP 25 2000

The American Board of Radiology

49835

APPLICATION FOR EXAMINATION

TYPE OR PRINT (IN INK) ALL INFORMATION

I hereby make application to The American Board of Radiology, Inc. for examination leading to a Certificate of Qualification in

X Diagnostic Radiology

_____ Radiation Oncology

in accordance with and subject to its rules and regulations. I agree to disqualification from examination or from issuance of a Certificate of Qualification in the event that any of the statements hereinafter made by me are false or if any of the rules governing such examination are violated by me.

1. Name SIVA SADHISH KUMAR Sex: Male ☒ Female ☐

Surname First Middle

2. Mailing address 677 WEST SHORE BLVD

SHEFFIELD LAKE OH 44054

City State Zip

Telephone 440-949-2576 216-778-4016 Social Security Number XXXXXXXXXX

Home Hospital

3. Have you previously applied for examination by this Board? Yes ☐ No ☒

If yes, have you appeared for examination? Yes ☐ No ☐

4. Date of Birth XXXXXXXXXX Place of Birth COLOMBO, SRI LANKA Citizenship U.S.

Month, Day, Year City, State, Country Country

5. Education:

Academic Degree	School, City & State	Major	Minor	Year
B.A.	JOHNS HOPKINS UNIV, BALTIMORE, M.D.	BIOLOGY	Psych	1992
M.D.	TEMPLE UNIV., PHILADELPHIA, PA	MEDICINE		1997

6. Medical Education:

Medical School TEMPLE UNIV. PHILADELPHIA, PA

Institution(s) City and State

Degree M.D. Year 1997

7. Complete following questions if foreign medical graduate.

Have you been screened by: Educational Council for Foreign Medical Graduates (ECFMC)? Yes ☐ No ☐

If yes, please attach a copy of your certificate number or letter of notifications.

8. Post Medical School and Radiologic Training in U.S. or Canada:

A. Clinical Training _____

Institution	City, State	Began (mo., day & yr.)	Terminated (mo., day & yr.)
METROHEALTH MEDICAL CENTER (RADIOLOGY)	CLEVELAND, OH	7/1/99	6/30/03

B. Field of Residency in OTHER Specialties _____

SPARTANBURG REGIONAL MED. (GENERAL SURGERY)	SPARTANBURG, SC	7/1/97	6/30/99

C. Other specialty board certification: Board _____ Date _____

D. Residency training in Diagnostic Radiology or Radiation Oncology

	Institution(s)	City and State	Program Director(s)	Began			Will Complete		
				Mo.	Day	Yr.	Mo.	Day	Yr.
(a)	METROHEALTH MED CENTER	CLEVELAND, OH	DR. BELLON	7	1	99	6	30	03
(b)									
(c)									

(Office Use Only)

E. Names and address of program director(s) pertinent to this application:

	Complete Full Name	Business Address	Zip Code
A. Diagnostic Radiology	ERROL BELLON, M.D.	METROHEALTH DEPT RADIOLOGY 2500 METROHEALTH DR	CLEVELAND OH 44109-1998
B. Radiation Oncology			
C. Nuclear Radiology			

9. Medical Practice prior to Radiologic Training: N/A

Location _____ Inclusive dates _____

Field Practice _____

10. List below any hospital staff and teaching appointments which you have held: N/A

Appointment _____ Location _____ Inclusive dates _____

Appointment _____ Location _____ Inclusive dates _____

11. I, the undersigned applicant, recognize the Trustees of The American Board of Radiology as the sole and only judge of my qualifications to receive and to retain a certificate issued by the Board and to have my name and demographic data included in any list or Directory in which the names of diplomates of the Specialty Boards are published, and further agree to hold harmless individually and collectively the Officers, Trustees and appointed examiners of The American Board of Radiology for any decision or action in pursuance of their duties in connection with this application, the examination, the grade or grades given with respect to any examination or for the failure of said Corporation to issue me a certificate. I understand and agree that in the consideration of my application my moral, ethical and professional standing will be reviewed and assessed by the Board; that the Board may make inquiry of the persons named in my application and of such other persons as the Board deems appropriate with respect to my moral, ethical and professional standing; that if information is received which would adversely affect my application, I will be so advised and given an opportunity to rebut such allegations, but I will not be advised as to the identity of the individuals who have furnished adverse information concerning me; and that all statements and other information furnished to the Board in connection with such inquiry shall be confidential, and not subject to examination by me or by anyone acting on my behalf. I also pledge myself to the highest ethical standards in the practice of Radiology.

12. Examinations

I, the undersigned applicant, accept that admissibility to written examination is determined by the Executive Committee, and that the written certifying examination will be supervised by proctors who are responsible to The Board and empowered by The Board to ensure that the examination is conducted ethically and in accordance with the Rules of The Board. I understand that I am not permitted to bring into the examination any notes, textbooks or other reference materials and no scratch paper. I may use a digital but not a programmable calculator. I further understand that irregular behavior such as copying answers, sharing information, using notes, or otherwise giving or obtaining unauthorized information or aid, evidenced by observation, statistical analysis of answer sheets, or otherwise, on any portion of the examination will be reported to The Board and will constitute grounds for the invalidation of my examination and may lead to my being judged unacceptable for certification by The American Board of Radiology. I recognize that examination booklets are Copyrighted as the sole property of The American Board of Radiology and must not be removed from the test area or reproduced and that reproduction of Copyrighted material is a Federal offense.

No certificate will be issued until verification is received from the Program Director that all training has been satisfactorily completed.

I understand that no recording device of any kind can be brought to the oral examination.

13. To help analyze the effectiveness of my training program, I hereby authorize The American Board of Radiology to release, in confidence, to the director(s) of the program in which I am enrolled and to the Chair of the department of which the program is a part, the results of my performance in the examinations conducted by the American Board of Radiology.

Signature _____

Radhika K. Sen MD

Date _____

9/14/00

INSTRUCTIONS TO APPLICANT

1. Fill out the application in exact duplicate (2 original copies). Use extra paper for additional data if necessary. No xerox or any other kind of copy will be accepted. Incomplete applications will not be accepted. The postmark affixed to the last item received to complete the application must be on or before the deadline date.
2. The filing deadline date for the written examination in any given year is September 30 of the preceding year. Applications will not be accepted prior to July 1. There is a non-refundable fee of \$200 for applications postmarked between Oct. 1 through Oct. 31. No applications will be accepted after Oct. 31 for examination in that year.
3. A personal check, money order (U.S. currency) or visa/mastercard is required (see current fee schedule) and should be made payable to The American Board of Radiology. All returned checks and declined credit cards are subject to a \$100 processing fee.
4. Enclose three recent passport type photographs no larger than 3" x 3" autographed on the FRONT. (Informal Polaroid or other snapshots are NOT acceptable). PROGRAM DIRECTOR MUST COUNTERSIGN (also on front) attesting to identity. APPLICATION CANNOT BE ACCEPTED WITHOUT FULFILLMENT OF THIS REQUIREMENT.
5. Return completed applications, personal check, money order, or visa/mastercard and photographs to:

THE AMERICAN BOARD OF RADIOLOGY
5255 E. WILLIAMS CIRCLE, SUITE 3200
TUCSON, ARIZONA 85711

