

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF MEDICINE

PROTHONOTARY
2005 DEC 23 AM 9:00
Department of State

Commonwealth of Pennsylvania, :
Bureau of Professional and :
Occupational Affairs :
 : Docket No. 1430-49-05
 :
vs. : File No. 04-49-10257
 :
Michael T. Malayil, M.D. :
Respondent :

CONSENT AGREEMENT AND ORDER

The Commonwealth and Respondent stipulate as follows in settlement of the above-captioned case.

1. This matter is before the State Board of Medicine pursuant to the Medical Care Availability and Reduction of Error Act (Mcare Act), Act of March 20, 2002, P.L. 154, No. 13, 40 P.S. §§1303.101-1303.910 and the Medical Practice Act (Act), Act of December 20, 1985, P.L. 457, No. 112, as amended, 63 P.S. §422.1 et seq.

2. At all relevant and material times, Michael T. Malayil, M.D. (Respondent) held a license to practice medicine in the Commonwealth of Pennsylvania, license number MD-037640-L.

3. Respondent admits that the following facts are true:

a. Respondent's license is current through December 31, 2006, and may be renewed thereafter upon the filing of the appropriate documentation and payment of the necessary fees.

b. Respondent's last known address on file with the Board is 90 West Chestnut Street, Suite 140UL, Washington, PA 15301.

c. On or about September 13, 2004, the West Virginia Board of Medicine ordered Respondent's license to practice medicine to be suspended, effective at 12:01 a.m. on September 14, 2004, with such suspension being immediately stayed as a result of Respondent paying the West Virginia Board of Medicine a fine in the amount of two hundred dollars (\$200). A true and correct copy of the Consent Order is attached and incorporated as **Commonwealth Exhibit 1**.

d. Following the September 13, 2004 Order of the West Virginia Board of Medicine, Respondent failed to report this disciplinary action to the Board.

4. Based upon the factual allegations in paragraph 3 above, the Board is authorized to suspend, revoke or otherwise restrict Respondent's license, or impose a civil penalty pursuant to the following:

a. 63 P.S. §422.41(4) in that Respondent had a license or other authorization to practice the profession revoked or suspended or had other disciplinary action taken against his license by the proper licensing authority of another state.

b. 63 P.S. §422.41(6) through 49 Pa. Code §16.16(c) in that Respondent failed to report disciplinary action instituted against him by a licensing authority of another state within 30 days after its occurrence.

5. Intending to be legally bound, the participants consent to issuance of the following Order in settlement of this matter:

a. Respondent violated the Act at 63 P.S. §422.41(4) in that Respondent had a license or other authorization to practice the profession revoked or suspended or

had other disciplinary action taken against his license by the proper licensing authority of another state.

b. Respondent violated the Act at 63 P.S. §422.41(6) through 49 Pa. Code §16.16(c) in that Respondent failed to report disciplinary action instituted against him by a licensing authority of another state within 30 days after its occurrence.

c. Respondent shall pay a **CIVIL PENALTY** of one thousand two hundred dollars (\$1,200) by cashier's check, certified check, U.S. Postal money order or attorney's check, made payable to "Commonwealth of Pennsylvania." Respondent shall return the full Civil Penalty with the signed Consent Agreement.

6. Respondent acknowledges receipt of an Order to Show Cause in this matter. Respondent knowingly and voluntarily waives the right to an administrative hearing in this matter, and to the following rights related to that hearing: to be represented by counsel at the hearing; to present witnesses and testimony in defense or in mitigation of any sanction that may be imposed for a violation; to cross-examine witnesses and to challenge evidence presented by the Commonwealth; to present legal arguments by means of a brief; and to take an appeal from any final adverse decision.

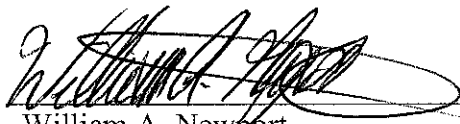
7. This Consent Agreement is between the Commonwealth and Respondent only. Except as otherwise noted, this Agreement is to have no legal effect unless and until the Office of General Counsel approves the contents as to form and legality and the Board issues the stipulated Order.

8. Should the Board not approve this Consent Agreement, presentation to and consideration of this Consent Agreement and other documents and matters by the Board shall not prejudice the Board or any of its members from further participation in the adjudication of this matter. This paragraph is binding on the participants even if the Board does not approve this Consent Agreement.

9. Respondent agrees, as a condition of entering into this Consent Agreement, not to seek modification at a later date of the stipulated Order adopting and implementing this Consent Agreement without first obtaining the express written concurrence of the Prosecution Division.


10. This Agreement contains the whole agreement between the participants. There are no other terms, obligations, covenants, representations, statements or conditions, or otherwise, of any kind whatsoever, concerning this Agreement.

11. Respondent verifies that the facts and statements set forth in this Agreement are true and correct to the best of Respondent's knowledge, information and belief. Respondent understands that statements in this Agreement are made subject to the criminal penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.



