

SOAH DOCKET NO. 503-09-4338.MD

LICENSE NO. K-0399

IN THE MATTER OF

THE LICENSE OF

JUNE WILLIAMS COLMAN, M.D.

BEFORE THE

TEXAS MEDICAL BOARD

AGREED ORDER ON FORMAL FILING

On the 7<sup>th</sup> day of February, 2014, came on to be heard before the Texas Medical Board (Board), duly in session, the matter of the license of June Williams Colman, M.D. (Respondent).

On January 18, 2008, Respondent appeared in person, with counsel Jean M. Deloach, at an Informal Show Compliance Proceeding and Settlement Conference (ISC) in response to a letter of invitation from the staff of the Board. The Board's representatives were Manuel Guajardo, M.D., a member of the Board, and Noe Fernandez, a former member of a District Review Committee. Roger Calhoun represented Board staff.

The parties could not reach an agreement, and so, on May 20, 2009, the Board filed a formal complaint at the State Office of Administrative Hearings (SOAH). However, prior to proceeding to a contested hearing at SOAH on Docket No. 503-09-43398.MD, the parties were able to reach an agreement through this Agreed Order.

BOARD CHARGES

Board staff charged that Respondent failed to meet the standard of care in the obstetric treatment of three patients.

BOARD HISTORY

Respondent has not previously received a disciplinary order from the Board.

Upon recommendation of the Board's representatives and with the consent of Respondent, the Board makes the following Findings and Conclusions of Law and enters this Agreed Order.

### FINDINGS

The Board finds the following:

A) General findings:

- 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 (Act) or the Rules of the Board.
- 2) Respondent currently holds Texas Medical License No. K-0399. Respondent was originally issued this license to practice medicine in Texas on August 17, 1996. 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 by the American Board of Obstetrics and Gynecology, a member of the American Board of Medical Specialties.
- 4) Respondent is 49 years of age.

B) Specific Panel Findings:

- 1) Patient 1: On May 9, 2001, despite recognizing the fetus was large for its gestational age, Respondent applied the vacuum at a high station rather than recommending a cesarean section. Respondent poorly managed the shoulder dystocia.
- 2) Patient 2: On September 27, 2003, this patient was admitted to the hospital after she went into labor. Respondent was not immediately responsive to the nursing notification of the compromised fetal heart rate (FHR) tracing. Respondent misinterpreted the FHR monitor. Instead of recommending an immediate cesarean section, Respondent inappropriately attempted to perform a vacuum delivery.

- 3) Patient 3: Respondent failed to inform the patient of increased risk in future pregnancies following a shoulder dystocia. The patient was not offered a cesarean section for her subsequent pregnancy in 2001.

C) Mitigating Factor

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)(1) of the Act authorizes the Board to take disciplinary action against Respondent if Respondent commits an act prohibited under Section 164.052.
3. 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, as defined by the following Board Rules: 190.8(1)(A), failure to treat a patient according to the generally accepted standard of care; 190.8(1)(C), failure to use proper diligence in one's professional practice; and 190.8(1)(D), failure to safeguard against potential complications.
4. 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.
5. Section 164.002(a) of the Act authorizes the Board to resolve and make a disposition of this matter through an Agreed Order.
6. 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 and Conclusions of Law, the Board ORDERS that Respondent shall be subject to the following terms and conditions:

1. Within one year from the date of the entry of this Order, Respondent shall enroll in and successfully complete at least 20 hours of in-person continuing medical education (CME) in the topic of high-risk obstetrics. All CME must be approved for Category I credits by the American Medical Association and approved in writing in advance by the Executive Director or a designee. To obtain approval for the course, Respondent shall submit in writing to the Compliance Division of 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 Compliance Division of the Board on or before the expiration of the time limit set forth for completion of the course. The CME requirements set forth in this paragraph shall be in addition to all other CME required for licensure maintenance.

2. Respondent shall pay an administrative penalty in the amount of \$3000 within 90 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 Enforcement 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 give a copy of this Order to all hospitals, nursing homes, treatment facilities, and other health care entities where Respondent has privileges, has applied for privileges, applies for privileges, or otherwise practices. Within thirty days of entry of this Order Respondent shall provide documentation, including proof of delivery, to the Compliance Division of the Board that the Order was delivered to all such facilities.

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

5. The time period of this Order shall be extended for any period of time that: (a) Respondent subsequently practices exclusively outside the State of Texas; (b) Respondent's license is subsequently cancelled for nonpayment of licensure fees; (c) this Order is stayed or enjoined by Court Order; or (d) for any period of time longer than 60 consecutive days that Respondent does not actively practice medicine. If Respondent leaves Texas to practice elsewhere or ceases active practice for more than 60 consecutive days, Respondent shall immediately notify the Board in writing. Upon Respondent's return to active practice or return to practice in Texas, Respondent shall notify the Board in writing. When the period of extension 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 extension or tolling.

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 10 days of the address change. This information shall be submitted to the Permits Department and the Director of Enforcement 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, or to injure the public, and shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act. Respondent agrees that 10 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).

9. Respondent shall be permitted to supervise and delegate prescriptive authority to physician assistants and advanced practice nurses and to supervise surgical assistants.

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, or to injure the public, and shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act.

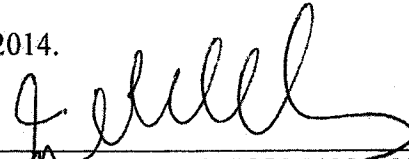
11. This order shall terminate upon the successful completion of Ordering Paragraph Nos. 1, 2, and 3.

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.

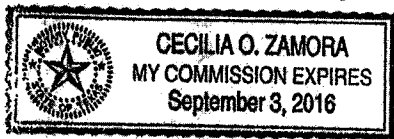
I, JUNE WILLIAMS COLMAN, M.D., HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT BY SIGNING, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY. I UNDERSTAND THIS AGREED ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

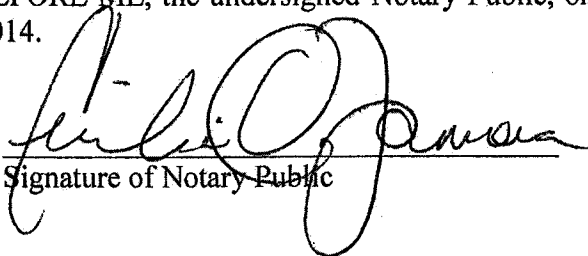
DATED: February 6, 2014.

  
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JUNE WILLIAMS COLMAN, M.D.  
Respondent


STATE OF TEXAS §  
COUNTY OF HARRIS §  
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SWORN TO AND ACKNOWLEDGED BEFORE ME, the undersigned Notary Public, on this 6 day of February, 2014.



  
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Signature of Notary Public

SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this  
7<sup>th</sup> day of February, 2014.

  
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Irvin E. Zeitler, D.O., President  
Texas Medical Board