

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

MALACHY MALVIN DEHENRE, M.D.

ORDER OF PROHIBITION

WHEREAS, MALACHY MALVIN DEHENRE, M.D., hereinafter referred to as "Licensee," holds Mississippi Medical License Number 12652, said number expires June 30, 2005;

WHEREAS, on July 28, 2004, the Medical Licensure Commission of Alabama, a licensing authority of another state or jurisdiction, took temporary disciplinary action by suspending Licensee's Alabama Medical License Number (MD.00022722), and immediately ordering Licensee to cease and desist from the practice of medicine as a result of evidence in its possession indicating that the continuation of unrestricted practice of medicine by Licensee in the State of Alabama may constitute an immediate danger to his patients and the public;

WHEREAS, based on the actions in the State of Alabama, the Mississippi State Board of Medical Licensure has the authority, pursuant to Subsections (8)(d) and (9) of Mississippi Code Annotated, Section 73-25-29, and Subsection (a) of Mississippi Code Annotated, Section 73-25-83, to initiate disciplinary action seeking the suspension, revocation or restriction of his Mississippi license;

WHEREAS, the Board has determined that evidence in its possession indicates that Licensee's continued practice or unrestricted practice would constitute an immediate danger to the public;

WHEREAS, the Mississippi State Board of Medical Licensure has the authority, pursuant to Mississippi Code Annotated, Section 73-25-89, to immediately prohibit Licensee from practicing medicine pending the outcome of a hearing.

NOW, THEREFORE, IT IS HEREBY ORDERED, that pursuant to authority granted in Mississippi Code Annotated, Section 73-25-89, Licensee shall be prohibited from the practice of medicine.

The above action is hereby taken on a temporary basis, without a hearing, pending the outcome of the scheduled hearing on September 2, 2004. Enclosed herewith and served as part of this Order of Prohibition is a copy of the Determination with Affidavit, wherein, it was found that the Board has in its possession evidence indicating that Licensee's continuation in the practice or unrestricted practice would constitute an immediate danger to the public. Pursuant to authority granted by Mississippi Code Annotated, Section 73-25-89, the Board may take any action on a temporary basis, without a hearing, which it could otherwise take under Section 73-25-81 to Section 73-25-95, following a hearing, provided proceedings for a hearing before the Board are initiated simultaneously with such temporary action without a hearing. In the event of such temporary action without a hearing, a hearing must be held within fifteen (15) days of such action.

IT IS FURTHER ORDERED, that a copy of this Order shall be sent by registered mail or personally served upon MALACHY MALVIN DEHENRE, M.D., and shall be effective immediately upon receipt thereof.

ORDERED this the 19th day of August, 2004.

MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

By: W. Joseph Burnett, M.D.
W. Joseph Burnett, M.D.
Executive Director

Neil Buckland
personally served this Order of Prohibitory
subpoena/summons on
Malachy M. DeHenre, M.D.
at 12:06 NOON
This the 19th day of August, 2004.

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

MALACHY MALVIN DEHENRE, M.D.

SUMMONS

TO: MALACHY MALVIN DEHENRE, M.D.
#2 PAUL HARVEY ROAD
LAUREL, MISSISSIPPI 39440

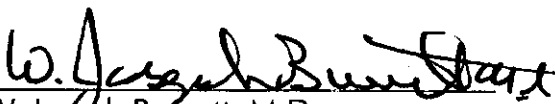
LICENSE NUMBER 12652

YOU ARE HEREBY SUMMONED to appear before the Mississippi State Board of Medical Licensure in its Executive Conference Room, 1867 Crane Ridge Drive, Suite 200-B, Jackson, Hinds County, Mississippi, on September 2, 2004, at 9:00 a.m., to answer the charges filed against you in the matter now pending before this Board. The Mississippi State Board of Medical Licensure, charged by law with the licensing of medical doctors in this state, under Title 73, Chapter 25, Mississippi Code (1972), as amended, charges that you, a physician duly licensed under the authority of the Mississippi State Board of Medical Licensure and the laws of the State of Mississippi, are guilty of having had your medical license suspended by the licensing authority of another state which prevents or restricts the practice of medicine in that jurisdiction; and guilty of unprofessional conduct, including dishonorable or unethical conduct likely to deceive, defraud or harm the public.


Pursuant to Subsections (8)(d) and (9) of Mississippi Code Annotated, Section 73-25-29, and Subsection (a) of Section 73-25-81, such acts constitute grounds for the Mississippi State Board of Medical Licensure to place your license on probation, the terms of which may be set by the Board, suspend your right to practice for a time deemed proper by the Board, revoke your Mississippi medical license, or take any other action in relation to your license as the Board may deem proper under the circumstances.

The Mississippi State Board of Medical Licensure further advises you that you have a right to be present at the hearing, to be represented by counsel, to produce witnesses or evidence on your behalf, to cross-examine witnesses and to have subpoenas issued by this Board. Attached to this Summons and incorporated herein by reference is a copy of the Rules of Procedure for disciplinary proceedings before the Board. The Rules set forth important rights and obligations which you, as a Respondent, should consider. By service of this Summons and attached Rules, you are deemed to be fully advised of the same.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 19th day of August, 2004.


W. Joseph Burnett, M.D.
Executive Director
Mississippi State Board of Medical Licensure

Of Counsel: Stan Ingram, Esq.
Armstrong, Allen PLLC
Highland Bluff North
4450 Old Canton Road, Suite 210
Jackson, Mississippi 39236-4028
Ph. 601-713-1192


I, Neil Brubaker
personally served this
subpoena/summons on
Malachy M. DeHene, M.D.,
at 12:00 Noon
This the 19th day of August, 2004.

MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

XVII. RULES OF PROCEDURE

Authority: Chapter 41, Title 73, Mississippi Code (1972) Annotated, as Amended

A. SCOPE

The following Rules of Procedure apply to all individuals licensed to practice medicine, osteopathic medicine and podiatric medicine in the State of Mississippi.

B. DEFINITIONS

For the purpose of Article XVII only, the following terms have the meanings indicated:

1. "Board" means the Mississippi State Board of Medical Licensure.
2. "Mississippi Medical Practice Act" means Sections 73-25-1, et seq., pertaining to licensure and discipline of individuals practicing medicine or osteopathic medicine, and Sections 73-27-1, et seq., pertaining to licensure and discipline of individuals practicing podiatric medicine, or any amendments or additions to said statutes which may hereinafter be made.
3. "Licensee" or "Physician" means any individual licensed to practice medicine, osteopathic medicine or podiatric medicine in the State of Mississippi.
4. "Respondent" means a physician against whom a disciplinary proceeding has been initiated.
5. "Complaint Counsel" means the attorney retained by the Board to prosecute physicians pursuant to the Mississippi Medical Practice Act. 6. Masculine terms, when used in the following Rules of Procedure, shall also be deemed to include the feminine.

C. COMPLAINT/INVESTIGATION

1. An investigation of alleged violation(s) of the Mississippi Medical Practice Act may be initiated by the Investigative Staff of the Board either:
 - a. in response to a written complaint or adverse information duly received by the Board, or
 - b. based on information independently developed by the Investigative Staff of the Board.
2. Upon receipt of information indicating a possible violation of the Mississippi Medical Practice Act, the Investigative Staff with advice and consultation from the Board's Medical Consultant, shall make an initial determination as to whether the information justifies further investigation. A case may be dismissed without further investigation based on a determination of either:
 - a. lack of jurisdiction, or
 - b. no violation of the Mississippi Medical Practice Act.
3. During an investigation, the Investigative Staff may interview and take the statements of witnesses and licensees. During an interview of a licensee, the Investigative Staff shall inform the licensee of the nature and purpose for the investigation and, if requested, provide licensee with a copy of any written complaint which may have prompted the investigation, provided, that if a complainant has requested anonymity, all identifying data of the complainant shall be removed therefrom.

