

LICENSE NO. J-7661

IN THE MATTER OF
THE COMPLAINT AGAINST
LANE SEBRING, M.D.

BEFORE THE
TEXAS STATE BOARD OF
MEDICAL EXAMINERS

AGREED ORDER

On the 26 day of August, 2005, came on to be heard before the Texas State Board of Medical Examiners ("the Board"), duly in session, the matter of the license of Lane Sebring, M.D. ("Respondent").

By the signature of Respondent on this Order, Respondent waived the right to appear at an Informal Show Compliance Proceeding and Settlement Conference pursuant to TEX. OCC. CODE, Title 3, Subtitle B, § 164.004 and 22 TEX. ADMIN. CODE, § 187.18 and all rights to notice and hearing, and instead agrees to the entry of this Order to resolve the matters addressed in this Order. Nancy Leshikar represented Board staff. 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 TEX. OCC. CODE ANN. Title 3, Subtitle B (Vernon 2004) (the "Act") or the Rules of the Board.
2. Respondent currently holds Texas Medical License No. J-7661. Respondent was originally issued this license to practice medicine in Texas on March 4, 1995. Respondent is not licensed to practice in any other state.
3. Respondent is primarily engaged in the practice of family practice. Respondent is board certified in this specialty by the American Board of Medical Specialties.

4. Respondent is 50 years of age.

5. Respondent has previously been the subject of unrelated disciplinary action by the Board resulting in an order imposing administrative penalties. The administrative penalty related to Respondent's failure to maintain adequate medical records and document compliance with the stated practice guidelines for integrative and complementary medicine.

6. The Respondent used the description "Board Certified in Family Practice and Anti-Aging Medicine" in his Clinic's advertisement that appeared in the Good Life Magazine's February 2005 issue. The Respondent's Internet website (www.sebringclinic.com) had also shown him as board certified in Anti-Aging Medicine.

7. Board Rule 164.4(e) provides that the use of the term "board certified" in any advertising shall constitute misleading or deceptive advertising unless the specialty board which conferred the certification and the certifying organization meet the requirements in subsections (a) and (b) of Board Rule 164.4.

8. Board Rule 164.4, Board Certification, outlines the requirements that must be met in order to use the phrase "board certified" in any physician advertising. Section (a)(1) of that rule requires that a certifying board be a member board of the American Board of Medical Specialties, or the Bureau of Osteopathic Specialists, or is the American Board of Oral and Maxillofacial Surgery. If the certifying board does not meet the requirements of Board Rule 164.4(a)(1), then it must meet the requirements of **both** 164.4(a)(2) and 164.4(b).

9. Board Rule 164.4(a)(2) requires that a physician may use the term "board certified" if the certifying board *requires its applicants to be certified by a board that is a member board of the American Board of Medical Specialties, or the Bureau of Osteopathic Specialists, or appropriate Royal College of Physicians and Surgeons, and the certifying organization meets the criteria set forth in subsection (b) of Board Rule 164.4.*

10. Board Rule 164.4(b) delineates the requirements that a certifying organization that is not a member board of the American Board of Medical Specialties or the Bureau of Osteopathic Specialists must meet in order for the physician to use the phrase "board certified." These provisions must be met in addition to the requirements of Board Rule 164.4(a)(2) in order for a physician to be able to use the term "board certified."

11. Under Board Rule 164.4(b), the certifying organization must meet all of the following requirements:

- the certifying organization requires applicants to pass both written and oral examinations that test applicant's knowledge and skills in the specialty or subspecialty of medicine. The examinations may be delegated to a testing organization and all examinations require a psychometric evaluation for validation;
- the certifying organization has written proof of a determination by the Internal Revenue Service that the certifying organization is tax exempt under the Internal Revenue Code pursuant to Section 501(c);
- the certifying board has a permanent headquarters and staff;
- the certifying organization has at least 100 duly licensed certificants from at least one-third of the states; and
- the certifying organization requires all physicians who are applicants to have satisfactorily completed identifiable and substantial training in the specialty or subspecialty area of medicine in which the physician is seeking certification, and the certifying organization uses peer review. The identifiable training shall be deemed acceptable unless determined by the Board of Medical Examiners to be inadequate in scope, content, and duration in that specialty or subspecialty area of medicine in order to protect the public health or safety.,

12. After Respondent received notification from the TSBME that the inclusion of the phrase "board certified" as it related to anti-aging medicine was a violation, he promptly had the certification description removed from the website.

