

LICENSE NO. D-2355

IN THE MATTER OF

THE LICENSE OF

ROBERT MCREE BATTLE, M.D.

BEFORE THE

TEXAS MEDICAL BOARD

AGREED ORDER

On the 8th day of December, 2006, came on to be heard before the Texas Medical Board (the "Board"), duly in session, the matter of the license of Robert Battle, M.D. ("Respondent").

On October 24, 2006, Respondent appeared in person, with counsel Algis Augustine, at an Informal Show Compliance Proceeding and Settlement Conference in response to a letter of invitation from the staff of the Board. Nancy Leshikar represented Board staff. The Board's representatives were Lawrence Anderson, M.D., Timothy J. Turner, and Charles E. Oswalt, M.D., members of the Board.

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

FINDINGS OF FACT

The Board finds that:

1. Respondent received all notice required by law. All jurisdictional requirements have been satisfied. Respondent waives any defect in notice and any further right to notice or hearing under the Medical Practice Act, Title 3, Subtitle B, Texas Occupations Code (the "Act") or the Rules of the Board.
2. Respondent currently holds Texas Medical License No. D-2355. Respondent was originally issued this license to practice medicine in Texas on August 14, 1965. Respondent is not licensed to practice in any other state.
3. Respondent is primarily engaged in family practice and in alternative medicine. Respondent is not board certified in this area of practice.

4. Respondent is 73 years of age.
5. Respondent has previously been the subject of disciplinary action by the Board. An Agreed Order was entered on February 16, 1990, in which the Respondent was placed on probation for a period of two years. The order was based on Respondent's failure to complete a physical examination prior to treatment, his use of a vaccine not approved by the Food and Drug Administration and the use of misleading information in a pamphlet he provided to others.
6. J.R., a physician, contacted Respondent to schedule an appointment to discuss treatment for J.R.'s severe chronic back pain. J.R. was interested in the use of prolotherapy to treat his pain and was aware that this treatment was offered by Respondent. Prior to the appointment, Respondent provided to J.R. an extensive medical history questionnaire asking that J.R. complete it and bring it with him at the time of the appointment.
7. J.R. presented to Respondent at the scheduled time and date, at which time they discussed possible treatment for the severe chronic back pain.
8. Respondent was paid for the office visit, which consisted of a one and one-half-hour consultation and a brief physical examination.
9. Respondent later determined that he did not wish to have J.R. as a patient and conveyed that decision verbally over the telephone to J.R. in an unprofessional manner.
10. Respondent did not believe that he had established a physician-patient relationship with J.R. However, the facts presented establish that such relationship did exist.
11. Respondent has cooperated in the investigation of the allegations related to this Agreed Order. Respondent's cooperation, through consent to this Agreed Order, pursuant to the provisions of Section 164.002 the Act, will save money and resources for the State of Texas. To avoid further investigation, hearings, and the expense and inconvenience of litigation, Respondent agrees to the entry of this Agreed Order and to comply with its terms and conditions.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, the Board concludes that:

1. The Board has jurisdiction over the subject matter and Respondent pursuant to the Act.
2. Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based upon Respondent's unprofessional or dishonorable conduct.

3. Section 164.001 of the Act authorizes the Board to impose a range of disciplinary actions against a person for violation of the Act or a Board rule. Such sanctions include: revocation, suspension, probation, public reprimand, limitation or restriction on practice, counseling or treatment, required educational or counseling programs, monitored practice, public service, and an administrative penalty.

4. Section 164.002(a) of the Act authorizes the Board to resolve and make a disposition of this matter through an Agreed Order.

ORDER

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

1. Respondent shall pay an administrative penalty in the amount of \$1000 within 60 days of the entry of this Order. The administrative penalty shall be paid in a single payment by cashier's check or money order payable to the Texas Medical Board and shall be submitted to the Director of Compliance for the Board for routing so as to be remitted to the Comptroller of Texas for deposit in the general revenue fund. Respondent's failure to pay the administrative penalty as ordered shall constitute grounds for further disciplinary action by the Board, and may result in a referral by the Executive Director of the Board for collection by the Office of the Attorney General.