D. INITIATION OF DISCIPLINARY ACTION

1. Upon conclusion of an investigation, the Investigative Staff with advice and consultation from the Board's Medical Consultant, shall make a determination as to the existence of proper jurisdiction and violation of the Mississippi Medical Practice Act. The Investigative Staff shall present the results of the investigation to the Board's President, who may then authorize the issuance of a summons and affidavit, naming the accused licensee as a respondent in the proceedings. The Board's President, in his discretion, may delegate the aforementioned authority to another member of the Board or the Board's Medical Consultant.
 - a. The summons, signed by the Board's Executive Officer, shall set forth:
 - (1) the style of the action,
 - (2) the name and address of the accused respondent,
 - (3) the address, date, and time at which the respondent is summoned to appear before the Board,
 - (4) the specific sections of the Mississippi Medical Practice Act which the respondent is charged with violating, and

**MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
RULES OF PROCEDURE**

- (5) the actions which the Board has the authority to take, including placing the physician on probation, the terms of which may be set by the Board, suspending his right to practice medicine for a time deemed proper by the Board, revoking his license, or taking any other action in relation to his license as the Board may deem proper under the circumstances.
 - b. The affidavit, signed by the investigating officer, shall set forth, in numbered paragraphs, a concise statement of the material facts and allegations to be proven, including:
 - (1) facts giving rise to the Board's jurisdiction,
 - (2) facts constituting legal cause for administrative action against the respondent, and
 - (3) the statutory provisions alleged to have been violated by the respondent.
2. The summons and affidavit shall be delivered to the respondent, either through registered mail or by personal service.
3. The summons shall name a date for hearing not less than thirty (30) days or more than sixty (60) days from the date of the mailing or service of the summons.
4. The summons and affidavit shall bear the name, address, and telephone number of Complaint Counsel.
5. All pleadings, motions or other papers permitted or required to be filed with the Board in connection with a pending disciplinary proceeding shall be filed by personal delivery at or by mail to the office of the Board. A copy of all papers filed with the Board shall be delivered by registered mail or personally served on opposing counsel of record.
6. All pleadings, motions or other papers shall be submitted on plain white, letter size (8 ½ x 11") bond, with margins of at least one inch on all sides and text double spaced except as to quotations and other matter customarily single spaced; shall bear the style and caption of the case as it appears on the summons and shall include the certificate of the attorney or person making the filing that service of a copy of the same has been effected in the manner prescribed by Subsection 5 above.
7. The Board may refuse to accept for filing any pleading, motion or other paper not in conformity with the requirements of this rule.
8. Within fifteen (15) days of service of the summons and affidavit, or such longer time as the Board, on motion of the respondent may permit, the respondent shall answer the summons/affidavit, admitting or denying each of the separate allegations of fact and of law set forth therein. Any matters admitted by the respondent shall be deemed proven and established for purposes of adjudication. Any matters or allegations not specifically denied are admitted for the purposes of the hearing. In the event that respondent does not file a response to the affidavit, all matters asserted therein shall be deemed admitted.
9. Any respondent may be represented before the Board by an attorney at law who:
 - a. is admitted to practice in the State of Mississippi, or
 - b. has been given express permission by the Board to appear on behalf of respondent.
10. Upon service of a summons and affidavit pursuant to Subsection 2 above, a respondent who is represented by legal counsel with respect to the proceeding shall personally or through such counsel, give written notice to the Board of the name, address and telephone number of such counsel. Following receipt of proper notice of representation, all further notices, affidavits, subpoenas, orders or other process related to the proceeding shall be served on respondent through the designated counsel of record.

E. SUBPOENAS

1. For the purpose of disciplinary hearings, the Board acting by and through its Executive Officer, may subpoena persons and papers on its own behalf and on behalf of a respondent.
2. Before the Board shall issue on behalf of a respondent any subpoena for persons or papers, the respondent shall:
 - a. File with the Board a written request for the issuance of said subpoenas, identifying with certainty the identity and address of all individuals to be subpoenaed, along with a concise description of the records to be subpoenaed with the identity and address of the custodian of said records.

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- b. All requests for the issuance of subpoenas shall be filed with the Board sufficiently distant in time to allow for the preparation and mailing of said subpoenas at least fifteen (15) days before the scheduled hearing date. The Board shall not be responsible for the timely receipt of subpoenas issued after the aforementioned deadline.
3. All subpoenas issued by the Board either on its own behalf or on behalf of a respondent shall be effected by either personal service of process or certified mail.
4. Any subpoena issued by the Board shall be returnable within 10 days to either the Board or other location as specified in the subpoena.
5. No subpoena shall be issued for the purpose of discovery, the means and manner of discovery being set forth at Paragraph F below.
6. The Board shall charge a respondent a reasonable fee, not to exceed \$25.00 per subpoena, for preparation and mailing of subpoenas.

F. DISCOVERY

1. Upon written request by a respondent or his counsel, Complaint Counsel of the Board shall disclose and permit respondent or his counsel to inspect, copy or photograph the following information and material, which is in the possession, custody, or control of the Board, or the existence of which is known to the Complaint Counsel:
 - a. Names and addresses of all witnesses proposed to be called in Complaint Counsel's case in chief, together with a copy of the contents of any statement, written, recorded, or otherwise preserved, of each such witness.
 - b. Copy of any written or recorded statement of respondent and the substance of any oral statement made by the respondent.
 - c. Copy of any criminal record of a respondent, if proposed to be used.
 - d. Any written reports or statements of experts, if proposed to be offered as evidence in connection with the particular case.
 - e. All records, documents, physical evidence or photographs which may be offered as evidence in Complaint Counsel's case in chief.
 - f. Any exculpatory material concerning the respondent. The Board shall charge a respondent a reasonable fee, not to exceed 50¢ per copy, payable in advance of delivery of copied documents.
2. The Board may deny disclosure authorized by Subsection 1 if it finds that there is a substantial risk to any person of physical harm, intimidation, bribery, economic reprisals, or unnecessary embarrassment, resulting from such disclosure, which outweighs any usefulness of the disclosure to respondent or his counsel.
3. If respondent requests discovery under this rule, respondent shall, promptly disclose to Complaint Counsel and permit him to inspect, copy or photograph, the following information and material which is in the possession, custody, or control of respondent or his counsel, or the existence of which is known to respondent or his counsel:
 - a. Names and addresses of all witnesses proposed to be called in Respondent's defense, together with a copy of the contents of any statement, written, recorded, or otherwise preserved, of each such witness.
 - b. All records, documents, physical evidence or photographs which may be offered as evidence in Respondent's defense.
 - c. Any written reports or statements of experts, if proposed to be offered as evidence in connection with the particular case.
4. No depositions shall be taken in preparation for matters to be heard before the Mississippi State Board of Medical Licensure.

G. AMENDMENT OF PLEADINGS

1. The Complaint Counsel of the Board may amend a summons and affidavit after being duly served upon respondent at any time prior to the scheduled hearing date, provided, the amendment is for the purpose of correcting a clerical error or clarifying facts set forth in the affidavit. A summons/affidavit

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may be amended to add additional charges or counts provided the amended summons and affidavit is served upon respondent not less than thirty (30) days from the scheduled hearing date or by mutual agreement of the parties.

2. A respondent may amend his answer as a matter of course at any time before the answer is due. Otherwise, a respondent may amend his answer only by leave of the Board. Leave shall be freely given when justice so requires.

H. PRE-HEARING MOTIONS

1. All pre-hearing motions shall be filed not later than fifteen (15) days prior to the scheduled hearing. Said motion shall be accompanied by a memorandum setting forth a succinct explanation of the grounds on which relief is sought. A motion may be accompanied by an affidavit as necessary to establish facts alleged in support of the motion.
2. Within ten (10) days of the filing of any motion, opposing counsel may file a memorandum in opposition to the initial motion.

I. CONTINUANCES

1. Hearings shall be held before the full Board at the time and place designated in the summons, unless a continuance is granted for just cause by the Board. A motion for a continuance must be filed with the Board at least fifteen (15) days prior to the scheduled hearing, or upon a showing of good cause, at any time prior to the hearing.
2. It must be recognized that the Board consists of nine (9) practicing physicians representing various regions of the State. Unlike the judiciary, Board members are not in the business of conducting hearings, therefore hearings will be held only during regularly scheduled meetings or other date established by order of the Board. Attorneys representing physicians should take this fact into consideration. A scheduled hearing may be continued if the respondent shows substantial, legitimate grounds for continuing the hearing, based on the balance of:
 - a. The right of respondent to a reasonable opportunity to prepare and present a defense, and
 - b. The Board's responsibility to protect the public health, safety and welfare.
3. Where the counsel for respondent has a scheduling conflict on the initial hearing date, continuances will be liberally granted. However, Respondent's Counsel must submit written proof of the scheduling conflict. Thereafter, no further continuances will be granted based solely on scheduling conflicts.
4. So that counsel for the respondent and Complaint Counsel shall be able to adequately prepare for hearing, any motion for a continuance filed within the time limitations specified at Subsection 1 above, will be immediately considered by the Board's President, who shall have the authority to grant or deny said motion. If granted, the order will be presented to the Board at the scheduled hearing date at which time the order will be formally entered and the rescheduled hearing date set.
5. It is the responsibility of the respondent to make a prompt decision as to whether to appear before the Board pro se (without counsel) or retain counsel for this purpose. Unless due to extraordinary circumstances, the Board will not consider as a valid ground for continuance, the Respondent's last minute decision to retain counsel.

