

BEFORE THE COMPOSITE STATE BOARD OF MEDICAL EXAMINERS

STATE OF GEORGIA

Composite State Board
of Medical Examiners

SEP 12 2002

IN THE MATTER OF:

DANIEL E. MCBRAYER, M.D.
License No. 018697,

Respondent.

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DOCKET NO. 2003-0021
AG NO. 64CB-CA-01SLB-1007871

DOCKET NUMBER

PUBLIC CONSENT ORDER

By agreement of the Composite State Board of Medical Examiners ("Board") and Daniel E. McBrayer, M.D. ("Respondent"), the following disposition of this matter is entered into pursuant to the provisions of O.C.G.A. § 50-13-13 (a) (4), as amended.

FINDINGS OF FACT

1.

The Respondent is licensed to practice medicine in the State of Georgia and was licensed at all times relevant to the matters stated herein.

2.

On or about March 31, 2000, Respondent was investigated by the Georgia Department of Human Resources, Office of Regulatory Services in conjunction with the Board's investigator regarding Respondent's performance of second trimester abortions in his medical office located in Marietta, Georgia.

3.

During said investigation, Respondent admitted in writing to having performed second trimester abortions in his Marietta office. Performance of abortions after the first trimester in a non-hospital setting or in an unlicensed abortion facility is a violation of Georgia law.

4.

During said investigation, Respondent admitted that he had not filed certificates of abortions as required by Georgia law.

5.

On or about April 17, 2000, Respondent agreed in writing to cease in-office performance of any abortion procedure past fourteen (14) weeks.

6.

As of July 2001, Respondent has had no further complaints brought against him with the Board or with the Department of Human Resources, Office of Regulatory Services.

7.

The Respondent admits the above findings of fact and waives any further findings of fact with respect to the above-styled matter. The Respondent, however, shall be allowed to submit an additional written statement to the Board for its investigative file in explanation and mitigation of the matters stated herein for the Board's consideration prior to its review of this Consent Order.

CONCLUSIONS OF LAW

The Respondent's conduct constitutes sufficient grounds for the imposition of discipline upon his license to practice medicine in the State of Georgia pursuant to O.C.G.A. Chs. 1 and 34 T. 43, as amended. The Respondent hereby waives any further conclusions of law with respect to the above-styled matter.

ORDER

The Composite State Board of Medical Examiners, having considered all the facts and circumstances of this case, hereby orders, and Respondent hereby agrees, that the following

sanctions shall be imposed upon the Respondent's license to practice medicine in the State of Georgia.

1.

Beginning on the effective date of this Consent Order, Respondent's license shall be placed on probation for a period of two (2) years. Respondent shall abide by all State and Federal laws regulating his practice as a physician or relating to abortions, the Rules and Regulations of the Composite State Board of Medical Examiners and the terms of this Consent Order and probation. If Respondent shall fail to abide by such laws, rules or terms, Respondent's license shall be subject to further action, including revocation, upon substantiation thereof, and if revoked, the Board in its discretion may determine that the license should be permanently revoked and not subject to reinstatement.

Respondent further agrees that any violation of this Consent Order shall be deemed to be sufficient to authorize the Board to order summary suspension of Respondent's license, pending further proceedings, pursuant to the provisions of the Georgia Administrative Procedure Act, O.C.G.A. § 50-13-18(c)(1), or any other statute authorizing emergency action, but Respondent understands that Respondent shall be entitled to an expedited hearing to substantiate such violation(s), if the Board exercises such right.

2.

Respondent shall submit to the Board a fine of five thousand dollars (\$5,000.00), to be paid in full by cashier's check or money order made payable to the Board within 30 days of the effective date of this Consent Order. Failure to pay the entire amount by the 30th day shall be considered a violation of this Order, and shall result in further sanctioning of Respondent's license, including revocation, upon substantiation thereof.

3.

Respondent shall complete **20 hours of CME in the area of ethics** within twelve (12) months of the effective date of this order. These hours shall be in addition to the normal hours of CME required for license renewal.

4.

This Consent Order and dissemination thereof shall be considered a **PUBLIC REPRIMAND** of Respondent by the Board.

5.

The Respondent acknowledges that he has consulted with legal counsel and has read this Consent Order and understands its contents. Respondent understands that the Respondent has the right to a hearing in this matter and freely, knowingly and voluntarily waives that right by entering into this Consent Order. Respondent understands and agrees that a representative of the Department of Law may be present during the Board's consideration of this Consent Order and that the Board shall have the authority to review the investigative file and all relevant evidence in considering this Consent Order. Respondent further understands that this Consent Order will not become effective until approved and docketed by the Composite State Board of Medical Examiners. **Respondent understands that this Consent Order, once approved and docketed, shall constitute a public record, evidencing disciplinary action by the Board.** However, if this Consent Order is not approved, it shall not constitute an admission against interest in this proceeding, or prejudice the right of the Board to adjudicate this matter. Respondent hereby consents to the terms and sanctions contained herein.


(signatures on next page)

Approved, this 3rd day of September, 2001.


COMPOSITE STATE BOARD OF
MEDICAL EXAMINERS

(BOARD SEAL)

BY:

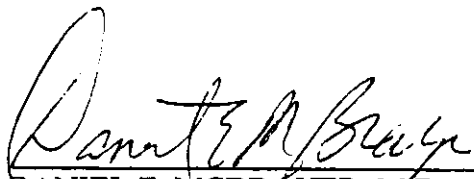

ROGER E. HILL, D.O. *Eddie E. Hill, Jr.*
President

ATTEST:



KAREN MASON
Executive Director
Composite State Board of Medical Examiners

CONSENTED TO:

Sworn to and Subscribed
before me this ___ day
of _____, 2001.


DANIEL E. MCBRAYE, M.D.
Respondent

NOTARY PUBLIC
My Commission Expires:


THOMAS B. MURPHY
Counsel for Respondent