

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

BENJAMIN ALBORN MARBLE, M.D.

CONSENT ORDER

WHEREAS, Benjamin Alborn Marble, M.D., hereinafter referred to as "Licensee," having an address of 8083 Red ^{Creek} ~~Hook~~ Road, Long Beach, MS 39560, is the current holder of License No.18076 for the practice of medicine in the State of Mississippi.

WHEREAS, there is now pending before the Mississippi State Board of Medical Licensure, hereinafter referred to as "Board," that amended certain summons and affidavit charging Licensee with violation of the Mississippi Medical Practice Act and specifically, Miss. Code Ann. § 73-25-29(8)(d), and § 73-25-83(a), for which the Board may revoke the medical license of Licensee, suspend it for a time deemed proper by the Board, or take any other action as the Board may deem proper under the circumstances;

WHEREAS, Licensee wishes to avoid a hearing before the Board and in lieu thereof has agreed to execute this Consent Order, subject to the terms, conditions, and restrictions as specified below;

NOW THEREFORE, the Mississippi State Board of Medical Licensure, with consent of Licensee as signified by his joinder herein, does hereby impose the following

terms and conditions on Licensee's certificate to practice medicine in the State of Mississippi, to-wit:

1. Licensee shall take immediate steps to contact the medical director of the Mississippi Professional Health Program (MPHP), disclose all facts which prompted Licensee's execution of this Order and make arrangements to submit to evaluation for potential mental or emotional impairment at a facility approved in advance and in writing by the MPHP. By executing this Consent Order, Licensee authorizes the Board and MPHP to fully disclose and share with such facility any and all information regarding Licensee which the MPHP may, in its discretion, deem necessary to evaluate and/or advise Licensee. Upon conclusion of the evaluation, a report shall be sent to the MPHP with a copy to the Board's Executive Director. In the event it is the recommendation of the evaluating facility that Licensee is in need of treatment, Licensee shall comply with all of such recommendations.
2. Within six (6) months from the date of the Board's acceptance of this Order, Licensee shall enroll and successfully complete AMA Category 1 CME (Continuing Medical Education) course in the area of Medical Ethics, said course to be approved in advance by the Executive Director of the Board. Following completion of the course, Licensee shall submit to the Board documentary proof of successful completion. This is in addition to the forty (40) hours of Category 1 CME requirements as cited in Title 30, Part 2610, Chapter 2 of the Board's Rules and Regulations.

3. Licensee shall reimburse the Board for all costs incurred in relation to the pending matter pursuant to Miss. Code Ann. § 73-25-30, with said amount not to exceed \$10,000. Licensee shall be advised of the total assessment by separate notification, and shall tender to the Board a certified check or money order on or before forty (40) days from the date the assessment is mailed to Licensee via U. S. mail at the address shown above.

Licensee understands and expressly acknowledges that this Consent Order shall constitute a public record of the State of Mississippi. Licensee further understands and acknowledges that the Board shall provide a copy of this Order to, among others, the National Practitioners Data Bank, and the U. S. Drug Enforcement Administration (DEA), and the Board makes no representation as to actions, if any, which the DEA may take in response to this Order.

This Consent Order shall be subject to approval by the Board. If the Board fails to approve this Consent Order, in whole or in part, it shall have no force or effect on the parties. It is further understood and agreed that the purpose of this Consent Order is to avoid a hearing before the Board. In this regard, Licensee authorizes the Board to review and examine any documentary evidence or material concerning the Licensee prior to, or in conjunction with its consideration of this Consent Order. Should this Consent Order not be accepted by the Board, it is agreed that presentation to and consideration of the Consent Order and other documents and matters pertaining thereto by the Board shall not unfairly or illegally prejudice the Board or any of its members

from further participation in any hearings or other consideration of the resolution of the proceeding.

By executing this Consent Order, Licensee does not admit to or acknowledge any act of misconduct or malpractice; and this order cannot be used against Licensee as proof of misconduct or medical malpractice in any other civil, administrative or criminal proceeding.

Recognizing his right to notice of charges specified against him, to have such charges adjudicated pursuant to Miss. Code Ann. § 73-25-1 et seq., to be represented therein by legal counsel of his choice, and a final decision based on written findings of fact and conclusions of law, Benjamin Alborn Marble, M.D., nonetheless hereby waives his right to notice and formal adjudication of charges, thereby placing the above enumerated terms, conditions, and restrictions on his license to practice medicine in the State of Mississippi.

EXECUTED, this the 18th day of September, 2012.

By: Benjamin Alborn Marble, M.D.
Benjamin Alborn Marble, M.D.,

EXECUTED ACCEPTED, this the 27th day of September, 2012.

Mississippi State Board of Medical Licensure

By: 
S. Randall Easterling, M.D., President

2012 Mississippi Code

Title 73 - Professions and Vocations

Chapter 25 - Physicians

General Provisions (§§ 73-25-1 - 73-25-39)

§ 73-25-29. Nonissuance, suspension, revocation, restriction, denial of reinstatement, or denial of renewal of license; grounds [Paragraph (14) repealed effective July 1, 2016]

Universal Citation: MS Code § 73-25-29 (2012) ○

The grounds for the nonissuance, suspension, revocation or restriction of a license or the denial of reinstatement or renewal of a license are:

- (1) Habitual personal use of narcotic drugs, or any other drug having addiction-forming or addiction-sustaining liability.
- (2) Habitual use of intoxicating liquors, or any beverage, to an extent which affects professional competency.
- (3) Administering, dispensing or prescribing any narcotic drug, or any other drug having addiction-forming or addiction-sustaining liability otherwise than in the course of legitimate professional practice.
- (4) Conviction of violation of any federal or state law regulating the possession, distribution or use of any narcotic drug or any drug considered a controlled substance under state or federal law, a certified copy of the conviction order or judgment rendered by the trial court being prima facie evidence thereof, notwithstanding the pendency of any appeal.
- (5) Procuring, or attempting to procure, or aiding in, an abortion that is not medically indicated.
- (6) Conviction of a felony or misdemeanor involving moral turpitude, a certified copy of the conviction order or judgment rendered by the trial court being prima facie evidence thereof, notwithstanding the pendency of any appeal.
- (7) Obtaining or attempting to obtain a license by fraud or deception.
- (8) Unprofessional conduct, which includes, but is not limited to:
 - (a) Practicing medicine under a false or assumed name or impersonating another practitioner, living or dead.