J. INFORMAL SETTLEMENT, PRE-HEARING STIPULATIONS, CONSENT ORDERS

1. All disciplinary proceedings initiated by the Board shall be brought to a final resolution through one of three means:
 - a. disciplinary hearings before the full Board,
 - b. acceptance by the Board of a mutually agreeable Consent Order in lieu of hearing, or
 - c. dismissal of the case.
2. As to disciplinary proceedings duly noticed and docketed for hearing, counsel for respondent and Complaint Counsel may agree, or the Board's President may require, that an Informal Settlement Conference be held for the purpose of possible resolution, simplifying the issues for hearing or promoting stipulations as to facts and proposed evidentiary offerings which will not be disputed at hearing.

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3. The Informal Settlement Conference shall be conducted by respondent and/or his counsel and the Complaint Counsel. Other parties who may attend include the investigating officer, the Board's medical consultant, or any other party who may contribute to the conference. Board members shall not participate in the Informal Settlement Conference, other than to approve a Consent Order as hereinafter provided.
4. Discovery or exchange of information may be accomplished during the Informal Settlement Conference.
5. The Informal Settlement Conference may result in:
 - a. dismissal of the case,
 - b. return of the case for further investigation,
 - c. preparation of a proposed Consent Order as a resolution of the matter, or d. proceed with the scheduled hearing.
6. Any action which the Board may take following a full disciplinary hearing may be taken in lieu thereof by Consent Order, duly executed by the respondent. Because of the lengthy dockets before the Board, Informal Settlement Conferences must be held in sufficient time to allow consummation of negotiations of a Consent Order at least ten (10) working days prior to the scheduled hearing date. After the terms of a Consent Order have been prepared, the Board's President, shall have the authority to accept, reject or modify the terms of a Consent Order. The Board's President, in his discretion, may delegate the aforementioned authority to another member of the Board or the Board's Medical Consultant. When a mutually acceptable Consent Order has been accepted by the Board's President, other Board member or Medical Consultant as herein above provided, it shall be binding on the Board, but not effective until full Board approval. Notwithstanding, it is still the responsibility of the respondent to personally appear before the Board on the scheduled hearing date to answer any questions which the Board may have prior to full Board approval.
7. If the parties to the Informal Settlement Conference are unable to reach a mutually agreeable Consent Order and the matter is to proceed to a full Board hearing, the parties shall agree in writing by stipulation, to the following: a. any undisputed claims, facts, testimony, documents or issues, b. evidence to be introduced without objection, and c. an estimate of the time required for the hearing.

K. FORMAL HEARING

1. At a disciplinary hearing, opportunity shall be given to Complaint Counsel and respondent to present evidence on all issues of fact and argument on all issues of law and policy involved, to call, examine, and cross-examine witnesses, and to offer and introduce documentary evidence and exhibits as may be required for full and true disclosure of the facts and disposition of the matter.
2. All testimony and other proceedings shall be recorded by a certified stenographer who shall be retained by the Board.
3. During the disciplinary hearing, the Board's President, acting as the presiding officer, or his designee, shall rule on all evidentiary questions, but in his discretion may consult with the entire panel in executive session. At such hearing, the Board may be assisted by the Mississippi Attorney General, or his designee, who shall not have been involved in any way with the case otherwise. The Board's presiding officer may delegate ruling on procedural and evidentiary issues to the Attorney General or his designee.
4. In all disciplinary hearings before the Board, the record of the case shall include:
 - a. the summons and affidavit issued,
 - b. the Respondent's answer to the summons and affidavit,
 - c. all pleadings, motions, and rulings issued,
 - d. evidence received or considered at the hearing,
 - e. offers of proof, objections, and rulings thereon,
 - f. the Board's order or other disposition made by the Board.
5. Disciplinary hearings before the Board shall be conducted in the following order:
 - a. opening statements,
 - b. Complaint Counsel's case in chief,

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- c. respondent's case in chief,
 - d. Complaint Counsel's rebuttal,
 - e. closing statements. Questioning of witnesses shall be conducted in the following order: a. direct examination,
 - b. cross-examination,
 - c. redirect examination.
6. Upon conclusion of the hearing, the Board shall conduct its deliberations in Executive Session, outside the presence of the parties. The Board shall then render its determination and order, setting forth Findings of Fact, Conclusions of Law and Order. Although the Board's decision may be announced immediately following deliberations, the Board shall be provided adequate time for preparation of the written determination and order. A copy of such determination and order shall be sent by registered mail, or served personally upon the respondent. The decision of the Board revoking, suspending or otherwise disciplining respondent shall become final thirty (30) days after so mailed or served unless within said period the respondent appeals the decision to the Chancery Court, as provided by law.

L. REINSTATEMENT OF LICENSE

The procedural requirements enumerated above shall also apply to petition duly filed with the Board seeking reinstatement of a license pursuant to Section 73- 25-32, Mississippi Code (1972) Annotated.

M. EFFECTIVE DATE OF REGULATIONS

1. The above procedural rules and regulations shall become effective June 19, 1995.
2. The above Rules of Procedure are adopted by the Board to implement its authority to investigate alleged violations of the Mississippi Medical Practice Act, conduct hearings on disciplinary matters, and consider petitions for termination of probationary and suspended licenses and restoration of revoked licenses, all as enumerated in Section 73-43-11, Mississippi Code (1972) Annotated.
3. The above Rules of Procedure shall not be interpreted to alter or amend that which is otherwise provided by Mississippi statutory law.

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

MALACHY MALVIN DEHENRE, M.D.

DETERMINATION OF NEED FOR TEMPORARY ACTION

WHEREAS, the Board has in its possession evidence indicating that MALACHY MALVIN DEHENRE, M.D., hereinafter referred to as "Licensee," has had disciplinary action taken by another state licensing authority on a temporary basis. Said facts in support of this Determination are set forth by Affidavit of Neil Breeland, Investigator for the Mississippi State Board of Medical Licensure, attached hereto and incorporated herein by reference;

WHEREAS, said evidence indicates that Licensee's continuation in the practice or unrestricted practice would constitute an immediate danger to the public.

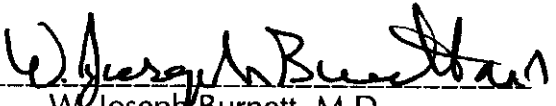
NOW, THEREFORE, IT IS HEREBY ORDERED, that temporary disciplinary action should be taken without a hearing prohibiting Licensee from practicing medicine, provided that a hearing before the Board is initiated simultaneously with said temporary action pursuant to authority granted in Mississippi Code Annotated, Section 73-25-89.

IT IS FURTHER ORDERED, that a hearing must be held within fifteen (15) days of said action.


IT IS FURTHER ORDERED, that a copy of this Determination shall be sent by registered mail or personally served upon MALACHY MALVIN DEHENRE, M.D., and should be effective immediately upon receipt thereof.

ORDERED, this the 19th day of August, 2004.

**MISSISSIPPI STATE BOARD OF
MEDICAL LICENSURE**



W. Joseph Burnett, M.D.
Executive Director

1. 
personally served this Determination of Affirmation
subpoena/summons on
Malachy M. DeHenre, M.D., at
12:00 NOON
This the 19th day of August, 2004.

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

MALACHY MALVIN DEHENRE, M.D.

AFFIDAVIT

**STATE OF MISSISSIPPI
COUNTY OF HINDS**

I, **Neil Breeland**, Investigator, Mississippi State Board of Medical Licensure, do hereby make oath that I have reason to believe and do believe:

1. MALACHY MALVIN DEHENRE, M.D., hereinafter referred to as "Licensee," holds Mississippi Medical License Number 12652, said number expires June 30, 2005;
2. That on July 30, 2004, the Mississippi State Board of Medical Licensure, hereinafter referred to as "the Board," received notification and a copy of the "Order Temporarily Suspending License and Setting Hearing," in the matter of Alabama State Board of Medical Examiners vs. Malachy DeHenre, M.D., Case No. 04-012, attached hereto as Exhibit "A" and incorporated herein by reference. The aforementioned Order, issued by the Medical Licensure Commission of Alabama, states that on July 28, 2004, Licensee's Alabama Medical License Number (MD.00022722) was temporarily suspended, and that a hearing is set for September 22, 2004, at 9:30 a.m. The Order indicated

Licensee was ordered to “. . . **immediately CEASE and DESIST from the practice of medicine in the State of Alabama until such time as the Administrative Complaint of the Alabama State Board of Medical Examiners shall be heard by the Commission and a decision rendered thereon.**” Said Order goes on to state that, **“This action is made consistent with the Rules and Regulations of the Board of Medical Examiners and the Medical Licensure Commission and Ala. Code 34-24-361(f) (2002), based upon the request of the Alabama State Board of Medical Examiners upon the Board’s finding and certification that the Board presently has evidence in its possession that the continuation in practice of MALACHY DEHENRE, M.D., may constitute an immediate danger to his patients and the public.”**

3. Based on the above, Licensee is currently prohibited from practicing medicine in the State of Alabama based on a finding by the licensing authority of that state that Licensee’s continued practice represents an immediate danger to his patients and the public.