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

3. Any violation of the terms, conditions, or requirements of this Order by Respondent shall constitute unprofessional conduct likely to deceive or defraud the public, and to injure the public, and shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act. Respondent agrees that ten days notice of a Probationer Show Compliance Proceeding to address any allegation of non-compliance of this Agreed Order is adequate and reasonable notice prior to the initiation of formal disciplinary action. Respondent waives the 30- day notice requirement provided by §164.003(b)(2) of the Medical Practice Act and agrees to 10 days notice, as provided in 22 Texas Administrative Code §187.44(4).

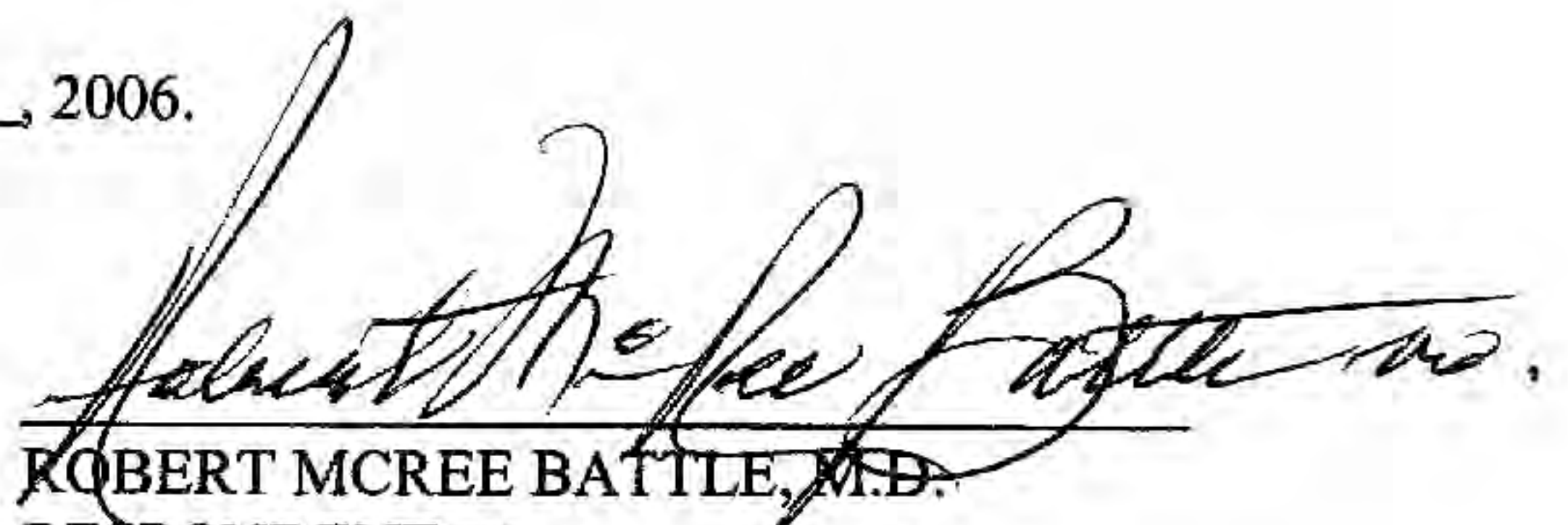
4. This Order shall automatically terminate upon the successful completion of its terms.

RESPONDENT WAIVES ANY FURTHER HEARINGS OR APPEALS TO THE BOARD OR TO ANY COURT IN REGARD TO ALL TERMS AND CONDITIONS OF THIS AGREED ORDER. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.

THIS ORDER IS A PUBLIC RECORD.

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

DATED: 11-8-06, 2006.