(b) Knowingly performing any act which in any way assists an unlicensed person to practice medicine.

(c) Making or willfully causing to be made any flamboyant claims concerning the licensee's professional excellence.

(d) Being guilty of any dishonorable or unethical conduct likely to deceive, defraud or harm the public.

(e) Obtaining a fee as personal compensation or gain from a person on fraudulent representation of a disease or injury condition generally considered incurable by competent medical authority in the light of current scientific knowledge and practice can be cured or offering, undertaking, attempting or agreeing to cure or treat the same by a secret method, which he refuses to divulge to the board upon request.

(f) Use of any false, fraudulent or forged statement or document, or the use of any fraudulent, deceitful, dishonest or immoral practice in connection with any of the licensing requirements, including the signing in his professional capacity any certificate that is known to be false at the time he makes or signs such certificate.

(g) Failing to identify a physician's school of practice in all professional uses of his name by use of his earned degree or a description of his school of practice.

(9) The refusal of a licensing authority of another state or jurisdiction to issue or renew a license, permit or certificate to practice medicine in that jurisdiction or the revocation, suspension or other restriction imposed on a license, permit or certificate issued by such licensing authority which prevents or restricts practice in that jurisdiction, a certified copy of the disciplinary order or action taken by the other state or jurisdiction being prima facie evidence thereof, notwithstanding the pendency of any appeal.

(10) Surrender of a license or authorization to practice medicine in another state or jurisdiction or surrender of membership on any medical staff or in any medical or professional association or society while under disciplinary investigation by any of those authorities or bodies for acts or conduct similar to acts or conduct which would constitute grounds for action as defined in this section.

(11) Final sanctions imposed by the United States Department of Health and Human Services, Office of Inspector General or any successor federal agency or office, based upon a finding of incompetency, gross misconduct or failure to meet professionally recognized standards of health care; a certified copy of the notice of final sanction being prima facie evidence thereof. As used in this paragraph, the term "final sanction" means the written notice to a physician from the United States Department of Health and Human Services, Officer of Inspector General or any successor federal agency or office, which implements the exclusion.

(12) Failure to furnish the board, its investigators or representatives information legally requested by the board.

(13) Violation of any provision(s) of the Medical Practice Act or the rules and regulations of the board or of any order, stipulation or agreement with the board.

(14) Violation(s) of the provisions of Sections 41-121-1 through 41-121-9 relating to deceptive advertisement by health care practitioners. This paragraph shall stand repealed on July 1, 2016.

In addition to the grounds specified above, the board shall be authorized to suspend the license of any licensee for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the

payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

2012 Mississippi Code

Title 73 - Professions and Vocations

Chapter 25 - Physicians

Medical Discipline at Behest of Physician

Members of State Board of Medical Licensure

(§§ 73-25-81 - 73-25-95)

§ 73-25-83. Grounds for disciplinary action by board

Universal Citation: MS Code § 73-25-83 (2012) 

The board shall have authority to deny an application for licensure or other authorization to practice medicine in this state and to discipline a physician licensed or otherwise lawfully practicing within this state who, after a hearing, has been adjudged by the board as unqualified due to one or more of the following reasons:

(a) Unprofessional conduct as defined in the physician licensure and disciplinary laws, pursuant to Section 73-25-29;

(b) Professional incompetency in the practice of medicine or surgery; or

(c) Having disciplinary action taken by his peers within any professional medical association or society, whether any such association or society is local, regional, state or national in scope, or being disciplined by a licensed hospital or medical staff of said hospital, or the voluntary surrender or restriction of hospital staff privileges while an investigation or disciplinary proceeding is being conducted by a licensed hospital or medical staff or medical staff committee of said hospital. Provided further, anybody taking action as set forth in this paragraph shall report such action to the board within thirty (30) days of its occurrence.

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
IN THE MATTER OF THE PHYSICIANS'S LICENSE
OF
BENJAMIN ALBORN MARBLE, M.D.
ORDER REMOVING ALL RESTRICTIONS

THIS MATTER came on regularly for consideration on May 15, 2013, before the Mississippi State Board of Medical Licensure, in response to the request of Benjamin Alborn Marble, M.D., (hereinafter "Licensee"), seeking removal of all restrictions imposed on his Mississippi medical license by virtue of that certain Consent Order dated September 27, 2012. The Board, after hearing said request, finds the same to be well-taken.

IT IS HEREBY ORDERED, that Licensee's request for removal of all restrictions is hereby granted. Licensee now holds an unrestricted license to practice medicine in the State of Mississippi effective May 16, 2013.

IT IS FURTHER ORDERED, that pursuant to Miss Code Ann. Sections §73-25-27 and §73-25-32 (1972), a copy of this Order shall be sent by registered mail or personally served upon Benjamin Alborn Marble, M.D.

ORDERED, this the 16th day of May 2013.

Mississippi State Board of Medical Licensure

BY: _____


S. RANDALL EASTERLING, M.D.
PRESIDENT