COUNT I

Based upon the foregoing, Licensee is guilty of having his medical license suspended by the licensing authority of another state which prevents or restricts practice in that jurisdiction, all in violation of Subsection (9) of Mississippi Code Annotated Section 73-25-29.

COUNT II

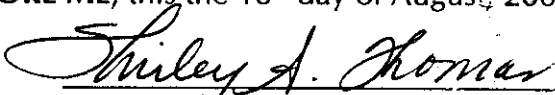
Based upon the foregoing, Licensee is guilty of unprofessional conduct, including dishonorable or unethical conduct likely to deceive, defraud or harm the public, all in violation of Subsection (8)(d) of Mississippi Code Annotated, Section 73-25-29 and Subsection (a) of Section 73-25-83.

**MISSISSIPPI STATE BOARD OF
MEDICAL LICENSURE**



Neil Breeland

SWORN TO AND SUBSCRIBED BEFORE ME, this the 18th day of August, 2004:



Notary Public

**NOTARY PUBLIC STATE OF MISSISSIPPI AT LARGE
MY COMMISSION EXPIRES: Dec 15, 2007
BONDED THRU NOTARY PUBLIC UNDERWRITERS**



ALABAMA STATE BOARD OF MEDICAL EXAMINERS

**OFFICE OF THE GENERAL COUNSEL
848 WASHINGTON AVE., MONTGOMERY AL 36104
P.O. BOX 946, MONTGOMERY AL 36101-0946
TEL. (334) 242-4116 FAX (334) 242-4155**

**PATRICIA E. SHANER
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**ROBERT E. MORROW
ASSOCIATE COUNSEL
bmorrow@albme.org**

FACSIMILE

TO: Frances Scott

FAX NO.: 16019876822

FROM: Carla Kruger

DATE: 7/30/2004

PAGES: 32

EXHIBIT A

ALABAMA STATE BOARD OF
MEDICAL EXAMINERS,

Complainant,

vs.

MALACHY DEHENRE, M. D.

Respondent.

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BEFORE THE MEDICAL LICENSURE
COMMISSION OF ALABAMA

CASE NO. 04- 012

ORDER TEMPORARILY SUSPENDING LICENSE AND SETTING HEARING

Upon the verified Administrative Complaint of the Alabama State Board of Medical Examiners, and pursuant to the authority of Ala. Code §§34-24-361(f) and 41-22-19(d) (1997), it is the ORDER of the Commission that the license to practice medicine, license certificate number MD.00022722, of MALACHY DEHENRE, M. D., be, and the same is hereby, immediately suspended. MALACHY DEHENRE, M. D., is hereby ORDERED and DIRECTED to surrender the said license certificate and his Alabama controlled substances registration certificate and all controlled substances of which he has possession to Jeff Ainsley duly authorized agent of the Medical Licensure Commission. MALACHY DEHENRE, M. D., is hereby ORDERED to immediately CEASE and DESIST from the practice of medicine in the State of Alabama until such time as the Administrative Complaint of the Alabama State Board of Medical Examiners shall be heard by the Commission and a decision rendered thereon.

This action is made consistent with the Rules and Regulations of the Board of Medical Examiners and the Medical Licensure Commission and Ala. Code 34-24-361(f) (2002), based upon the request of the Alabama State Board of Medical Examiners upon the Board's finding and certification that the Board presently has evidence in its possession that the continuation in

practice of MALACHY DEHENRE, M.D., may constitute an immediate danger to his patients and the public.

It is the further ORDER of the Medical Licensure Commission that the Administrative Complaint of the Alabama State Board of Medical Examiners be, and the same is hereby, set for hearing on the 22nd day of September, 2004, at 9:30 a.m., at the offices of the Medical Licensure Commission, 848 Washington Avenue, Montgomery, Alabama.

The said MALACHY DEHENRE, M. D., is ORDERED to appear before the Commission at the aforesaid time and date there to answer the allegations of the Administrative Complaint filed by the Alabama State Board of Medical Examiners.

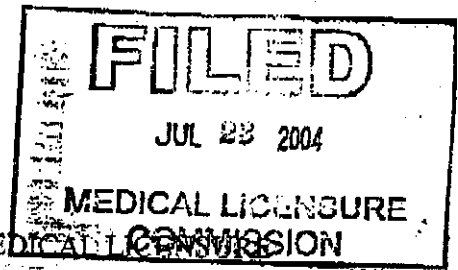
It is the further ORDER of the Commission that a copy of the verified Administrative Complaint of the Alabama State Board of Medical Examiners and a copy of this order shall be forthwith served upon the said MALACHY DEHENRE, M. D., by personally delivering the same to him at his office or at his residence or such place as he may be found in the State of Alabama, or by certified mail, return receipt requested, to his last known address if he cannot be found in the State of Alabama. The Commission further directs that the service of process shall be made by Jay Shinsley, who is designated as the duly authorized agent of the Medical Licensure Commission.

The Honorable Wayne P. Turner is hereby designated as hearing officer in this matter. It is further ordered that the parties and their attorneys immediately check their calendars for scheduling conflicts. No requests for continuance based upon schedule conflicts of attorneys or parties will be considered unless such request is made prior to August 24, 2004

ORDERED at Montgomery, Alabama, this 28th day of July, 2004.



Jerry N. Gurley, M.D., Chairman
Medical Licensure Commission of Alabama



ALABAMA STATE BOARD OF
 MEDICAL EXAMINERS,

Complainant,

vs.

MALACHY DEHENRE, M. D.

Respondent.

BEFORE THE MEDICAL LICENSURE
 COMMISSION OF ALABAMA

CASE NO. 04- 012

SECOND ADMINISTRATIVE COMPLAINT AND
 PETITION FOR SUMMARY SUSPENSION OF LICENSE

Comes now the Alabama State Board of Medical Examiners, and submits herein its sworn petition pursuant to the authority of Ala. Code §§34-24-361(e) and (f)(2002) and respectfully submits to the Medical Licensure Commission the following:

1. On the 23rd day of June, 1999, the Respondent, MALACHY DEHENRE, M. D., was licensed to practice medicine in the State of Alabama, having been issued license number MD.00022722.
2. The Board of Medical Examiners has conducted an investigation into the medical practice of Dr. Dehenre, and based upon that investigation has concluded there exists probable cause to believe that the Respondent, MALACHY DEHENRE, M. D., has committed the following violation of Ala. Code §34-24-360(2002):
 - a. Engaged in unprofessional conduct as defined in the Rules and Regulations of the Medical Licensure Commission, a violation of Ala. Code §34-24-360(2);
 - b. Practiced medicine in such a manner as to endanger the health of patients, a violation of Ala. Code §34-24-360(3);
 - c. Gross malpractice or repeated malpractice or gross negligence in the practice of medicine, a violation of Ala. Code §34-14-360(9); and

d. Being unable to practice medicine or osteopathy with reasonable skill and safety to patients by reason of a demonstrated lack of clinical competency, a violation of Ala. Code §34-2-360(20).

3. In support of the allegations of the violations of Ala. Code §§34-24-360(2), (3), (9) and (20), the Board specifically alleges the following:

a. On November 25, 2003, Patient 1 presented to Summit Medical Center (hereinafter "Summit"), Birmingham, Alabama, for an elective abortion procedure. Patient 1 was at an estimated 17.4 weeks gestational age. The abortion procedure was performed by Dr. Dehenre, and Patient 1 was discharged from Summit approximately 20 minutes after the procedure was completed. Less than six hours after being discharged from Summit, Patient 1's husband contacted the facility and reported that Patient 1 had developed abdominal pain and low temperature. Later, Patient 1's husband found her unresponsive on the bathroom floor, 911 was called, and emergency medical services transported Patient 1 to Medical Center East Emergency Room in Birmingham, Alabama. The patient was pronounced dead at Medical Center East approximately 17-18 hours after being discharged from Summit. The autopsy report showed uterine perforation with massive hemorrhage. Patient 1 sustained an unrecognized uterine perforation during the abortion procedure by Dr. Dehenre at Summit. Subsequent hemorrhagic shock led to her ultimate demise. Dr. Dehenre's deficient surgical technique and clinical skills regarding performance of the abortion procedure which resulted in uterine perforation and Dr. Dehenre's failure to recognize the uterine perforation and properly treat the consequences, which were hemorrhage and hypovolemic shock, resulted in the death of Patient 1.

b. On or about March 20, 2003, Patient 2 presented at the New Woman Medical Center, Jackson, Mississippi, for an elective abortion procedure which was performed by Dr.

