



Texas Medical Board

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MICHAEL A. CAROME
PUBLIC CITIZEN'S HEALTH RESEARCH
GROUP
1600 20TH STREET, NW
WASHINGTON, DC 20009

JUNE 24, 2013

Re: File #: 12 - 7158

Case #: 13 - 0285

EDWARD BRUCE MCCLENDON, MD

Dear DR. CAROME:

This letter is to inform you that the investigation conducted in response to your complaint is now complete.

The Board has evaluated the evidence associated with your complaint, and the Board has issued a remedial plan. Enclosed is a copy of that remedial plan issued by the Board.

Thank you for bringing your complaint to our attention.

Sincerely,

The Texas Medical Board



TEXAS MEDICAL BOARD

REMEDIAL PLAN
EDWARD BRUCE MCCLENDON, LICENSE NO. F-1792

On the 14 day of June, 2013, this matter came on to be heard before the Texas Medical Board ("Board"). The Informal Show Compliance and Settlement Conference ("ISC") was held on March 28, 2013. This Remedial Plan was offered by Allan Shulkin, M.D., a member of the Board, and Phillip Worley, a member of a District Review Committee. This Remedial Plan was prepared by Ketan Patel.

FINDINGS

Respondent was the owner of the spa that published advertising statements regarding treatment using the LipoTRON device. The spa's website contained misleading advertising material provided by the distributor of the LipoTRON device.

Respondent does not admit or deny the Findings and Conclusions of Law contained herein but, rather, has agreed to settle in good faith to avoid the cost, expense, and uncertainty of litigation.

BOARD HISTORY

Respondent has not had a prior Remedial Plan with the Board.

MITIGATING FACTORS

Respondent promptly removed all advertisements related to and discontinued use of the LipoTRON device when he learned of concerns by the FDA and the Board. Respondent also performed due diligence by contacting other physicians who used the product. Respondent relied on statements and representations from the manufacturer regarding the products approval status.

Respondent has no previous disciplinary history. Respondent cooperated in the investigation of the allegations that resulted in this Remedial Plan.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over the subject matter and Respondent pursuant to Medical Practice Act, Title 3, Subtitle B, Texas Occupations Code (“Act”).
2. Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(I), authorizes the Board to take action against Respondent.
3. Section 164.0015 of the Act authorizes the Board to resolve this matter with a Remedial Plan.
4. Section 164.002(d) of the Act provides that this Remedial Plan is a settlement agreement under the Texas Rules of Evidence for purposes of civil litigation.

REMEDIAL PLAN TERMS

Based on the above, Respondent shall:

1. Within one year following the date of the entry of this Remedial Plan, Respondent shall enroll in and successfully complete at least eight hours of continuing medical education (“CME”) in the topic of Ethics. The CME shall be approved for Category I credits by the American Medical Association or American Osteopathic Association and approved in writing in advance by the Executive Director or their designee. To obtain approval for the course, Respondent shall submit in writing to the Compliance Division of the Board information on the course, to include at least a reasonably detailed description of the course content and faculty, as well as the course location and dates of instruction. Respondent shall submit documentation of attendance and successful completion of this requirement to the Compliance Division of the Board on or before the expiration of the time limit set forth for completion of the course. The CME requirements set forth in this paragraph shall be in addition to all other CME required for licensure maintenance.
2. The cost for administering the Remedial Plan is \$500 per year. Payment of this cost is due no later than 60 days after Respondent receives notice of Board approval of this Remedial Plan. The cost 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 Executive Director for the Board for routing so as to be remitted to the Comptroller of Texas for deposit in the general revenue fund.

3. The terms of this Remedial Plan are not subject to modification or early termination.

4. Respondent shall comply with all the provisions of the Act and other statutes regulating Respondent's practice.

5. Respondent shall fully cooperate with the Board attorneys, investigators, compliance officers, consultants, and other employees or agents of the Board in any way involved in investigation, review, or monitoring associated with Respondent's compliance with this Remedial Plan.

6. Any violation of the terms, conditions, or requirements of this Remedial Plan by Respondent shall constitute unprofessional conduct likely to deceive or defraud the public, or to injure the public, and shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act.

7. This Remedial Plan shall automatically terminate upon Respondent's submission to the Board of evidence deemed to be sufficient by the Compliance Division of the Board that Respondent successfully completed the requirements set forth in the Remedial Plan Terms Paragraph Nos. 1 and 2.

THIS REMEDIAL PLAN IS A PUBLIC RECORD.

THIS REMEDIAL PLAN IS NON-DISCIPLINARY.

I, EDWARD BRUCE MCCLENDON, M.D., HAVE READ AND UNDERSTAND THE FOREGOING REMEDIAL PLAN. I UNDERSTAND THAT BY SIGNING, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY. I UNDERSTAND THIS REMEDIAL PLAN IS A FINAL, NON-APPEALABLE AGREEMENT THAT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.



EDWARD BRUCE MCCLENDON, M.D.
Respondent

4/25/13

DATE

SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this 14 day of June, 2013.



Irvin E. Zeitler, Jr., D.O., President
Texas Medical Board