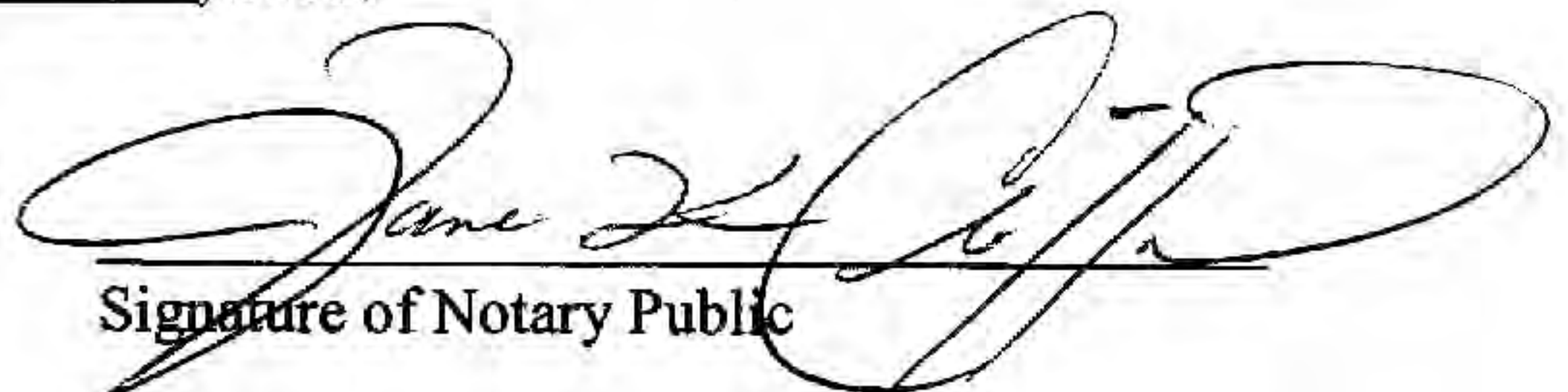

ROBERT MCREE BATTLE, M.D.
RESPONDENT

STATE OF Texas

COUNTY OF Harris

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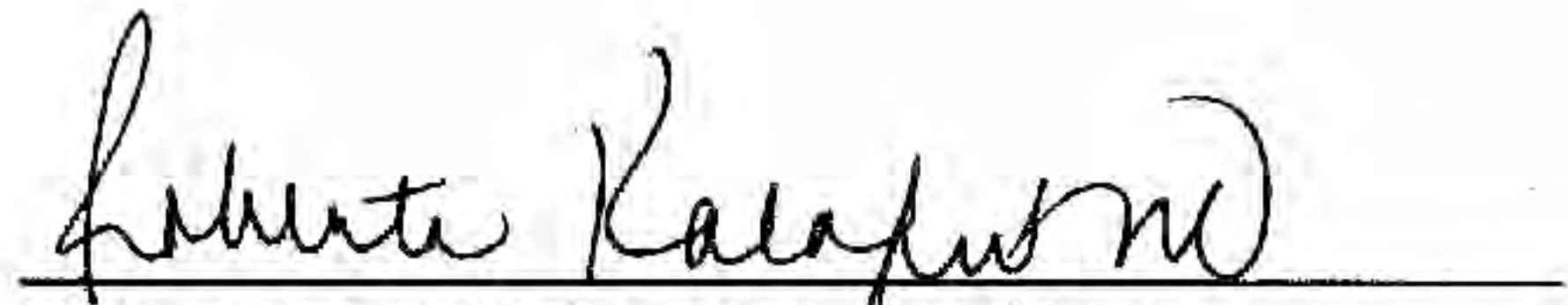
SWORN TO AND ACKNOWLEDGED BEFORE ME, the undersigned Notary Public,
on this 8th day of November, 2006.


Signature of Notary Public

(Notary Seal)



SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this
8th day of December, 2006.

A handwritten signature in cursive script, reading "Roberta Kalafut MD", written over a horizontal line.

Roberta M. Kalafut, D.O., President
Texas Medical Board