

LICENSE NO. G-6349

IN THE MATTER OF
THE LICENSE OF
ALAN HOWARD MOLSON, M.D.

BEFORE THE
TEXAS MEDICAL BOARD

AGREED ORDER

On the 10th day of February, 2012, came on to be heard before the Texas Medical Board (the "Board"), duly in session, the matter of the license of Alan Howard Molson, M.D. ("Respondent").

On October 28, 2011, Respondent appeared in person, without counsel, at an Informal Show Compliance Proceeding and Settlement Conference in response to a letter of invitation from the staff of the Board. The Board's representatives (Panel) were Manuel Guajardo, M.D., and Julie Attebury, members of the Board. Scott M. Freshour represented Board staff.

BOARD CHARGES

Board Staff charged that:

1. Respondent failed to comply with the 24-hour waiting period prior to performing an abortion. The Panel found that there was no proof the 24-hour waiting period was violated. The patient presented prior to 24-hours period elapsing and by the time the procedure was performed 24 hours or more had elapsed. No violation was found.

2. Respondent had a pre-recorded message regarding voluntary and informed consent prior to performing an abortion. The Panel found that the pre-recorded message was utilized prior to September 2010, which was legal at that time. It was not until after September 2010 that the requirements that a physician had be live on the line to answer questions and for the patient to give informed consent. Respondent instituted changes as required by law. No violations were found.

3. There were also issues related to improper medical waste disposal and HIPAA violations. Board Staff presented information that the Respondent became medical director in May 2011, and prior to that he was an independent contractor. Moreover, as the medical director he had authority over the medical practice aspects of the clinic only, and he did not have authority or control over waste disposal or record retention or disposal, as these duties were business functions they were not the responsibility of the medical director. The Panel found no violations.

4. During the ISC, when Respondent described his actions on follow-up visits where only a medical assistant would see the patient. If the patient met certain parameters the medical assistant would provide a prescription for birth control that was pre-signed by the Respondent. This action constituted a violation.

BOARD HISTORY

Respondent has not previously been the subject of disciplinary action by the Board.

Upon the recommendation of the Board's representatives and with the consent of Respondent, the Board makes the following Findings and Conclusions of Law and enters this Agreed Order.

FINDINGS

The Board finds that:

1. General Findings:
 - a. Respondent received all notice required by law. All jurisdictional requirements have been satisfied. Respondent waives any defect in notice and any further right to notice or hearing under the Medical Practice Act, Title 3, Subtitle B, Texas Occupations Code (the "Act") or the Rules of the Board.
 - b. Respondent currently holds Texas Medical License No. G-6349. Respondent was originally issued this license to practice medicine in Texas on February 26, 1984. Respondent is not licensed to practice in any other state.

- c. Respondent is primarily engaged in the practice of obstetrics/gynecology.
Respondent is not board certified.
- d. Respondent is 60 years of age.

2. Specific Findings:

- a. Respondent did not routinely see patients at the time of the follow-up visit.
- b. Most follow-up visits were done by medical assistants.
- c. At these follow-up visits, the medical assistant would evaluate the patient, and if they met certain parameters the medical assistant would provide a prescription for birth control pill that was pre-signed by Respondent.

3. Mitigating Factor: Respondent has cooperated in the investigation of the allegations related to this Agreed Order. Respondent's cooperation, through consent to this Agreed Order, pursuant to the provisions of Section 164.002 the Act, will save money and resources for the State of Texas. To avoid further investigation, hearings, and the expense and inconvenience of litigation, Respondent agrees to the entry of this Agreed Order and to comply with its terms and conditions.

CONCLUSIONS

Based on the above Findings, the Board concludes that:

- 1. The Board has jurisdiction over the subject matter and Respondent pursuant to the Act.
- 2. Section 164.051(a)(3) of the Act, authorizes the Board to take disciplinary action against Respondent for violation of a board rule; to wit, Board rule 193.4 related to delegation of prescriptive authority.
- 3. Section 164.002(a) of the Act authorizes the Board to resolve and make a disposition of this matter through an Agreed Order.
- 4. Section 164.002(d) of the Act provides that this Agreed Order is a settlement agreement under the Texas Rules of Evidence for purposes of civil litigation.

