

QUESTION 8 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK III

Dr. Greg Glitter, a board certified plastic surgeon newly licensed by the State of Michigan, needed to increase his client base in order to pay off his substantial student loans. Dr. Glitter discovered a novel way of soliciting new clients that proved wildly successful. After performing his scheduled surgeries for the day, Dr. Glitter would enter the burn unit of the hospital and visit the patients, evaluating their condition and offering his cosmetic surgery services. Dr. Glitter explained to the patients that, in most cases, his services would not cost the patient anything because their health insurance or automobile insurance would cover it.

Outraged, family members of several patients filed a complaint with the State Board of Medicine. After an investigation, formal charges were brought, alleging that Dr. Glitter violated Board of Medicine rules prohibiting the solicitation of hospitalized clients. The Board claims that it has an interest in regulating the practice of the profession, maintaining the privacy of patients, and avoiding the inherent pressure of solicitation. If the allegations are proven, Dr. Glitter's medical license will be placed on probationary status for 180 days.

Applying principles of constitutional law, what is the best argument Dr. Glitter can advance to contest the Board of Medicine rule? Fully explain your answer.

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