

G-1719

IN THE MATTER OF

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BEFORE THE

THE LICENSE OF

TEXAS STATE BOARD

LESTER JOHN MINTO, M.D.

OF MEDICAL EXAMINERS

AGREED ORDER

On this the 22nd day of June, 1996, came on to be heard before the Texas State Board of Medical Examiners ("the Board" or "the Texas Board"), duly in session the matter of the license of Lester John Minto, M.D. ("Respondent"). On April 22, 1996, Respondent appeared in person, without counsel, at an Informal Settlement Conference/Show Compliance Proceeding in response to a letter of invitation from the staff of the Board.

The Board was represented at the Informal Settlement Conference/ Show Compliance Proceeding by Connie Navar-Clark, CPA, a member of the Board, and Allan David Axelrad, M.D., a district review committee member. Upon recommendation of the Board's representatives, and with the consent of Respondent, the Board makes the following findings of fact and conclusions of law and enters this Order as set forth herein:

FINDINGS OF FACT

1. Respondent, Lester John Minto, M.D., holds Texas medical license G-1719.
2. The Board has jurisdiction over the subject matter and Respondent. Respondent received all notice which may be required by law and by the rules of the Board. All jurisdictional requirements have been satisfied.
3. Respondent is not certified by the American Board of Medical Specialties, but is primarily engaged in the practice of family medicine.

4. Respondent has been licensed to practice medicine in Texas for approximately 13 years.

5. During January 1995 through approximately October of 1995, Respondent worked at Medi Senter, a community health clinic ("the clinic"), where Respondent assumed shared supervisory duties in regard to clinic staff.

6. During Respondent's affiliation with the clinic, Respondent worked with a physician assistant without standing orders or protocols.

7. During this period, Respondent allowed the physician assistant to practice without adequate supervision to include allowing the physician assistant to utilize pre-signed prescriptions and to telephone in prescriptions for patients without consulting with Respondent.

8. Respondent maintains that any failure to adequately supervise clinic staff was a result of being misinformed about applicable law and a result of his misunderstanding of the law.

9. Terms and conditions of this Order are not restrictions of Respondent's ability to practice medicine or a restriction as contemplated by Section 14 of the Physician Assistant Licensing Act, V.A.C.S., article 4495b-1.

10. Respondent has entered into this Agreed Order pursuant to the provisions of Sections 4.02(h) and (i) of the Medical Practice Act ("the Act"), V.A.C.S., article 4495b.

11. Respondent has cooperated with Board staff in the investigation of the allegations related to this Agreed Order.

12. So as to avoid the expense and inconvenience of litigating the allegations, in lieu of further investigation or a hearing, Respondent agrees to the entry of this Agreed Order, and further agrees to comply with the terms and conditions set forth herein.

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

## CONCLUSIONS OF LAW

Based on the above findings of fact, the Board concludes the following:

1. Respondent has violated Section 3.08(4)(H) of the Medical Practice Act ("the Act"), V.A.C.S., article 4495b, which authorizes the Board to take disciplinary action against Respondent based on Respondent's failing to supervise adequately the activities of those acting under Respondent's supervision.
2. Section 4.02(h) of the Act authorizes the Board to resolve and make a disposition of this matter through an agreed order.
3. Section 4.02(i) of the Act provides that this Agreed Order is a settlement agreement under the Texas Rules of Civil Evidence for purposes of civil litigation.
4. Section 4.12 of the Act authorizes the Board to take action in regard to Respondent and Respondent's medical license as set forth below.

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that this Agreed Order shall constitute a **PUBLIC REPRIMAND** of Respondent, and that Respondent is hereby reprimanded.