Dehenre. During the abortion procedure, Patient 2 began hemorrhaging uncontrollably, and she was subsequently transported by ambulance to the Emergency Room of the University of Mississippi Medical Center (UMMC), Jackson, Mississippi. Patient 2 was admitted to UMMC due to shock and uncontrollable hemorrhaging. An examination performed by UMMC physicians revealed a uterine perforation which severed the uterine artery. Patient 2 underwent a second surgery, requiring, ultimately, that the patient have a total hysterectomy to stop the uncontrollable hemorrhaging. At the time of the abortion procedure, Patient 2 was at an estimated 16 weeks or greater gestational age. Dr. Dehenre failed to notify UMMC or the UMMC Emergency Room physicians concerning the inbound medical emergency in order for the Emergency Room to accept the patient and provide for her arrival. Dr. Dehenre failed to allow for proper monitoring of the patient, because there was no Registered Nurse present at the time of the abortion procedure. Patient 2 was unstable at the time of transfer to UMMC, and the transfer of Patient 2 was made without proper notification by Dr. Dehenre to the Emergency Room staff. Concerning the care of Patient 2, Dr. Dehenre demonstrated deficient surgical technique and clinical skills concerning dilatation and curettage as well as dilatation and extraction procedures. There was no after-hours call mechanism to deal with Patient 2's complications which related to the abortion procedure. These deficiencies produced a downward clinical spiral with life-threatening complications for Patient 2.

c. On approximately June 8, 2000, Patient 3 presented at the New Woman Medical Center, Jackson, Mississippi, for an elective abortion procedure which was performed by Dr. Dehenre. Patient 3 was discharged home from the procedure, and she later developed heavy bleeding. Patient 3's grandfather contacted the New Woman Medical Center and expressed

concern regarding Patient 3's excessive bleeding, which had developed subsequent to the elective abortion procedure. The grandfather was informed that, because Patient 3 was at approximately 15 weeks or greater gestational age at the time of the abortion procedure, heavy bleeding was to be expected. There was no attempt at follow-up of this patient by Dr. Dehenre after Patient 3's family had contacted the clinic, relating medical concerns following the termination of pregnancy. Patient 3 was later transported to Central Mississippi Medical Center (CMMC), Jackson, Mississippi, where she underwent a surgical procedure in an attempt to stop the heavy bleeding. Patient 3's bleeding did not respond to the surgical procedure, and a total abdominal hysterectomy was performed in order to save her life. It was determined that Patient 3 had sustained an incomplete abortion with marked hemorrhage secondary to uterine perforation which occurred at the time of the abortion procedure. Dr. Dehenre's deficient surgical technique and clinical skills regarding dilatation and curettage as well as dilatation and extraction procedures resulted in uterine perforation, and Dr. Dehenre had no after-hours call mechanism in place to deal with the complications which were experienced by Patient 3. These deficiencies produced a downward clinical spiral with life-threatening complications, resulting in the hysterectomy for Patient 3.

4. In support of the allegation of the violation of Ala. Code §34-24-360(20), the Board specifically alleges that Dr. Dehenre has shown through a pattern of practice that he is unable to practice medicine with reasonable skill and safety to patients by reason of a demonstrated lack of clinical competency. This lack of clinical competency is demonstrated by the medical care and treatment rendered by Dr. Dehenre to Patients 1, 2 and 3 and by the omissions in medical care to Patients 1, 2 and 3. Additionally, the pattern of lack of clinical

competency by Dr. Dehenre is demonstrated in the medical care and treatment rendered by Dr. Dehenre to patient, CW, who is the subject of the Administrative Complaint in the case, *Alabama State Board of Medical Examiners vs. Malachy Dehenre*, before the Medical Licensure Commission of Alabama, Case No. 04-001, which is currently scheduled for hearing before the Medical Licensure Commission on September 22, 2004, and which is marked and made Exhibit "A" to this Second Administrative Complaint. On information and belief, the Board alleges that, in addition to Patients 1, 2 and 3 and CW, there are a minimum of four (4) additional patients who have undergone elective abortion procedures performed by Dr. Dehenre and who have presented at the University of Mississippi Medical Center under the same or similar circumstances in which Patient 2 presented to that facility. Dr. Dehenre has demonstrated by these abortion procedures performed on these patients that he has deficient surgical technique and clinical skills regarding dilatation and curettage as well as dilatation and extraction procedures and that he is a danger to patients as demonstrated by the life-threatening complications resulting in these patients.

5. In support of the allegation that Dr. Dehenre has committed gross malpractice or repeated malpractice or gross negligence in the practice of medicine, the Board specifically alleges that, concerning the patients noted herein, Dr. Dehenre has failed to meet the minimum standard of care relating to recognition of uterine perforation and proper treatment of the consequences, such as hemorrhage and hypovolemic shock, and relating to appropriate pre-and post-operative monitoring of patients.

6. The Board specifically alleges that Dr. Dehenre has demonstrated, by his actions and omissions concerning the medical care rendered to the patients noted herein, a pattern of medical practice which endangers the health of patients.

7. The Board specifically alleges that Dr. Dehenre, by his acts and omissions concerning the medical care rendered to the patients noted herein, has engaged in behavior which is harmful to patients and to the health, safety and welfare of the public and which violates the high standards of ethical integrity demanded from physicians licensed to practice medicine in Alabama. Dr. Dehenre has not responded in cases of emergency concerning his patients, and he has neglected his patients. Dr. Dehenre has been unresponsive to his patients by not giving timely attention to the needs of his patients. Dr. Dehenre has violated his ethical obligation to cooperate in the coordination of medically-indicated care with other healthcare providers treating Dr. Dehenre's patients. Dr. Dehenre has violated his ethical obligation to place the patient's welfare above his own self-interest. Dr. Dehenre has failed in his ethical obligation to use sound medical judgment and to hold the best interest of the patient as paramount.

8. The Board of Medical Examiners hereby finds and certifies to the Medical Licensure Commission of Alabama that the Board has in its possession evidence which shows that the continuation in practice of Dr. Dehenre constitutes an immediate danger to any patients and to the public.

Wherefore, the foregoing premises considered, the Alabama Board of Medical Examiners respectfully requests that the Medical Licensure Commission, pursuant to its authority under Ala. Code §§34-24-360(f) and 41-22-19(d) (1975), immediately suspend the license to practice medicine of MALACHY DEHENRE, M. D., without a hearing, and order that Dr. Dehenre

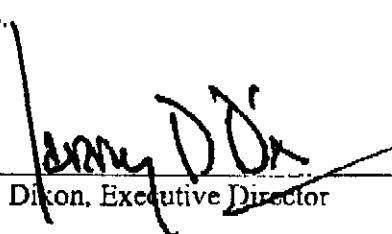
immediately cease and desist the practice of medicine in the State of Alabama and surrender to the Medical Licensure Commission of Alabama or a designated agent his license to practice medicine in Alabama, and any inventory of controlled substances which may be in the possession of Dr. Dehenre.

Further, the Board of Medical Examiners requests that the Medical Licensure Commission set a hearing upon this Administrative Complaint, and order that the Respondent, MALACHY DEHENRE, M. D., appear and answer the allegations contained in this complaint, in accordance with the rules and regulations of the Medical Licensure Commission. Further, the Board requests that, at the conclusion of the hearing, the Commission revoke the license to practice medicine of the Respondent and/or take such other actions as the Commission may deem appropriate based upon the evidence presented for its consideration.

The Board of Medical Examiners is presently continuing the investigation of the Respondent and said investigation may result in additional charges being filed as an amendment to this Administrative Complaint.

This Administrative Complaint is executed for and on behalf of the Alabama State Board of Medical Examiners by its Executive Director pursuant to the instructions of the Board as contained in its resolution of July 21, 2004, a copy of which is attached hereto and incorporated herein.

EXECUTED this 23rd day of July, 2004.



Larry D. Dixon, Executive Director

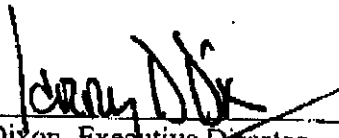


Patricia E. Shaner, Esq., Attorney for the
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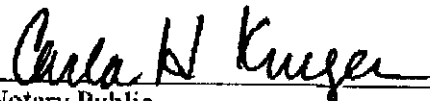
STATE OF ALABAMA)
)
MONTGOMERY COUNTY)

Before me, the undersigned, personally appeared Larry D. Dixon, who, being by me first duly sworn, deposes and says that he, in his capacity as Executive Director of the Alabama Board of Medical Examiners, has executed the contents of the foregoing complaint and affirms that the contents thereof are true and correct to the best of his knowledge, information and belief.



Larry D. Dixon, Executive Director
Alabama State Board of Medical Examiners

SWORN TO AND SUBSCRIBED before me this 23rd day of July, 2004.



