BOARD OF MEDICAL LICENSURE AND DISCIPLINE

No. C05-360

IN THE MATTER OF
Augustus Marsella, D.O.
License Number D.O. 0153

Consent Order

Pursuant to R.I. Gen. Laws §5-37-5.2, 1956, as amended, (2002 Reenactment) a notification was received by the Board of Medical Licensure and Discipline regarding Augustus Marsella, D.O. ("Respondent"). This matter was referred to an Investigating Committee of the board for review and recommendation. The following are findings of fact and conclusions of law:

FINDINGS OF FACTS AND CONCLUSIONS OF LAW

1. The Respondent is a physician who has been licensed to practice medicine in Rhode Island since 1948. His primary area of practice is in the treatment of obesity. His primary practice location is 712 Oaklawn Avenue in Cranston.
2. The Respondent had previously been sanctioned with a Reprimand and directed CME by the Board on 3, July 2001 for "using glass syringes for injections given in his office. The syringes were later sterilized and re-

used and the needles were disposed of in accordance with the rules and regulations relating to medical waste…The acceptable standard of care mandates use of disposable needles and syringes…"

3. The Respondent has since used disposable syringes for injections given in his office, but has re-used them after an in-office sterilization procedure that includes a 48 hour 90% alcohol submersion and water rinse. This procedure does not conform to acceptable standards of practice.

4. Respondent failed to conform to the minimal standards of acceptable and prevailing medical practice for his use of disposable syringes in this manner in violation of § 5-37-5.1(19) .

The parties agree as follows:

Respondent admits to the jurisdiction of the Board.

(1) Respondent hereby acknowledges and waives:

a. The right to appear personally or by counsel or both before the Board;

b. The right to produce witnesses and evidence in his behalf at a hearing;

c. The right to cross examine witnesses;

d. The right to have subpoenas issued by the Board;

e. The right to further procedural steps except for specifically contained herein;

f. Any and all rights of appeal of this Consent Order;

g. Any objection to the fact that this Consent Order will be presented to the Board for consideration and review;

h. Any objection to the fact that it will be necessary for the Board to become acquainted with all evidence pertaining to this matter in order to review adequately this Consent Order;

i. Any objection to the fact that potential bias against the Respondent may occur as a result of the presentation of this Consent Order.

(2) Acceptance of this Consent Order constitutes an admission by the Respondent that the finings of fact were made by the Board.

(3) This Consent Order shall become part of the public record of this proceeding once it is accepted by all parties.

(4) Failure to comply with this Consent Order, when signed and accepted, shall subject the Respondent to further disciplinary action.

(5) Respondent hereby consents to a voluntary surrender of his medical license to be effective on September 30, 2005, and immediate restriction to only performing pilots flight physicals at his Oaklawn Avenue office in a probationary status.

(6) Respondent is specifically enjoined from performing any injection or invasive therapies.

(7) Respondent agrees to these limitations immediately, in advance of Board ratification of this order.

(8) Respondent agrees to pay an administrative fee of FIVE HUNDRED ($500.00) DOLLARS within 60 days of ratification of this Order.

(9) Respondent understands that the Health Department may assign additional administrative fees for costs related to any recommended blood testing for at-risk patients at a later date.

Signed this 6 day of July, 2005.

Augustus F. Marsella D.O.

Augustus F. Marsella, D.O.

Ratified by the Board of Medical Licensure and Discipline at a meeting held on 7-11, 2005.

David R. Gifford, MD, MPH
Director of Health