

LICENSE NO. H-5151

IN THE MATTER OF
THE LICENSE OF
MICHAEL ANGELO BASCO, M.D.

BEFORE THE
TEXAS MEDICAL BOARD

AGREED ORDER

On the 26TH day of AUGUST, 2011, came on to be heard before the Texas Medical Board (the "Board"), duly in session, the matter of the license of Michael Angelo Basco, M.D. ("Respondent").

On May 11, 2011, Respondent appeared in person, with counsel James McClendon, 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 were Manuel Guajardo, M.D., a member of the Board, and Wendy Prater Dear, a member of a District Review Committee ("Panel"). Claudia Kirk represented Board staff.

BOARD CHARGES

Respondent failed to meet the standard of care for one patient when he performed a hysterectomy to treat endometriosis but failed to remove the patient's ovaries.

The Board Expert Reviewers (Experts) concluded that the surgical procedure performed met the standard of care. The Experts, however, found that the medical record documentation was inadequate in that Respondent should have more thoroughly documented that he explored all available treatment options prior to performing the procedure on this particular patient.

BOARD HISTORY

Respondent has previously been the subject of disciplinary action by the Board.

The Board entered an Agreed Order on August 15, 2003, due to peer action. The Order publicly reprimanded Respondent.

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 the following:

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. H-5151. Respondent was originally issued this license to practice medicine in Texas on February 24, 1989. Respondent is not licensed to practice in any other state.
- c. Respondent is primarily engaged in the practice of Obstetrics and Gynecology. Respondent is board certified by the American Board of Obstetrics and Gynecology, a member of the American Board of Medical Specialties.
- d. Respondent is 51 years of age.

2. **Specific Panel Findings:**

- a. Respondent did not thoroughly document his alleged discussion with the patient of the findings in the laparoscopic photographs that were taken and all the available treatment options prior to performing a hysterectomy.

3. **Mitigating Factors:**

- a. In determining the appropriate sanctions in this matter, the Panel considered the following mitigating factors:
 - i. Respondent has used electronic medical records (EMR) for a long period of time. At his new place of employment, however, electronic medical records were not available at the time of this office visit. He is now using EMR again, and has changed his method of recordkeeping and now documents that he has given the patient Texas Association of Obstetrician and Gynecologists (ACOG) approved pamphlets.

- ii. 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 OF LAW

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 based on Respondent's violation of a Board rule, specifically Board Rule 165.1, which requires the maintenance of adequate medical records.
3. Section 164.001 of the Act authorizes the Board to impose a range of disciplinary actions against a person for violation of the Act or a Board rule.
4. Section 164.002(a) of the Act authorizes the Board to resolve and make a disposition of this matter through an Agreed Order.

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 at least eight (8) hours of continuing medical education (CME) approved for Category I credits by the American Medical Association in the topic of medical recordkeeping. All courses must be approved in writing in advance by the Compliance Division of the Board. To obtain approval for the course, Respondent shall submit in writing to the Compliance Division of the Board 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 Division of the Board 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 following 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. The above-referenced conditions shall continue in full force and effect without opportunity for amendment, except for clear error in drafting, for one year following the date of the entry of this Order. If, after the passage of the one-year period, Respondent wishes to seek amendment or termination of these conditions, Respondent may petition the Board in writing. The Board may inquire into the request and may, in its sole discretion, grant or deny the petition without further appeal or review. Petitions for modifying or terminating may be filed only once a year thereafter.

9. This Order shall automatically terminate upon Respondent's submission of sufficient evidence to the Compliance Division of the Board that Respondent successfully completed the requirements ordered 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 PAGE(S) FOLLOW]

SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this
26TH day of AUGUST, 2011.



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