

IN THE MATTER OF	§	BEFORE THE
	§	
THE LICENSE OF	§	TEXAS STATE BOARD
	§	
RICHARD PAUL BARTLETT, M.D.	§	OF MEDICAL EXAMINERS

AGREED ORDER

On this the 12 day of December, 2003, 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 Richard Paul Bartlett ("Respondent"). On September 20, 2002, Respondent appeared in person with counsel, Tim Weitz, at an Informal Settlement Conference/Show Compliance Proceeding in response to a letter of invitation from the staff of the Board. Walter Mosher represented Board Staff.

The Board was represented at the Informal Settlement Conference/Show Compliance Proceeding by Joyce Roberts, M.D. and Paulette Southard, both members of the Board.

On November 20, 2003, Respondent and counsel, Tim Weitz, participated in a mediated settlement conference. Joyce Roberts, M.D., represented the Board, Stephen White and Walter G. Mosher represented Board Staff. 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. That the Board has jurisdiction over the subject matter and Respondent. Respondent received all notice that may be required by law and by the rules of the Board. All jurisdictional requirements have been satisfied under TEX. OCC. CODE ANN. Subtitle B (Vernon 2002), (hereinafter the "Act"). By entering into this Agreed Order, Respondent waives any defect in the notice and any further right to notice or hearing under the Act; TEX. GOV'T CODE ANN. §§ 2001.051 through .054; and the Rules of the State Board of Medical Examiners (22 Tex. Admin. Code Chapter 187).

2. On or about November 14, 1992, the Board issued Respondent a Texas medical license, No. J-1865.

3. That Respondent is not certified by the American Board of Medical Specialties, but is primarily engaged in the practice of general medicine.

4. Respondent also states that he obtained "Experienced Provider" status in Advanced Cardiac Life Support, is an Advanced Trauma Life Support instructor. Respondent is a registered Medical Technologist, and has completed EMT paramedic training.

5. On November 20, 2003, Respondent appeared before a panel of Board representatives to address allegations relating to violations of the Act. Specifically, the Panel found that Respondent's medical records of five (5) patients, which includes two minors and one diabetic patient, indicate unusual use of risk-filled medications such as aminoglycosides, multiple intravenous antibiotics, and multi-day doses of long acting glucocorticoids without any documentation in the records of the weighing of risk versus benefits of this care.

6. Respondent maintains that he treated the patients appropriately, with no adverse outcomes, considering that he was providing care to a relatively under served area with limited resources and medical support and submitted statements supporting his position, to include expert report and patient statements. Nevertheless, Respondent has indicated an understanding of the Board's concern and has shown a willingness to address those concerns by modifying his practice prior to the entry of this Order and by completing over 200 AMA Category I Continuing Medical Education (CME) hours.

7. Respondent has not been previously the subject of any disciplinary action before the Board.

8. Respondent also states that he has no prior adverse licensure or privileging action against him and he has never had a medical malpractice settlement or judgment against him to date.

9. While not admitting that he violated the Act, Respondent enters into this Agreed Order and agrees to comply with the terms and conditions set forth herein so as to avoid any further proceedings relating to these allegations and associated litigation expenses. Respondent further neither admits nor denies that the Findings of Fact and Conclusions of Law set forth herein are accurate.

#### CONCLUSIONS OF LAW

Based on the above Findings of Fact, the Panel concludes the following:

1. Respondent is subject to disciplinary action pursuant to Section 164.051(a)(1) of the Act based on Respondent's commission of an act prohibited under Section 164.052.

2. Respondent is subject to disciplinary action by the Board pursuant to Section 164.051(a)(6) of the Act by not practicing medicine in a manner consistent with public health and welfare.

3. Respondent is subject to disciplinary action pursuant to Section 164.051(a)(3) of the Act by committing a direct or indirect violation of a rule adopted under this Act, either as a principal, accessory, or accomplice, to wit: Board Rule 165 (Medical Records).

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 Respondent complies with the following terms and conditions from the date of the signing of this Agreed Order by the presiding officer of the Board:

1. For a period of at least one (1) year, Respondent's practice shall be monitored by a physician ("monitor"), in accordance with §164.001(b)(7) of the Act. The Compliance Division of the Board shall designate the monitor and may change the monitor at any time for any reason. The monitor shall have expertise in a similar specialty area as Respondent. The Compliance Division shall provide a copy of this Order to the monitor, together with other information necessary to assist the monitor.

a. As requested by the Compliance Division, Respondent shall prepare and provide complete legible copies of selected patient medical and billing records ("selected records"). Respondent need not provide billing records so long as the Respondent is employed exclusively as a salaried employee. The Compliance Division shall select records for at least thirty patients seen by Respondent during each three-month period following the last day of the month of entry of this Order ("reporting period"). The Compliance Division may select records for more than thirty patients, up to ten percent of the patients seen during a reporting period.

b. The monitor shall perform the following duties:

- 1) Personally review the selected records;
- 2) Prepare written reports documenting any perceived deficiencies and any recommendations to improve Respondent's practice of medicine or assist in the ongoing monitoring process. Reports shall be submitted as requested by the Compliance Division; and
- 3) Perform any other duty that the Compliance Division determines will assist the effective monitoring of Respondent's practice.

c. The Compliance Division shall provide to Respondent a copy of any deficiencies or recommendations submitted by the monitor. Respondent shall implement the recommendations as directed by the Compliance Division.

d. The monitor shall be the agent of the Board, but shall be compensated by the Respondent through the Board. Such compensation and any costs incurred by the monitor shall be paid by Respondent to the Board and remitted by the Board to the monitor. Respondent shall not charge the compensation and costs paid to the monitor to any patients.