Notary Public
My Commission Expires: 10-1-07

STATE OF ALABAMA)
)
MONTGOMERY COUNTY)

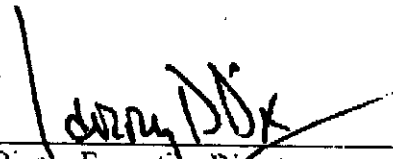
AFIDAVIT

Before me, the undersigned, personally appeared Larry D. Dixon, Executive Director of the Alabama State Board of Medical Examiners, who, being by me first duly sworn, deposes and says as follows:

The Alabama State Board of Medical Examiners session on July 21, 2004, a quorum of the members of the Board being present, conducted an investigation into the medical practice of Malachy Dehenre, M. D., and at the conclusion of the discussion, the Board adopted the following resolution:

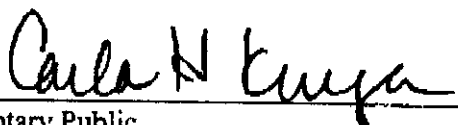
Malachy Dehenre, M. D., Birmingham. The Credentials Committee recommended filing an Administrative Complaint with the Medical Licensure Commission requesting a summary suspension on the grounds of unprofessional conduct, practicing medicine in such a manner as to endanger the health of patients, gross malpractice or repeated malpractice or gross negligence in the practice of medicine, and being unable to practice medicine or osteopathy with reasonable skill and safety to patients by reason of a demonstrated lack of clinical competency. The motion was adopted.

I further certify that the foregoing resolution was adopted by the Alabama State Board of Medical Examiners on the 21st day of July, 2004.



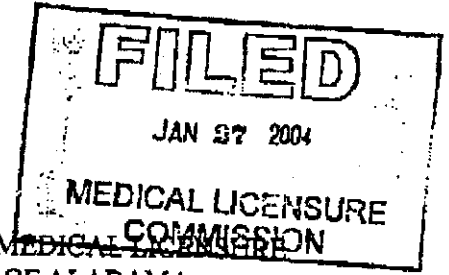
Larry D. Dixon, Executive Director
Alabama State Board of Medical Examiners

SWORN TO AND SUBSCRIBED before me this 23rd day of July, 2004.



Notary Public
My Commission Expires: 10-1-04

EXHIBIT "A"



ALABAMA STATE BOARD OF)
 MEDICAL EXAMINERS,)
)
 Complainant,)
)
 vs.)
)
 MALACHY DEHENRE, M.D.)
)
 Respondent.)

BEFORE THE MEDICAL LICENSURE)
 COMMISSION OF ALABAMA)

CASE NO. 04- 001

ADMINISTRATIVE COMPLAINT

Comes now, the Alabama State Board of Medical Examiners, pursuant to the authority of Section 34-24-361(e), Code of Alabama (2002), and respectfully submits to the Medical Licensure Commission the following:

1. On the 23rd day of June, 1999, the Respondent, MALACHY DEHENRE, M.D., was licensed to practice medicine in the State of Alabama, having been issued license number 00022722 .
2. The Board of Medical Examiners, hereinafter the "Board," after extensive investigation into the medical practice of the Respondent, MALACHY DEHENRE, M.D., has concluded there exists probable cause to believe that he has committed the following violations of §34-24-360, Code of Alabama (2002):
 - a. The Respondent practiced medicine in such a manner as to constitute immoral, unprofessional or dishonorable conduct as defined in Section §34-24-360 (2), Code of Alabama, (2002) or in the rules and regulations promulgated by the Commission.
 - b. The Respondent practiced medicine in such a manner as to endanger the health of a patient of the practitioner, a violation of § 34-24-360 (3), Code of

Alabama (2002).

- c. The Respondent practiced medicine in such a manner as to constitute gross malpractice or repeated malpractice or gross negligence in the practice of medicine, a violation of §34-24-360 (9), Code of Alabama (2002).
3. In support of the allegation that the Respondent has practiced medicine in such a manner as to constitute immoral, unprofessional or dishonorable conduct as defined in §34-24-360 (2) or in the rules and regulations promulgated by the Commission, the Board alleges the following:
- a. On or about March 16, 2002, CW, a patient at the Summit Medical Center (henceforth "Summit") in Birmingham, Alabama, signed a consent form and authorization for an elective abortion procedure. The ultrasound report estimated the gestational age to be 20 weeks, three days.
 - b. On or about March 29, 2002, CW filled out paperwork and consent forms for the voluntary termination of a second trimester abortion at Summit. According to the ultrasound report of March 29, 2002, it was noted there were two fetuses: Fetus A with an estimated gestational age of 22 weeks and three days; Fetus B with an estimated gestational age of 19 weeks and five days.
 - c. At approximately 5:10 P.M. on March 29, 2002, four Laminaria were inserted into the patient and digoxin was injected into the fetuses.
 - d. At approximately 7:40 A.M. on March 30, 2002, CW was started on an IV of DSLR 20 pitocin and # 22 angiocath. At approximately 9:38:28 A.M., Engine 3 of the Birmingham Fire and Rescue Department was dispatched to

Summit. One second later Engine 2 was also dispatched. Upon arrival, personnel with both Engines found the patient, CW, unresponsive, not on oxygen or a cardiac monitor and bleeding heavily from the vagina. A significant amount of blood was on the floor. The patient was not hooked to a pulse oximeter. She appeared to have lost a significant amount of blood. The patient, CW, was not being monitored in any way, and there was no form of emergency treatment being rendered by either Dr. Dehenre or the nurses present.

- e. Dr. Dehenre was the physician performing the elective abortion procedure, and he was the physician in charge of the care of the patient, CW, at Summit at that time.
- f. Dr. Dehenre and staff at Summit directed the Birmingham Fire and Rescue crews to transport the patient, CW, by way of a steep stairway and back door to the ambulance. The crews of Rescue 2 and 3 refused to do so because that route was the more dangerous and difficult for CW and those crews. Instead, they transported the patient through the front entrance to the ambulance.
- g. The patient, CW, was transported for emergency care to UAB. She was admitted to the services of Richard Davis, M.D., surgeon. Diagnoses at admission were hemorrhagic hypovolemic shock, status post-elective abortion reportedly for 22 week gestation and failed elective abortion. The patient, CW, underwent at UAB an exploratory laparotomy, a total abdominal hysterectomy, a hypogastric artery ligation and parachute pack placement. She required 32 units of packed red blood cells, 12 units of fresh frozen

plasma and three units of platelets. She was in very critical condition at the time of removal from the operating room. She was discharged on April 9, 2002.

- h. Dr. Dehenre was not prepared for the type of severe complications experienced by patient, CW.
 - i. Dr. Dehenre was deficient in not monitoring the patient appropriately when she showed signs of excessive bleeding and developed hypovolemic shock. Dr. Dehenre did not have adequate equipment to obtain necessary IV access in an emergency situation such as CW experienced because 22 gauge needles were the largest available.
 - j. Dr. Dehenre failed to communicate with the hospital emergency room to which CW was transported.
 - k. Dr. Dehenre failed to protect and promote the safety and welfare of his patient when he directed the Rescue crews to use back stairs as opposed to the front elevator.
 - l. Dr. Dehenre was unaware of the possibility of a perforated uterus despite the fact that CW had at least 2 prior C-sections and had copious vaginal bleeding.
 - m. In summary, all of the facts stated herein show actions and omissions by Dr. Dehenre which were detrimental and harmful to patient, CW, and which violated the standards of medical diligence and prudence demanded of physicians licensed to practice medicine in Alabama.
4. In support of the allegation that the Respondent practiced medicine in such a manner as to endanger the health of the patient of the practitioner in violation of § 34-24-360

(3), Code of Alabama (2002), the Board alleges the following:

- a. The Board reasserts the facts stated in paragraphs 3 (a) through 3 (f) herein.
- b. In summary, the actions and omissions of Dr. Dehenre concerning the medical care he rendered to patient, CW, exposed CW to unreasonable risks of harm which were not medically justified by the expected benefits to the patient.

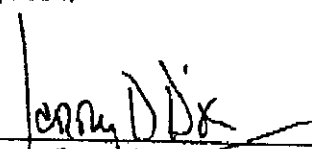
5. In support of the allegation that the Respondent practiced medicine in such a manner as to constitute gross malpractice or repeated malpractice or gross negligence in violation of §34-24-360 (9), Code of Alabama (2002), the Board alleges the following:

- a. The Board reasserts the facts stated in paragraphs 3 (a) through 3 (f) herein.
- b. The actions and omissions of Dr. Dehenre concerning the medical care he rendered to the patient, CW, show that Dr. Dehenre failed to do that which a reasonably prudent physician would have done under the same or similar circumstances, that he did what a reasonably prudent physician would not have done under the same or similar circumstances and that his actions were done and omissions made with a conscious disregard of the known dangers to the patient, CW, and with careless and reckless indifference to the consequences of his acts and omissions. In summary, the medical care rendered to patient, CW, by Dr. Dehenre was below the standard of care expected of physicians licensed to practice medicine in Alabama and was rendered with conscious disregard of known dangers to the patient, CW, and with careless and reckless indifference to those dangers.

