

ALABAMA STATE BOARD OF	)	
MEDICAL EXAMINERS,	)	
	)	
Complainant,	)	BEFORE THE MEDICAL LICENSURE
	)	COMMISSION OF ALABAMA
v.	)	
	)	
PATRICK HENRY SMITH, M.D.	)	Case Number <u>95-002</u>
	)	
Respondent.	)	

STIPULATION AND CONSENT ORDER

Come now the Alabama State Board of Medical Examiners, complainant herein, and Patrick Henry Smith, M.D., Respondent herein, and respectfully submit to the Medical Licensure Commission the following:

STIPULATION

1. The Respondent, Patrick Henry Smith, M.D., admits the allegations contained in paragraphs 1, 2 and 3 of the Administrative Complaint.

2. This matter arises out of the gynecological and obstetrical medical care rendered by the Respondent to the patient, "D.S," on December 29, 1989. The Respondent first examined D.S. on December 29, 1989, when she was admitted to his services from the Emergency Room at Medical Center East with a diagnosis of incomplete abortion versus ectopic pregnancy. The Respondent performed a dilatation and curettage on December 30, 1989, without complication. On February 1, 1990, D.S. presented to the Respondent's office with complaints of pain associated with menstruation. The Respondent prescribed pain medication and instructed the patient to telephone the office in eighteen hours to report on her condition. The patient again presented to the

Respondent's office on February 6, 1990. A pregnancy test performed on that date was negative. On February 11, 1990, the Respondent examined D.S. in the Emergency Room at Medical Center East. At that time, he admitted her to the hospital and ordered appropriate tests. The Respondent did not have further occasion to treat D.S.

On January 28, 1992, the plaintiff filed a medical malpractice action in the Circuit Court of Jefferson County, Alabama. In her complaint, the patient alleges that the Respondent failed to diagnose an ectopic pregnancy. The defendant denied liability. Following discovery, a settlement was extended for \$10,000 which included an agreement that the defendant specifically denied liability.

3. Following report of the settlement agreement, the Credentials Committee of the Board of Medical Examiners interviewed the Respondent regarding the medical care rendered to D.S. At the interview, the Respondent presented evidence that his care and treatment of patient D.S. met the applicable standards of medical care. The Credentials Committee presented evidence that the Respondent committed acts that violate Ala. Code § 34-24-360(3).

4. Following this interview, the Alabama Board of Medical Examiners authorized that an Administrative Complaint be filed with the Medical Licensure Commission of Alabama.

5. The Respondent maintains that the care and treatment he rendered to the patient D.S. was reasonable and met the applicable standards of medical care. The Respondent agrees, however, that

the criticisms and suggestions voiced by the Credentials Committee are well taken. The Respondent agrees that the additional measures suggested by the Committee would have improved the care and treatment rendered to D.S.

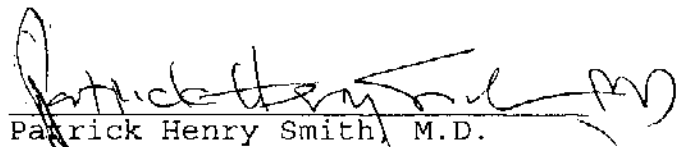
6. Although it is the opinion of the Respondent that the medical care he rendered to the patient was appropriate, the Respondent agrees that probable cause existed for the filing of the Administrative Complaint, and the Respondent acknowledges and admits that the facts alleged in paragraphs 1, 2, and 3 of the Administrative Complaint constitute grounds for the imposition of sanctions against his license to practice medicine in Alabama. The Respondent consents and agrees to the entry by the Medical Licensure Commission of Alabama of the Consent Order stated herein and agrees to be bound by the findings of fact, conclusions of law and the terms and conditions of the Consent Order. The respondent waives any further notice or hearing on the Administrative Complaint and any further findings of fact and conclusions of law with respect to the above styled matter.


7. The Alabama State Board of Medical Examiners stipulates and agrees to the entry of the Consent Order stated herein as a full and complete disposition of the charges set forth in the Administrative Complaint.

