

**STATE OF OHIO
THE STATE MEDICAL BOARD
PERMANENT SURRENDER OF CERTIFICATE
TO PRACTICE MEDICINE AND SURGERY**

I, William E. Powell, II, M.D., am aware of my rights to representation by counsel, the right of being formally charged and having a formal adjudicative hearing, and do hereby freely execute this document and choose to take the actions described herein.

I, William E. Powell, II, M.D., do hereby voluntarily, knowingly, and intelligently surrender my certificate to practice medicine and surgery, No. 35-025499, to the State Medical Board of Ohio [Board], thereby relinquishing all rights to practice medicine and surgery in Ohio.

I understand that as a result of the surrender herein that I am no longer permitted to practice medicine and surgery in any form or manner in the State of Ohio.

I agree that I shall be ineligible for, and shall not apply for, reinstatement of certificate to practice medicine and surgery No. 35-025499 or issuance of any other certificate pursuant to Chapters 4730., 4731., 4760. or 4762., Ohio Revised Code, on or after the date of signing this Permanent Surrender of Certificate to Practice Medicine and Surgery. Any such attempted reapplication shall be considered null and void and shall not be processed by the Board.

I, William E. Powell, II, M.D., hereby release the Board, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

This document shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code. Further, this information may be reported to appropriate organizations, data banks and governmental bodies. I, William E. Powell, II, M.D., acknowledge that my social security number will be used if this information is so reported and agree to provide my social security number to the Board for such purposes.

It is expressly understood that this Surrender of Certificate is subject to ratification by the Board prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.

I stipulate and agree that I am taking the action described herein in lieu of formal disciplinary proceedings pursuant to Section 4731.22(B)(22), Ohio Revised Code, based upon the following facts:

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On or about August 26, 2005, the Texas State Board of Medical Examiners [Texas Board] entered an Agreed Order, whereby I was found to have failed to meet the standard of care in the treatment of two patients in my practice of obstetrics and gynecology. In the Agreed Order, the Texas Board issued a public reprimand, and placed conditions upon my medical practice, including that I shall not supervise a physician assistant or an advanced nurse practitioner.

A copy of the Agreed Order of the Texas Board is attached hereto and incorporated herein.

Signed this 6 day of December, 2005.

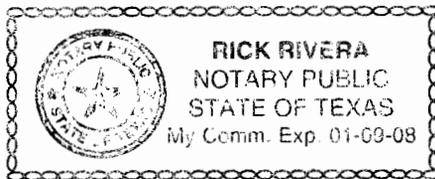

WILLIAM E. POWELL, II, M.D.

WITNESS

WITNESS

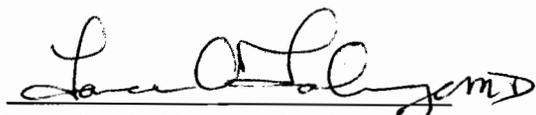
Sworn to and subscribed before me this 6th day of December, 2005.

SEAL




NOTARY PUBLIC

(This form must be either witnessed OR notarized)


LANCE A. TALMAGE, M.D.
SECRETARY


RAYMOND J. ALBERT
SUPERVISING MEMBER

12-14-05
DATE

12/14/05
DATE

LICENSE NO. D-2821

IN THE MATTER OF
THE COMPLAINT AGAINST
WILLIAM EUGENE POWELL, II, M.D.

BEFORE THE
TEXAS STATE BOARD OF
MEDICAL EXAMINERS

AGREED ORDER

On the 26 day of August, 2005, came on to be heard before the Texas State Board of Medical Examiners ("the Board"), duly in session, the matter of the license of William Eugene Powell II, M.D. ("Respondent").

On February 18, 2005, Respondent appeared in person, without counsel, at an Informal Show Compliance Proceeding and Settlement Conference in response to a letter of invitation from the staff of the Board. Joyce Smith represented Board staff. The Board's representatives were Keith Miller, M.D. and Melinda S. Fredricks, both members of the Board. 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 TEX. OCC. CODE ANN. Title 3, Subtitle B (Vernon 2004) (the "Act") or the Rules of the Board.
2. Respondent currently holds Texas Medical License No. D-2821. Respondent was originally issued this license to practice medicine in Texas on December 7, 1965. Respondent is not licensed to practice in any other states.
3. Respondent is primarily engaged in practicing locum tenens. Respondent is board certified in obstetrics and gynecology by the American Board of Medical Specialties.
4. Respondent is 70 years of age.
5. Respondent has not previously been the subject of disciplinary action by the Board.

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6. Respondent treated patient G.S., a 42-year-old female, gravida III, para II, AB I. G.S. had a history of Atypical Squamous Cells of Undetermined Significance ("ASCUS") pap smears.

7. Respondent originally saw G.S. in January 2001. Respondent saw G.S. again on July 3, 2001. Her pap smear done on that date revealed ASCUS with the possibility of a dysplastic lesion.

8. On July 20, 2001, Respondent performed a colposcopy. Colposcopic biopsies revealed endocervical and ectocervical tissue with a high-grade dysplasia into the glandular material on ECC (Endocervical Curettage) and the ectocervical biopsy revealed moderate dysplasia.