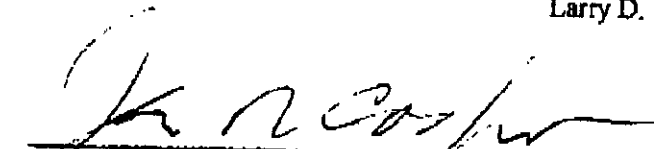
Wherefore, the foregoing premises considered, the Board respectfully requests that the Medical Licensure Commission take jurisdiction of this Administrative Complaint, set a hearing thereon, and order that the Respondent, MALACHY DEHENRE, M.D. appear and answer the allegations contained in this complaint, in accordance with the rules and regulations of the Medical Licensure Commission. Further, the Board requests that at the conclusion of the hearing, the Commission revoke the license to practice medicine of the Respondent for violation of the Code Sections cited previously and/or take such other actions as the Commission may deem appropriate based on the evidence presented for its consideration.

This Administrative Complaint is executed for and on behalf of the Alabama State Board of Medical Examiners by its Executive Director pursuant to the instructions of the Board as contained in its resolution of December 17, 2003, a copy of which is attached hereto and incorporated herein.

EXECUTED this 26th day of Jan. 2004.



Larry D. Dixon, Executive Director



James R. Cooper, Jr., Esquire, Attorney for
the Alabama Board of Medical Examiners

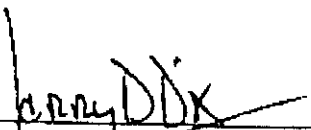
P. O. Box 946

Montgomery, AL 36101-0946

Telephone # (334) 242-4116

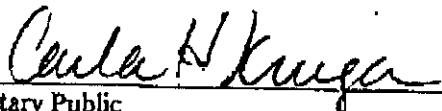
STATE OF ALABAMA)
)
 MONTGOMERY COUNTY)

Before me, the undersigned, personally appeared Larry D. Dixon, who, being by me first duly sworn, deposes and says that he, in his capacity as Executive Director of the Alabama Board of Medical Examiners, has executed the contents of the foregoing complaint and affirms that the contents thereof are true and correct to the best of his knowledge, information and belief



 Larry D. Dixon, Executive Director
 Alabama State Board of Medical Examiners

SWORN TO AND SUBSCRIBED before me this 26th day of Jan, 2004.



 Notary Public
 My Commission Expires: 10-1-07

STATE OF ALABAMA)
MONTGOMERY COUNTY)

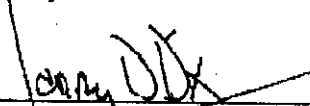
AFFIDAVIT

Before me, the undersigned, personally appeared Larry D. Dixon, Executive Director of the Alabama State Board of Medical Examiners, who, being by me first duly sworn, deposes and says as follows:

The Alabama State Board of Medical Examiners in session on December 17, 2003, a quorum of the members of the Board being present, conducted an investigation into the medical practice of MALACHY DEHENRE, M.D., and at the conclusion of the discussion, the Board adopted the following resolution:

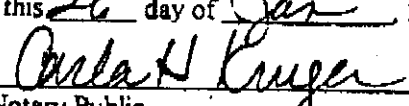
MALACHY DEHENRE, M.D. Birmingham. The Credentials Committee recommended filing an Administrative Complaint with the Medical Licensure Commission based on unprofessional conduct, gross negligence and practicing medicine in such a manner as to endanger the health of the patient. The motion was adopted.

I further certify that the foregoing resolutions were adopted by the Alabama State Board of Medical Examiners on the 17th day of December, 2003.



Larry D. Dixon, Executive Director
Alabama State Board of Medical Examiners

SWORN TO AND SUBSCRIBED before me this 26th day of Jan, 2004.



Notary Public
My Commission Expires: 10-1-07

| | | |
|------------------------|---|------------------------------|
| ALABAMA STATE BOARD OF |) | |
| MEDICAL EXAMINERS, |) | |
| |) | BEFORE THE MEDICAL LICENSURE |
| Complainant, |) | COMMISSION OF ALABAMA |
| |) | |
| v. |) | |
| |) | CASE NO. 04-001 |
| MALACHY DEHENRE, M.D. |) | |
| |) | |
| Respondent. |) | |

ORDER SETTING HEARING

The Medical Licensure Commission has received the verified Administrative Complaint of the State Board of Medical Examiners filed in this cause. The Commission has determined that this matter is due to be set down for hearing under the provisions of §34-24-361, Code of Alabama 1975.

Accordingly, it is the Order of the Commission that this matter be set for hearing before the Commission on the 21st day of April, 2004 at 9:30 o'clock in the _____m. at the offices of the Medical Licensure Commission, 848 Washington Avenue, Montgomery, Alabama. The Respondent, Malachy Dehenre, M.D., is directed to respond to the allegations of the verified Complaint in the manner prescribed in Rule 545-X-3-.03 of the Rules and Regulations of the Medical Licensure Commission.

This hearing shall be conducted in accordance with §34-24-361(e), Code of Alabama 1975 and Chapter 3 of the Rules and Regulations of the Medical Licensure Commission concerning hearings in contested cases. The Respondent is entitled to be present at the hearing and to be represented by counsel, is entitled to cross examine witnesses presented by the


Complainant, and is entitled to present testimony and other evidence touching on the allegations contained in the Complaint.

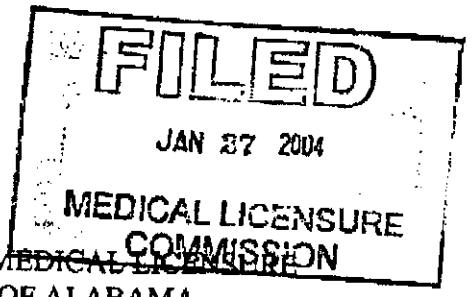
The Honorable Wayne Turner, attorney at law, is hereby appointed to act as Hearing Officer under the authority of Rule 545-X-3-.08 of the Rules and Regulations of the Medical Licensure Commission.

It is the further order of the Commission that a copy of the verified Complaint of the Alabama State Board of Medical Examiners and a copy of this Order is forthwith served upon the said Malachy Dehenre, M.D., by personally delivering the same to him if he can be found within the State of Alabama or by certified mail, return receipt requested, to his last known address if he cannot be found within the State of Alabama. The Commission further directs that personal service of process shall be made by Jeff Brinsley, who is designated as the duly authorized agent of the Medical Licensure Commission.

It is further ordered that the parties and their attorneys immediately check their calendars for scheduling conflicts. No requests for continuance based upon schedule conflicts of attorneys or parties will be considered unless such request is made prior to March 23, 2004.

ORDERED at Montgomery, Alabama, this 28th day of January, 2004.


Jerry N. Gurley, M.D., Chairman
Medical Licensure Commission of Alabama



ALABAMA STATE BOARD OF)
 MEDICAL EXAMINERS,)
)
 Complainant,)
)
 vs.)
)
 MALACHY DEHENRE, M.D.)
)
 Respondent.)

BEFORE THE MEDICAL LICENSURE)
 COMMISSION OF ALABAMA)

CASE NO. 04- 001

ADMINISTRATIVE COMPLAINT

Comes now, the Alabama State Board of Medical Examiners, pursuant to the authority of Section 34-24-361(e), Code of Alabama (2002), and respectfully submits to the Medical Licensure Commission the following:

1. On the 23rd day of June, 1999, the Respondent, MALACHY DEHENRE, M.D., was licensed to practice medicine in the State of Alabama, having been issued license number 00022722 .
2. The Board of Medical Examiners, hereinafter the "Board," after extensive investigation into the medical practice of the Respondent, MALACHY DEHENRE, M.D., has concluded there exists probable cause to believe that he has committed the following violations of §34-24-360, Code of Alabama (2002):
 - a. The Respondent practiced medicine in such a manner as to constitute immoral, unprofessional or dishonorable conduct as defined in Section §34-24-360 (2), Code of Alabama, (2002) or in the rules and regulations promulgated by the Commission.
 - b. The Respondent practiced medicine in such a manner as to endanger the health of a patient of the practitioner, a violation of § 34-24-360 (3), Code of

Alabama (2002).