William A. Newport
Prosecuting Attorney
Department of State

DATED: 11/29/05



Michael T. Malayil, M.D.
Respondent

DATED: 11/25/05



R. Curtis Arnold, DPM
South Charleston

Rev. Richard Bowyer
Fairmont

Ms. Doris M. Griffin
Martinsburg

M. Khalid Hasan, MD
Beckley

J. David Lynch, Jr., MD
Morgantown

Vettivelu Maheswaran, MD
Charles Town

Leonard Simmons, DPM
Fairmont

Lee Elliott Smith, MD
Princeton

John A. Wade, Jr., MD
Point Pleasant

Badshah J. Wazir, MD
South Charleston

Kenneth Dean Wright, PA-C
Huntington

State of West Virginia

West Virginia Board of Medicine
101 Dee Drive, Suite 103
Charleston, WV 25311
Telephone (304) 558-2921
Fax (304) 558-2084

CERTIFICATION

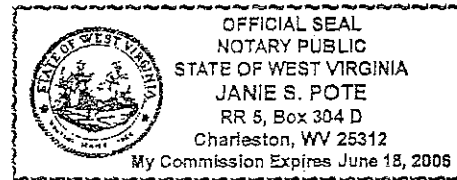
I DO HEREBY CERTIFY that the following attached document IN RE: MICHAEL THOMAS MALAYIL, M.D., is a true and accurate copy of the original document as maintained by the West Virginia Board of Medicine: (1) CONSENT ORDER dated September 13, 2004.

Ronald D. Walton, Executive Director
West Virginia Board of Medicine

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA

The foregoing instrument was acknowledged before me this 3rd day of November, 2004, by Ronald D. Walton, Executive Director, West Virginia Board of Medicine.

My Commission expires June 18, 2006.

Janie S. Pote
Notary Public

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|---|--|---|--|---|
| PRESIDENT
Angelo N. Georges, MD
Wheeling | VICE PRESIDENT
Carmen R. Rexrode, MD
Moorefield | SECRETARY
Catherine Slemph, MD, MPH
Charleston | COUNSEL
Deborah Lewis Rodecker
Charleston | EXECUTIVE DIRECTOR
Ronald D. Walton
Charleston |
|---|--|---|--|---|

BEFORE THE WEST VIRGINIA BOARD OF MEDICINE

IN RE: MICHAEL THOMAS MALAYIL, M.D.

CONSENT ORDER

The West Virginia Board of Medicine ("Board") and Michael Thomas Malayil, M.D. ("Dr. Malayil") freely and voluntarily enter into the following Order pursuant to West Virginia Code §30-3-1, et seq.

FINDINGS OF FACT

1. Michael Thomas Malayil, M.D., holds a license to practice medicine in the State of West Virginia, issued originally in 2000, License No. 20277, and his address of record with the Board is in Washington, Pennsylvania.
2. In May, 2004, the Complaint Committee of the Board initiated a complaint against Dr. Malayil, based upon his false representation regarding compliance with the continuing medical education requirement for licensure renewal.
3. In Dr. Malayil's licensure renewal application for the period July 1, 2003 to June 30, 2005, submitted to the Board and dated June 11, 2003, Dr. Malayil certified that he had completed the required number of fifty (50) hours of continuing medical education for the preceding licensure period July 1, 2001, through June 30, 2003.
4. In fact, Dr. Malayil had failed to obtain the required number of hours by June 30, 2003. Dr. Malayil failed to obtain the required two (2) hours of continuing medical education in end-of-life care.

5. After learning of his mistake, Dr. Malayil proceeded to obtain the required two (2) hours of continuing medical education in end-of-life care.

6. As a result of his failure to complete the required number of hours of continuing medical education for the renewal period ending June 30, 2003, and his failure to make an accurate report of his continuing medical education during said renewal period, Dr. Malayil is subject to disciplinary action.

CONCLUSION OF LAW

1. The Board has a mandate pursuant to West Virginia Code §30-3-1 to protect the public interest.

2. Probable cause may exist to substantiate charges of disqualification from the practice of medicine pursuant to violations of West Virginia Code §30-3-14 (c)(17), and 11 CSR 1A 12.1 (a), relating to making a false statement in connection with a licensure application.

3. It is appropriate to waive the commencement of proceedings against Dr. Malayil and to proceed without the filing of formal charges in a Complaint and Notice of Hearing, provided that Dr. Malayil agrees to comply with the provisions of this Consent Order.

CONSENT

Michael Thomas Malayil, M.D., by affixing his signature hereon, agrees solely and exclusively for purposes of this agreement and the entry of the Order provided

for an stated herein, and proceedings conducted in accordance with this Order to the following:

1. Dr. Malayil acknowledges that he is fully aware that, without his consent, herein given, no permanent legal action may be taken against him except after a hearing held in accordance with West Virginia Code §30-3-14(h) and §29A-5-1, *et seq.*

2. Dr. Malayil acknowledges that he has the following rights, among others: the right to a formal hearing before the West Virginia Board of Medicine, the right to reasonable notice of said hearing, the right to be represented by counsel at his own expense, and the right to cross-examine witnesses against him.