13. Respondent offered evidence that The American Board of Anti-Aging Medicine (ABAAM) met all five of the requirements of Board Rule 164.4(b).

14. The ABAAM is not a member board of the American Board of Medical Specialties, the Bureau of Osteopathic Specialist, or the American Board of Oral and Maxillofacial Surgery as required by Board Rule 164.4(a)(1).

15. The ABAAM does not require applicants to be certified by a separate certifying organization that is a member of the American Board of Medical Specialists, the Bureau of Osteopathic Specialists or appropriate Royal College of Physicians and Surgeons as required by Board Rule 164.4(a)(2).

16. Although the certifying board (Anti-Aging Board) arguably met the requirements of 164.4(b), it does not meet the requirements of both Board Rule 164.4(a)(2) and (b) as required by Board Rule 164.4(e).

17. Respondent has cooperated in the investigation of the allegations related to this Agreed Order. Respondent's cooperation, through consent to this Agreed Order, pursuant to the provisions of Section 164.002 the Act, will save money and resources for the State of Texas. To avoid further investigation, hearings, and the expense and inconvenience of litigation, Respondent agrees to the entry of this Agreed Order and to comply with its terms and conditions.

CONCLUSIONS OF LAW

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

1. The Board has jurisdiction over the subject matter and Respondent pursuant to the Act.
2. Section 164.051(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's commission of an act prohibited under Section 164.052 of the Act.

3. Section 164.052(a)(6) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent using an advertising statement that is false, misleading, or deceptive.

4. Board Rule 164.4(e) requires that a physician's authorization of or use of the term "board certified," or any similar words or phrase calculated to convey the same meaning shall constitute misleading or deceptive advertising unless the specialty board which conferred the certification and the certifying organization meet the requirements of Rule 164.4(a) and (b).

5. 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.

6. Board Rule 190.15(b) authorizes the Board to take into consideration mitigating factors in any disciplinary action.

7. 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 \$ 500.00 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 State Board of Medical Examiners 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.

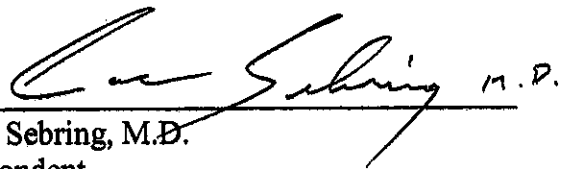
2. This Order shall terminate upon payment of this administrative penalty without any further action.

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, LANE SEBRING, 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: 6/2/05, 2005.

 M.D.

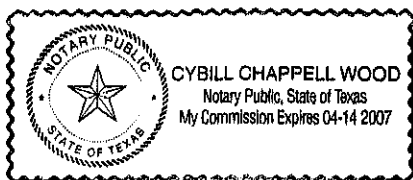
Lane Sebring, M.D.
Respondent

STATE OF Texas

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COUNTY OF Texas

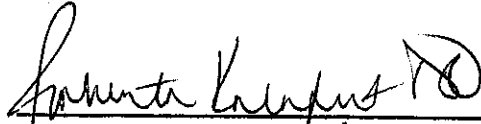
SWORN TO AND ACKNOWLEDGED BEFORE ME, the undersigned Notary Public, on this 2 day of June, 2005.




Signature of Notary Public

(Notary Seal)

SIGNED AND ENTERED by the presiding officer of the Texas State Board of Medical Examiners on this 26 day of August, 2005.



Roberta M. Kalafut ~~MD~~ DO President
Texas State Board of Medical Examiners