8. It is stipulated and agreed between the parties that this Stipulation and Consent Order be submitted to the Medical Licensure Commission of Alabama and is subject to the Commission's approval.

It is further agreed by the Respondent that the Medical Licensure Commission shall be permitted to examine and review, prior to any approval of this Stipulation, the records and documents now in the possession of the Alabama Board of Medical Examiners concerning the allegations set forth in the Administrative Complaint. It is further agreed that, should the Medical Licensure Commission decline to accept this Stipulation and Consent Order as a basis for the disposition of the alleged violation as set forth in the Administrative Complaint and requires the Board of Medical Examiners to go forward with its presentation of testimony and exhibits, any admissions made by the Respondent in this Stipulation shall not be binding upon the Respondent and the consideration by the Commission of this Stipulation and Consent Order and the evidence referred to above will not be considered prejudicial to the rights of the Respondent to receive a fair and impartial hearing. It is further agreed that the Respondent will not assert that such prior consideration would preclude any member of the Medical Licensure Commission from rendering a fair, just and impartial decision after hearing the evidence.

This Stipulation is entered into this 24<sup>th</sup> day of February, 1995.

  
Patrick Henry Smith, M.D.

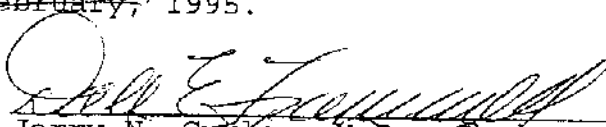
  
Patricia E. Shaner, Attorney for  
the Alabama Board of Medical  
Examiners

CONSENT ORDER

This matter is before the Medical Licensure Commission on the Administrative Complaint filed by the Alabama State Board of Medical Examiners and on the Stipulation of the parties entered on the 2/6 day of February, 1995. The Commission hereby finds that it has jurisdiction of the Administrative Complaint and of the parties thereto under Ala. Code §34-24-361(1975).

In consideration of the Stipulation of the parties, the Commission hereby finds that the Respondent, Patrick Henry Smith, M.D. has committed acts which violate Ala. Code §34-24-360(3)(1975). Based upon the foregoing findings and fact, the Medical Licensure Commission concludes that the Respondent, Patrick Henry Smith, M.D. has violated the provisions of Ala. Code §34-24-360(3)(1975). Upon the findings of act and conclusions of law as set forth herein it is the ORDER of the Medical Licensure Commission that the license to practice medicine in Alabama of Patrick Henry Smith, M.D. is hereby REPRIMANDED. In addition to and in conjunction with any other sanction contained herein, the Respondent shall pay to the Medical Licensure Commission of Alabama a fine of \$2500.00 to be paid in full within one hundred and twenty days of this Order.

ORDERED this 22nd day of February, 1995.

  
Jerry N. Gurley, M.D., Chairman  
Medical Licensure Commission

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MEDICAL EXAMINERS,	)	
	)	BEFORE THE MEDICAL LICENSURE
Complainant,	)	COMMISSION OF ALABAMA
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v.	)	CASE NO. <u>95-002</u>
	)	
PATRICK HENRY SMITH, M.D.	)	
	)	
Respondent.	)	

ADMINISTRATIVE COMPLAINT

Comes now the Alabama State Board of Medical Examiners and submits herein its sworn petition pursuant to the authority of Ala. Code §34-24-361(e)(1975) and represents to the Medical Licensure Commission of Alabama the following:

1. On September 11, 1961, the Respondent, Patrick Henry Smith, M.D. was duly issued a license to practice medicine in the State of Alabama, license number 2857.
2. The Alabama State Board of Medical Examiners has caused an investigation to be made into the medical practice of the Respondent. Based upon information developed during the course of its investigation, the Board has determined that there exists probable cause to believe that the Respondent has committed the following violation of Ala. Code §34-24-360;

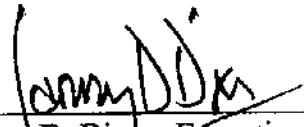
Practiced medicine in such a manner as to endanger the health of a patient of the practitioner, a violation of Ala. Code §34-24-360(3)(1975).