ORDER

Based on the above Findings and Conclusions of Law, the Board ORDERS that Respondent shall be subject to the following terms and conditions:

1. Within one year from the date of the entry of this Order, Respondent shall enroll in and successfully complete eight hours of continuing medical education ("CME") approved for Category I credits by the American Medical Association or American Osteopathic Association in the subject of risk management. This course must be approved in writing in advance by the Executive Director or their designee. To obtain approval for the course, Respondent shall submit in writing to the Compliance Department information on the course, to include at least a reasonably detailed description of the course content and faculty, as well as the course location and dates of instruction. Respondent shall submit documentation of attendance and successful completion of this requirement to the Compliance Department on or before the expiration of the time limit set forth for completion of the course. The CME requirements set forth in this paragraph shall be in addition to all other CME required for licensure maintenance.

2. Respondent shall pay an administrative penalty in the amount of \$3,000 within 60 days of the date of the entry of this Order. The administrative penalty shall be paid in a single payment by cashier's check or money order payable to the Texas Medical Board and shall be submitted to the Board for routing so as to be remitted to the Comptroller of Texas for deposit in the general revenue fund. Respondent's failure to pay the administrative penalty as ordered shall constitute grounds for further disciplinary action by the Board, and may result in a referral by the Executive Director of the Board for collection by the Office of the Attorney General.

3. Respondent shall comply with all the provisions of the Act and other statutes regulating the Respondent's practice.

4. Respondent shall fully cooperate with the Board and the Board staff, including Board attorneys, investigators, compliance officers, consultants, and other employees or agents of the Board in any way involved in investigation, review, or monitoring associated with Respondent's compliance with this Order. Failure to fully cooperate shall constitute a violation of this order and a basis for disciplinary action against Respondent pursuant to the Act.

5. Respondent shall inform the Board in writing of any change of Respondent's office or mailing address within 10 days of the address change. This information shall be submitted to the Registration Department and the Compliance Department of the Board. Failure to provide such information in a timely manner shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act. Respondent agrees that 10 days notice of a Probationer Show Compliance Proceeding to address any allegation of non-compliance of this Agreed Order is adequate and reasonable notice prior to the initiation of formal disciplinary action. Respondent waives the 30-day notice requirement provided by §164.003(b)(2) of the Medical Practice Act and agrees to 10 days notice, as provided in 22 Texas Administrative Code §187.44(4).

6. Any violation of the terms, conditions, or requirements of this Order by Respondent shall constitute unprofessional conduct likely to deceive or defraud the public, or to injure the public, and shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act.

7. Respondent shall be permitted to supervise and delegate prescriptive authority to physician assistants and advanced practice nurses and to supervise surgical assistants.

8. This Order shall automatically terminate upon the successful completion of the requirements in Ordering Paragraph Nos. 1 and 2.

RESPONDENT WAIVES ANY FURTHER HEARINGS OR APPEALS TO THE BOARD OR TO ANY COURT IN REGARD TO ALL TERMS AND CONDITIONS OF THIS AGREED ORDER. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.

THIS ORDER IS A PUBLIC RECORD.

[SIGNATURE PAGES FOLLOW]

I, ALAN HOWARD MOLSON, M.D., HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT BY SIGNING, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY. I UNDERSTAND THIS AGREED ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: 11/26, 2011.

Alan Howard Molson, MD
ALAN HOWARD MOLSON, M.D.
Respondent

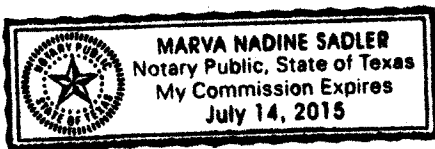
STATE OF Texas
COUNTY OF Tarrant

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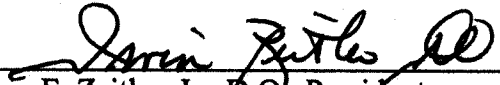
SWORN TO AND ACKNOWLEDGED BEFORE ME, the undersigned Notary Public, on this 26 day of November, 2011.

Marva N. Sadler
Signature of Notary Public

(Notary Seal)



SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this
10th day of FEBRUARY, 2012.



Irvin E. Zeitler, Jr., D.O., President
Texas Medical Board