It is further **ORDERED** as follows:

1. Within one (1) year following the signing of this Agreed Order by the presiding officer of the Board, Respondent shall take and pass the Medical Jurisprudence Examination (JP Exam) given by the Texas State Board of Medical Examiners. In the event that Respondent does not take and pass the JP Exam within one (1) year following signing of this Agreed Order by the presiding officer of the Board, Respondent's medical license shall be immediately suspended pursuant to correspondence to Respondent from the Executive Director or Secretary-Treasurer of the Board indicating that Respondent has not fulfilled the requirements of this provision by passage of the JP Exam within the allotted time period. **THIS SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER**

ADMINISTRATIVE DUE PROCESS UNDER THE MEDICAL PRACTICE ACT OR THE ADMINISTRATIVE PROCEDURE ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS. Respondent shall be notified of any such suspension by certified mail, return receipt requested, to his last known address on file with the Board. If Respondent's medical license is suspended on such a basis, the suspension shall remain in effect until such time as Respondent takes and passes the JP Exam and subsequently appears before the Board in person and provides sufficient evidence which, in the discretion of the Board, is adequate to show that Respondent possesses the skills and knowledge to safely practice medicine in Texas and is otherwise physically and mentally competent to resume the practice of medicine in this state.

2. In addition, Respondent shall cooperate with Board staff in any investigation related to the clinic referenced in finding of fact 5, or individuals affiliated with the clinic.

3. To verify that Respondent has complied with and is in compliance with the terms and conditions of this Agreed Order, Respondent shall fully cooperate with the Board and the Board staff, including but not limited to, Board attorneys, investigators, compliance officers, consultants, and other such employees or agents of the Board in any way involved in investigation, review, or monitoring associated with Respondent's compliance with this Agreed Order. Failure to cooperate as required by this paragraph and the terms of this Agreed Order shall constitute a basis for disciplinary action against Respondent pursuant to Sections 3.08, 4.01, and 4.11 of the Act.

4. Any violation of the terms, conditions, or requirements of this Order by Respondent shall constitute a basis for disciplinary action by the Board against Respondent pursuant to Sections 3.08, 4.01, and 4.11 of the Act. Any violation of the terms, conditions, or requirements of this Order by Respondent shall constitute evidence of unprofessional or dishonorable conduct likely to deceive or defraud the public or injure the public.

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. NOTHING IN THIS ORDER SHALL BE DEEMED A WAIVER OF RESPONDENT'S RIGHTS UNDER STATUTE OR THE UNITED STATES OR TEXAS CONSTITUTIONS TO APPEAL AN ORDER OR

ACTION OF THE BOARD SUBSEQUENT TO THIS AGREED ORDER EXCEPT AS RESPONDENT MAY HAVE OTHERWISE AGREED TO HEREIN. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.

THIS ORDER IS A PUBLIC RECORD.

I, LESTER JOHN MINTO, 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: 5/23, 1996

  
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LESTER JOHN MINTO, M.D.  
RESPONDENT

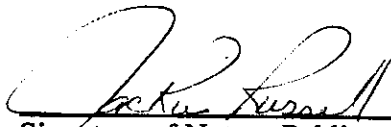
STATE OF TEXAS

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COUNTY OF Cameron

BEFORE ME, the undersigned Notary Public, on this day personally appeared Lester John Minto, M.D., known to me to be the person whose name is subscribed to this instrument, an Agreed Order, and who after being by me duly sworn, on oath, stated that he executed the same for all purposes expressed therein.

Given under my hand and official seal and office this 23<sup>rd</sup> day of May, 1996.

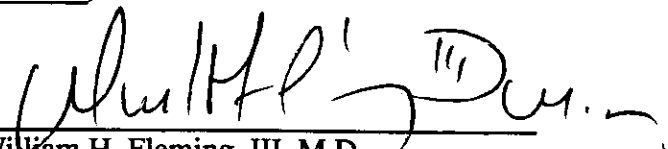
  
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Signature of Notary Public

(Notary Seal)

Jackie Russell  
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Printed or typed name of Notary Public

My commission expires: 1/29/99

SIGNED AND ENTERED by the presiding officer of the Texas State Board of Medical Examiners on this 22<sup>nd</sup> day of June, 1996.

  
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William H. Fleming, III, M.D.  
President, Texas State Board of  
Medical Examiners