3. In support of the allegation of the violation of Section 34-24-360(3), the Board alleges that the Respondent rendered gynecological and obstetrical medical care to patient, "D.S.", and that the Respondent failed to act upon information suggesting the significant possibility of Ectopic pregnancy of the patient.

Wherefore, the foregoing premises considered, the Alabama State Board of Medical Examiners respectfully requests that the Medical Licensure Commission of Alabama set a hearing upon this Administrative Complaint and order that the Respondent, Patrick Henry Smith, M.D. appear and answer the allegations of this complaint. Further, the Board requests that at the conclusion of the hearing, the Medical Licensure Commission assess an administrative fine of \$2500.00, issue a reprimand against the Respondent, and/or take other action as the Commission may deem appropriate based upon the evidence presented for its consideration.

This Administrative Complaint is executed for and on behalf of the Alabama State Board of Medical Examiners by its Executive Director pursuant to the instructions of the Board as contained in its resolution of December 21, 1994, a copy of which is attached hereto and incorporated herein.

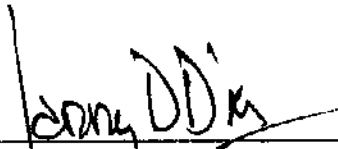
EXECUTED this 13<sup>th</sup> day of January, 1995.

  
Larry D. Dixon, Executive Director  
Alabama Board of Medical Examiners

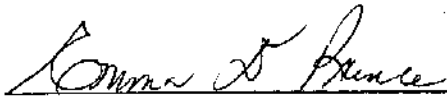
  
Patricia E. Shaner, Attorney for the  
Alabama Board of Medical Examiners  
P.O. Box 946  
Montgomery, AL 36101-0946  
Telephone #(205)242-4116

STATE OF ALABAMA            )  
  )  
MONTGOMERY COUNTY        )

Before me, the undersigned, personally appeared Larry D. Dixon, who, being by me first duly sworn, deposes and says that he, in this capacity as Executive Director of the Alabama State Board of Medical Examiners, has examined the contents of the foregoing complaint and petition and affirms that the contents thereof are true and correct to the best of his knowledge, information and belief.

  
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Larry D. Dixon, Executive Director  
Alabama State Board of Medical Examiners

SWORN TO AND SUBSCRIBED before me this 13<sup>th</sup> day of January,  
1995.

  
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Notary Public  
My Commission Expires: 4-6-98





STATE OF ALABAMA            )  
  )  
MONTGOMERY COUNTY         )

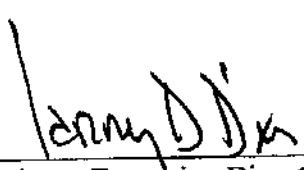
**A F F I D A V I T**

Before me, the undersigned, personally appeared Larry D. Dixon, Executive Director of the Alabama State Board of Medical Examiners, who, being by me first duly sworn, deposes and says as follows:

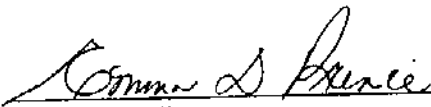
The Alabama State Board of Medical Examiners session on December 21, 1994, a quorum of the members of the Board being present, conducted an investigation into the medical practice of Patrick Henry Smith, M.D., and at the conclusion of the discussion, the Board adopted the following:

Patrick H. Smith, M.D., Birmingham. Dr. Smith met with the Credentials Committee to discuss his treatment of a patient which resulted in a malpractice settlement recently reviewed by the Board. The Credentials Committee recommended an Administrative Complaint alleging that Dr. Smith practiced medicine in such a manner as to endanger the health of the patient be filed with the Commission and that the Complaint recommend that upon any finding of guilt, Dr. Smith be issued a Reprimand and be assessed a fine of \$2500.00. The motion was adopted.

I further certify that the foregoing resolution was adopted by the Alabama State Board of Medical Examiners on the 21st day of December, 1994.

  
\_\_\_\_\_  
Larry D. Dixon, Executive Director  
Alabama State Board of Medical Examiners

SWORN TO AND SUBSCRIBED before me this 13<sup>th</sup> day of January  
1995.

  
\_\_\_\_\_  
Notary Public  
My Commission Expires: 4-6-98