3. Dr. Malayil waives all rights to such a hearing.

4. Dr. Malayil consents to the entry of this Order relative to his practice of medicine in the State of West Virginia.

5. Dr. Malayil understands that this Order is considered public information, and that matters contained herein shall be reported as required by law, to the National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank.

ORDER

WHEREFORE, on the basis of the foregoing Findings of Fact and Conclusions of Law of the Board, and on the basis of the foregoing consent of Dr. Malayil, the West Virginia Board of Medicine hereby **ORDERS** as follows:

1. The license to practice medicine in the State of West Virginia heretofore issued to Michael Thomas Malayil, M.D., License No. 20277, is **SUSPENDED**, effective at 12:01 a.m. on September 14, 2004, which **SUSPENSION** is

hereby **STAYED IMMEDIATELY**, as a result of Dr. Malayil's compliance with paragraph two (2), following.

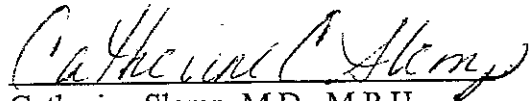
2. Dr. Malayil shall pay to the Board a fine of \$100 per credit hour of his deficiency of two (2) hours for the renewal period July 1, 2001, to June 30, 2003, a total of \$200, the receipt of which \$200 is acknowledged by the signature on this Consent Order of the President and Secretary of the Board.

Entered this 13th day of September, 2004.

West Virginia Board of Medicine



Angelo N. Georges, M.D.
President



Catherine Slemp, M.D., M.P.H.
Secretary



Michael Thomas Malayil, M.D.

Date: 8/5/04

STATE OF PENNSYLVANIA

COUNTY OF Allegheny

I, FRANCIS M. DANNHARDT, a Notary Public for said county and state do hereby certify that Michael Thomas Malayil, M.D., whose name is signed on the previous page has this day acknowledged the same before me.

Given under my hand this 5th day of August, 2004.

My commission expires _____

Notarial Seal Francis M. Dannhardt, Notary Public City Of McKeesport, Allegheny County My Commission Expires Apr. 2, 2006 Member, Pennsylvania Association Of Notaries
--

Francis M. Dannhardt
Notary Public



R. Curtis Arnold, DPM
South Charleston

Rev. Richard Bowyer
Fairmont

Ahmed D. Faheem, MD
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Huntington

State of West Virginia

West Virginia Board of Medicine

101 Dee Drive, Suite 103

Charleston, WV 25311

Telephone (304) 558-2921

Fax (304) 558-2084

September 15, 2004

Michael Thomas Malayil, M.D.
Millcraft Center
90 West Chestnut Street
Washington, PA 15301

Dear Dr. Malayil:

We are in receipt of your documentation of the two (2) remaining hours of continuing medical education, as referenced in the September, 2004, CONSENT ORDER that you entered into with the Board. Consequently, you are in compliance with all terms and conditions of this Order, and the stayed suspension of your medical license is dissolved, and your license is unencumbered as of September 15, 2004.

Please note that the continuing medical education submitted shall not be applicable or transferable to the July 1, 2003, through June 30, 2005, renewal period or any subsequent renewal period.

In accordance with the statute, the Consent Order will remain a permanent part of your historical record maintained by the Board. A copy of this letter will be attached to the Consent Order and will remain a part of the Consent Order.

Thank you for your cooperation and patience throughout this process and continued best wishes for success.

Sincerely,

Ronald D. Walton

eb

PRESIDENT
Angelo N. Georges, MD
Wheeling

VICE PRESIDENT
Carmen R. Rexrode, MD
Moorefield

SECRETARY
Catherine Slemp, MD, MPH
Charleston

COUNSEL
Deborah Lewis Rodecker
Charleston

EXECUTIVE DIRECTOR
Ronald D. Walton
Charleston

ORDER


AND NOW, this *20th* day of *December*, 2005 the State Board of Medicine adopts and approves the foregoing Consent Agreement and incorporates the terms of paragraph 5, which shall constitute the Board's Order and is now issued in resolution of this matter.

This Order shall take effect immediately.

BY ORDER:

**BUREAU OF PROFESSIONAL AND
OCCUPATIONAL AFFAIRS**

STATE BOARD OF MEDICINE



Basil L. Merenda
Commissioner

Charles D. Hummer, M.D.
Chairman

Date of mailing:

12-23-05

For the Commonwealth:

William A. Newport, Esquire
P. O. Box 2649
Harrisburg, PA 17105-2649

For Respondent:

Michael T. Malayil, M.D.
90 West Chestnut Street
Suite 140UL
Washington, PA 15301