

IN THE MATTER OF

THE LICENSE OF

GEORGE SEALY MASSINGILL, M.D.

BEFORE THE

TEXAS MEDICAL BOARD

AGREED ORDER

On the 3rd day of February, 2006, came on to be heard before the Texas Medical Board (the "Board"), duly in session, the matter of the license of George Sealy Massingill, M.D. ("Respondent").

On October 20, 2005, Respondent appeared in person, with counsel, Ann Manning, at an Informal Show Compliance Proceeding and Settlement Conference in response to a letter of invitation from the staff of the Board. Roger Calhoun represented Board staff. The Board's representatives were Christine L. Canterbury, M.D., a member of the Board, and Nancy Seliger, a member of the District Review Committee.

Upon the 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 Agreed Order.

FINDINGS OF FACT

The Board finds that:

1. 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.
2. Respondent currently holds Texas Medical License No. H-0609. Respondent was originally issued this license to practice medicine in Texas on December 3, 1986. Respondent is not licensed to practice in any other state.
3. Respondent is primarily engaged in the practice of obstetrics and gynecology. Respondent is board certified in this specialty by the American Board of Medical Specialties.
4. Respondent is 47 years of age.

5. Respondent has not previously been the subject of disciplinary action by the Board.
6. On October 17, 2001, S.S. was admitted to Labor and Delivery at 1145 hours. On admission she requested a C-section. She was counseled and an epidural was placed in anticipation of the surgery. She then changed her mind, and requested that she be allowed a trial of labor.
7. She was fully dilated at 1900 hours. The fetal monitor strips revealed a baseline in the 160's and decelerations dropped into the 130's. Variables dropped down into the 90's.
8. At 2010 hours, the fetal heart rate had a baseline of between the 160-170's. There was a three-minute deceleration into the 90's. At 2110 hours, there is evidence of severe variable decelerations into the 90's with a baseline in the 170's.
9. By 2140 hours, the fetal heart rate baseline was in the 190's with decelerations into the 80-90's. The tracing at 2150 hours reveals a loss of beat-to-beat variability and a heart rate pattern of between 90-150.
10. Between 2230 and 2245 hours, there is evidence of continued fetal intolerance to labor with decelerations into the 60's. At 2300 hours a forceps delivery was attempted, but the fetus was unable to be delivered. An episiotomy had been made and this was repaired. S.S. was then brought into the operating room for a C-section. The tracings stop at 2301 hours. The skin incision on the section was at 2320 hours and the infant was born at 2340 hours.
11. Respondent failed to appropriately document and/or ensure that his Resident physician documented the occurrences of the delivery.
12. 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 of Fact, 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 Board Rule 165, 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. Such sanctions include: revocation, suspension, probation, public reprimand, limitation or restriction on practice, counseling or treatment, required educational or counseling programs, monitored practice, public service, and an administrative penalty.

4. Section 164.002(a) of the Act authorizes the Board to resolve and make a disposition of this matter through an Agreed Order.

5. 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 of Fact and Conclusions of Law, the Board ORDERS that:

1. Within one year from the entry of this Order, Respondent shall enroll in and successfully complete a course in Record Keeping of at least 10 hours in duration, approved in writing in advance by the Executive Director of the Board. To obtain approval for the course, Respondent shall submit in writing to the Director of Compliance for 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 Director of Compliance for the Board on or before the expiration of the time limit set forth for completion of the course.

2. Respondent shall pay an administrative penalty in the amount of \$5000 within 180 days 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 Director of Compliance for 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 be permitted to supervise and delegate prescriptive authority to physician assistants and advanced practice nurses and to supervise surgical assistants.

4. Upon completion of paragraphs one and two above this Order shall be satisfied and shall terminate.

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

6. 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.

7. Respondent shall inform the Board in writing of any change of Respondent's mailing or practice address within ten days of the address change. This information shall be submitted to the Permits Department and the Director of Compliance for 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.

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

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.

I, GEORGE SEALY MASSINGILL, 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: 17 Jan 20, 2006.

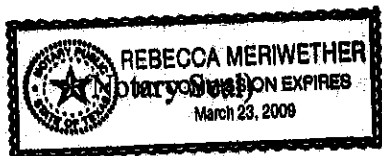

GEORGE SEALY MASSINGILL, M.D.
RESPONDENT

STATE OF Texas

COUNTY OF Tarrant

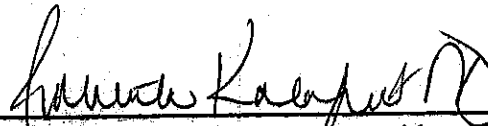
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SWORN TO AND ACKNOWLEDGED BEFORE ME, the undersigned Notary Public, on this 12 day of January, 2006.




Signature of Notary Public

3 SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this 3 day of February, 2006.


Roberta M. Kalafut, D.O., President
Texas Medical Board