9. Respondent did not meet the standard of care when he did not perform a conization to obtain a tissue specimen to rule out an invasive cancer.

10. Patient B.F., a 50-year old, gravida IV, para IV, white female Respondent had been seen for a number of years.

11. On August 1, 2000 Respondent performed a ventral hernia repair on B.F. with Marlex mesh at Clear Lake Regional Medical Center. Respondent placed a ¼ inch subcutaneous Penrose drain.

12. Respondent saw B.F. in his office on August 4, 2000. At that time, the lower wound was documented as separated. Respondent probed the wound and did not see the Penrose drain and determined that it was removed with the dressing change at the hospital. However, there was no documentation of the removal of the drain.

13. Respondent saw B.F. multiple times in his office for evaluation of her incision. When the incision would not heal, the patient was referred to a general surgeon.

14. The general surgeon performed surgery and found the Penrose drain still in the patient.

15. Respondent's care of B.F. fell below the standard of care when he did not confirm removal of the Penrose drain.

16. The Board's representatives found it mitigating in that Respondent has had a long and previously unblemished career, and Respondent looked for the presence of the Penrose drain as the cause of B.F.'s failure to heal after surgery, but just did not find it.

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17. 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)(6) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's failure to practice medicine in an acceptable professional manner consistent with public health and welfare.
3. Sections 164.001(a)(3) and 164.001(b)(2) of the Act authorize the Board to administer a public reprimand.
4. Sections 165.001 and 165.003 of the Act authorize the Board to impose a monetary administrative penalty not to exceed five thousand dollars for each separate violation of the Act or Board rule by a person licensed or regulated under the Act.
5. 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.
6. Section 164.002(a) of the Act authorizes the Board to resolve and make a disposition of this matter through an Agreed Order.
7. 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.

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ORDER

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that:

1. This Agreed Order shall constitute a PUBLIC REPRIMAND of Respondent, and Respondent is hereby reprimanded.

2. Respondent shall not supervise a PA or advanced nurse practitioner.

3. Within one year of the signing of this Order by the president, Respondent shall obtain twenty five total hours of Continuing Medical Education (CME) approved for Category I credits by the American Medical Association in management of abnormal pap smears, post operative wound care and treatment and recognition of uterine tumors, treatment and recognition of uterine tumors, etymology care and treatment of uterine leiomyoma, inflammation of the cervix and lower GU, and treatment of socially transmitted diseases. Upon successful completion of the required CME, Respondent shall submit proof completion to the Board. A copy of attendance certificates or a detailed report that can be readily verified by the Board shall satisfy this requirement.

4. The training or course requirements set forth in paragraph three, above, shall be in addition to all other educational requirements necessary to maintain licensure status.

5. Respondent shall pay an administrative penalty in the amount of \$2,000 within sixty 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 State Board of Medical Examiners 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.

6. This Order shall automatically terminate upon fulfillment of all terms and conditions of the Order.

7. The time period of this Order shall be tolled if (a) Respondent subsequently resides or practices outside the State of Texas, (b) Respondent's license is subsequently canceled for nonpayment of licensure fees, or (c) this Order is stayed or enjoined by Court Order. If Respondent leaves Texas to live or practice elsewhere, Respondent shall immediately notify the Board in writing of the dates of Respondent's departure from and subsequent return to Texas.

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When the period of tolling ends, Respondent shall be required to comply with the terms of this Order for the period of time remaining on the Order. Respondent shall pay all fees for reinstatement or renewal of a license covering the period of tolling.

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

9. 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.

10. 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.

11. 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 all notice requirements under Section 164.003 of the Medical Practice Act related to informal proceedings, and Section 2001.054(c) of the Administrative Procedure Act.

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

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, WILLIAM EUGENE POWELL II 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.

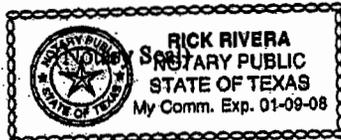
DATED: 4 August, 2005.


WILLIAM EUGENE POWELL II, M.D.
RESPONDENT

STATE OF Texas §
COUNTY OF Harris §
§

SWORN TO AND ACKNOWLEDGED BEFORE ME, the undersigned Notary Public, on this 4th day of August, 2005.


Signature of Notary Public



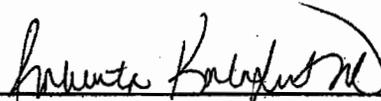
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SIGNED AND ENTERED by the presiding officer of the Texas State Board of Medical
Examiners on this 26 day of August, 2005.



Roberta M. Kalafut, D.O., President
Texas State Board of Medical Examiners

STATE OF TEXAS
COUNTY OF TRAVIS

I, Rita Perkins, certify that I am an official
assistant custodian of records for the Texas Medical Board,
and that this is a true and correct copy of the original, as it
appears on file in this office.

In witness my official hand and seal of the Board,
24 day of October, 2005
Rita Perkins

Assistant Custodian of Records