- c. The Respondent practiced medicine in such a manner as to constitute gross malpractice or repeated malpractice or gross negligence in the practice of medicine, a violation of §34-24-360 (9), Code of Alabama (2002).
3. In support of the allegation that the Respondent has practiced medicine in such a manner as to constitute immoral, unprofessional or dishonorable conduct as defined in §34-24-360 (2) or in the rules and regulations promulgated by the Commission, the Board alleges the following:
- a. On or about March 16, 2002, CW, a patient at the Summit Medical Center (henceforth "Summit") in Birmingham, Alabama, signed a consent form and authorization for an elective abortion procedure. The ultrasound report estimated the gestational age to be 20 weeks, three days.
 - b. On or about March 29, 2002, CW filled out paperwork and consent forms for the voluntary termination of a second trimester abortion at Summit. According to the ultrasound report of March 29, 2002, it was noted there were two fetuses: Fetus A with an estimated gestational age of 22 weeks and three days; Fetus B with an estimated gestational age of 19 weeks and five days.
 - c. At approximately 5:10 P.M. on March 29, 2002, four Laminaria were inserted into the patient and digoxin was injected into the fetuses.
 - d. At approximately 7:40 A.M. on March 30, 2002, CW was started on an IV of DSLR 20 pitocin and # 22 angiocath. At approximately 9:38:28 A.M., Engine 3 of the Birmingham Fire and Rescue Department was dispatched to

Summit. One second later Engine 2 was also dispatched. Upon arrival, personnel with both Engines found the patient, CW, unresponsive, not on oxygen or a cardiac monitor and bleeding heavily from the vagina. A significant amount of blood was on the floor. The patient was not hooked to a pulse oximeter. She appeared to have lost a significant amount of blood. The patient, CW, was not being monitored in any way, and there was no form of emergency treatment being rendered by either Dr. Dehenre or the nurses present.

- e. Dr. Dehenre was the physician performing the elective abortion procedure, and he was the physician in charge of the care of the patient, CW, at Summit at that time.
- f. Dr. Dehenre and staff at Summit directed the Birmingham Fire and Rescue crews to transport the patient, CW, by way of a steep stairway and back door to the ambulance. The crews of Rescue 2 and 3 refused to do so because that route was the more dangerous and difficult for CW and those crews. Instead, they transported the patient through the front entrance to the ambulance.
- g. The patient, CW, was transported for emergency care to UAB. She was admitted to the services of Richard Davis, M.D., surgeon. Diagnoses at admission were hemorrhagic hypovolemic shock, status post-elective abortion reportedly for 22 week gestation and failed elective abortion. The patient, CW, underwent at UAB an exploratory laparotomy, a total abdominal hysterectomy, a hypogastric artery ligation and parachute pack placement. She required 32 units of packed red blood cells, 12 units of fresh frozen

plasma and three units of platelets. She was in very critical condition at the time of removal from the operating room. She was discharged on April 9, 2002.

- h. Dr. Dehenre was not prepared for the type of severe complications experienced by patient, CW.
 - i. Dr. Dehenre was deficient in not monitoring the patient appropriately when she showed signs of excessive bleeding and developed hypovolemic shock. Dr. Dehenre did not have adequate equipment to obtain necessary IV access in an emergency situation such as CW experienced because 22 gauge needles were the largest available.
 - j. Dr. Dehenre failed to communicate with the hospital emergency room to which CW was transported.
 - k. Dr. Dehenre failed to protect and promote the safety and welfare of his patient when he directed the Rescue crews to use back stairs as opposed to the front elevator.
 - l. Dr. Dehenre was unaware of the possibility of a perforated uterus despite the fact that CW had at least 2 prior C-sections and had copious vaginal bleeding.
 - m. In summary, all of the facts stated herein show actions and omissions by Dr. Dehenre which were detrimental and harmful to patient, CW, and which violated the standards of medical diligence and prudence demanded of physicians licensed to practice medicine in Alabama.
4. In support of the allegation that the Respondent practiced medicine in such a manner as to endanger the health of the patient of the practitioner in violation of § 34-24-360

(3), Code of Alabama (2002), the Board alleges the following:

- a. The Board reasserts the facts stated in paragraphs 3 (a) through 3 (l) herein.
- b. In summary, the actions and omissions of Dr. Dehenre concerning the medical care he rendered to patient, CW, exposed CW to unreasonable risks of harm which were not medically justified by the expected benefits to the patient.

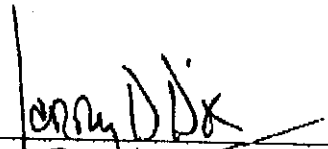
5. In support of the allegation that the Respondent practiced medicine in such a manner as to constitute gross malpractice or repeated malpractice or gross negligence in violation of §34-24-360 (9), Code of Alabama (2002), the Board alleges the following:

- a. The Board reasserts the facts stated in paragraphs 3 (a) through 3 (l) herein.
- b. The actions and omissions of Dr. Dehenre concerning the medical care he rendered to the patient, CW, show that Dr. Dehenre failed to do that which a reasonably prudent physician would have done under the same or similar circumstances, that he did what a reasonably prudent physician would not have done under the same or similar circumstances and that his actions were done and omissions made with a conscious disregard of the known dangers to the patient, CW, and with careless and reckless indifference to the consequences of his acts and omissions. In summary, the medical care rendered to patient, CW, by Dr. Dehenre was below the standard of care expected of physicians licensed to practice medicine in Alabama and was rendered with conscious disregard of known dangers to the patient, CW, and with careless and reckless indifference to those dangers.

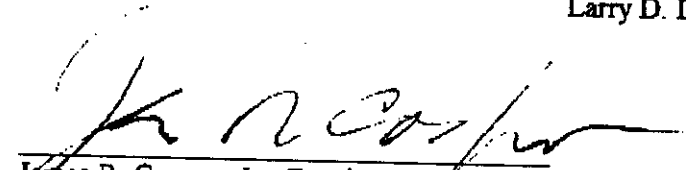
Wherefore, the foregoing premises considered, the Board respectfully requests that the Medical Licensure Commission take jurisdiction of this Administrative Complaint, set a hearing thereon, and order that the Respondent, MALACHY DEHENRE, M.D. appear and answer the allegations contained in this complaint, in accordance with the rules and regulations of the Medical Licensure Commission. Further, the Board requests that at the conclusion of the hearing, the Commission revoke the license to practice medicine of the Respondent for violation of the Code Sections cited previously and/or take such other actions as the Commission may deem appropriate based on the evidence presented for its consideration.

This Administrative Complaint is executed for and on behalf of the Alabama State Board of Medical Examiners by its Executive Director pursuant to the instructions of the Board as contained in its resolution of December 17, 2003, a copy of which is attached hereto and incorporated herein.

EXECUTED this 26th day of Jan., 2004.



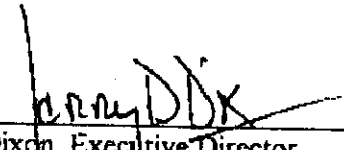
Larry D. Dixon, Executive Director



James R. Cooper, Jr., Esquire, Attorney for
the Alabama Board of Medical Examiners
P. O. Box 946
Montgomery, AL 36101-0946
Telephone # (334) 242-4116

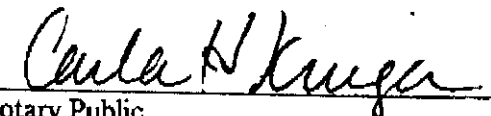
STATE OF ALABAMA)
)
MONTGOMERY COUNTY)

Before me, the undersigned, personally appeared Larry D. Dixon, who, being by me first duly sworn, deposes and says that he, in his capacity as Executive Director of the Alabama Board of Medical Examiners, has executed the contents of the foregoing complaint and affirms that the contents thereof are true and correct to the best of his knowledge, information and belief.



Larry D. Dixon, Executive Director
Alabama State Board of Medical Examiners

SWORN TO AND SUBSCRIBED before me this 26th day of Jan, 2004.



Notary Public
My Commission Expires: 10-1-07

STATE OF ALABAMA)
)
MONTGOMERY COUNTY)

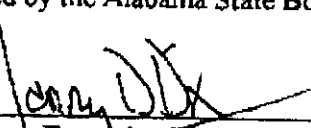
AFFIDAVIT

Before me, the undersigned, personally appeared Larry D. Dixon, Executive Director of the Alabama State Board of Medical Examiners, who, being by me first duly sworn, deposes and says as follows:

The Alabama State Board of Medical Examiners in session on December 17, 2003, a quorum of the members of the Board being present, conducted an investigation into the medical practice of MALACHY DEHENRE, M.D., and at the conclusion of the discussion, the Board adopted the following resolution:

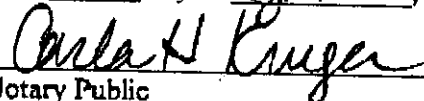
MALACHY DEHENRE, M.D., Birmingham. The Credentials Committee recommended filing an Administrative Complaint with the Medical Licensure Commission based on unprofessional conduct, gross negligence and practicing medicine in such a manner as to endanger the health of the patient. The motion was adopted.

I further certify that the foregoing resolutions were adopted by the Alabama State Board of Medical Examiners on the 17th day of December, 2003.



Larry D. Dixon, Executive Director
Alabama State Board of Medical Examiners

SWORN TO AND SUBSCRIBED before me this 26th day of Jan, 2004.



Notary Public
My Commission Expires: 10-1-07