2. Respondent shall personally appear before a panel of Board representatives no earlier than one (1) year from the effective of this Order to review and evaluate Respondent's compliance with the monitor's recommendation and the terms and conditions of this Order for the purposes of determining the appropriateness of terminating this Order.

3. Upon the Board representative's determination that Respondent has satisfactorily complied with the monitor's recommendation and the terms and conditions of this Order, this Order shall terminate upon delivery of a written notice by the Executive Director informing Respondent of the Board representative's findings and recommendation. If, however, the Board representatives determine that Respondent did not comply with the monitor's recommendation or the terms and conditions of this Order, Respondent may be subject to additional disciplinary actions as recommended by the Board representatives to include, but not limited to, participating with the above chart requirements for one additional year.

4. Respondent shall maintain adequate medical records on all patient office visits, consultations, surgeries performed, drugs provided, and treatment rendered by Respondent. These records will include at a minimum, the patient's name and address, vital signs and statistics, chief complaints, history and physical findings, diagnosis and basis for diagnosis, treatment plan for each patient visit or operative procedure, a notation of all medications prescribed or otherwise provided to the patient including the quantity, dosage, and rationale for

providing the medications, and detailed records of all follow-up visits. Each visit shall be noted in the patient record and dated accordingly. Respondent shall make all patient medical records available for inspection and copying upon the oral or written request of Board consultants, investigators, compliance officers, attorneys, or the Executive Director of the Board.

5. Within one year following the entry of this Order, Respondent shall take and pass with a score of 75 or above the Special Purpose Examination (SPEX) as promulgated by the Federation of State Medical Boards of the United States. Respondent is allowed three attempts to successfully pass this examination.

Respondent's failure to take and pass the SPEX within three attempts within one year following the entry of this Order shall constitute a violation of this Agreed Order. After a committee of the Board or a panel of Board representatives (Board Representatives"), has considered the information related to Respondent's violation of this provision and has determined that Respondent has not fulfilled the requirements of this provision, 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 Board Representatives have considered the information related to Respondent's violation of this provision and have determined that Respondent has not fulfilled the requirements of this provision. Although Respondent shall be invited to provide information or testimony to the Board Representatives, Respondent specifically waives any administrative due process under the Medical Practice Act, or the Administrative Procedure Act, for the Board Representatives to consider this information. **THIS SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING AT THE STATE OFFICE OF ADMINISTRATIVE HEARINGS 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 AND ALL RIGHTS OF APPEAL.** Respondent shall be notified of any suspension by certified mail, return receipt requested to Respondent's last known address on file with the Board. If Respondent's license is suspended on such a basis, the suspension shall remain in effect until such time as Respondent takes and passes the SPEX 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 in Texas and is otherwise physically and mentally competent to resume the practice in this state.

6. Pursuant to 22 TEX. ADMIN. CODE Section 189.4, Respondent may supervise physician assistants and/or nurse practitioners while under this Order

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

8. Respondent shall inform the Board in writing of any change of Respondent's office or mailing address within ten (10) 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.

9. While under the terms and conditions of this Order, Respondent may supervise a physician assistant or advance practice nurse under Section 189.4 of the Act.

10. 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.

11. Respondent shall personally appear before the Board, a committee of the Board, or a panel of Board representatives, upon written request mailed to Respondent's last known address on file with the Board at least ten calendar days before the requested appearance date. Such appearances shall be for the purpose of reporting on and addressing issues related to Respondent's compliance with the terms and conditions of this Order.

12. The above-referenced conditions shall continue in full force and effect, without opportunity for amendment except for error in drafting, for one year following entry of this Order. If, after the passage of 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.

13. Board Staff shall dismiss claims and assertions relating to these allegations currently pending at the State Office of Administrative Hearings within five days from the date of the signing of this Agreed Order by the presiding officer of the Board.

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, RICHARD PAUL BARTLETT, 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 25, 2003.



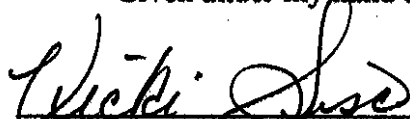
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RICHARD PAUL BARTLETT, M.D.  
RESPONDENT

STATE OF TEXAS  
COUNTY OF ECTOR

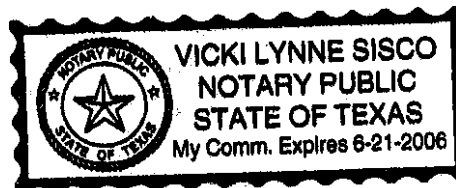
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BEFORE ME, the undersigned Notary Public, on this day personally appeared Richard Paul Bartlett, M.D., known to me to be the person whose name is subscribed to this instrument, an Agreed Order, and who after being by me duly sworn, on oath, stated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

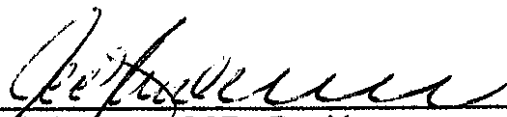
Given under my hand and official seal and office this 25 day of November 2003.

  
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Signature of Notary Public

My commission expires: \_\_\_\_\_



SIGNED AND ENTERED by the presiding officer of the Texas State Board of Medical Examiners on this 12 day of December 2003.

  
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Lee S. Anderson, M.D., President  
Texas State Board of Medical Examiners