

**STATE OF RHODE ISLAND
BOARD OF MEDICAL LICENSURE AND
DISCIPLINE**

No. C09-508

**IN THE MATTER OF
Maria M. O'Toole, M.D.
License Number: MD 06049**

Consent Order

Pursuant to R.I. General Laws §5-37-5.2, 1956, as amended, (2009 Reenactment) a notification was received by the Board of Medical Licensure and Discipline ("Board") regarding Maria M. O'Toole, M.D. ("Respondent"). This matter was referred to an Investigating Committee of the Board for investigation and recommendation. The following are findings of fact and conclusions of law:

FINDINGS OF FACTS AND CONCLUSIONS OF LAW

1. The Respondent graduated from Saint Louis University School of Medicine in 1979. The Respondent received her license to practice medicine in Rhode Island in June 1982 and her primary area of practice has been Obstetrics and Gynecology. She has hospital privileges at both Rhode Island Hospital and Women and Infants' Hospital.
2. On October 2, 2008, a 39 year old female patient arrived at a health care clinic, and was admitted to Women and Infants' Hospital on October 02, 2008 for cervical ripening because she was post-term at 40 weeks, plus 3 days pregnant. The Patient received Prostin Gel to facilitate vaginal delivery for the next day and discharged home in stable condition.
3. The Patient returned to the Emergency Department the following morning, on October 03, 2008, with spontaneous rupture of membranes with light meconium and mild contractions. The Respondent was the admitting and attending physician for the patient.
4. On October 2, 2008 at 22:20 the patient received on 3 mg intravaginal application of prostaglandin gel in triage. The fetus tolerated the application--the fetal heart rate was reactive and without evidence of deceleration. The fetal heart rate remained reactive
5. On October 2, 2008 at 22:20 the patient received on 3 mg intravaginal application of prostaglandin gel in triage. The fetus tolerated the application--the fetal heart rate was reactive and without evidence of deceleration. The fetal heart rate remained reactive without evidence of deceleration. Rare uterine contractions occurred during that interval not associated with fetal heart rate decelerations.

6. The patient was discharged at 23:55 on October 2, 2008.
7. On October 3, 2008 at 01:15 the patient experienced rupture of membranes. She was evaluated in ED triage at 01:31. The fetal heart rate monitor strip indicates resumption of tracing at 00:19. At 02:45 light meconium was documented.
8. The patient complained of irregular moderate (5/10) contractions and was noted to have them at frequency of Q 2-5 minutes until approximately 0600 when they dissipated. Throughout this time no fetal heart rate demonstrated no decelerations.
9. On October 3, 2008 at 10:27 Oxytocin augmentation of labor was started. Oxytocin was ordered to begin at 1 mu/min and to be increased by 1 mu/min every 15-20 minutes to achieve contractions that are Q3-4 minutes. Oxytocin was titrated up by 1 mu/min approximately every half hour. Uterine activity was not well detected by the monitor and was noted inconsistently on the monitoring strip.
10. The fetus initially appeared to tolerate labor appropriately. The Respondent described the cervix as 1-2 cm dilated and 50% effaced at her initial evaluation.
11. On October 3, 2008 at 22:15 an intrauterine pressure catheter was inserted to more accurately record uterine activity.
12. The fetus continued to tolerate the uterine activity but had occasional fetal heart rate decelerations that were not repetitive. The fetal heart rate continued to demonstrate appropriate variability and accelerations. Even with the occasional deceleration the fetus tolerated labor appropriately.
13. On October 4, 2008, at 04:06 more frequent, deeper fetal heart rate decelerations began to occur. These were non-repetitive.
14. The Respondent examined the patient at 04:30. The patient's cervix had progressed minimally to 2 cm dilated, 90% effaced, and -1 station over 24 hours after she experienced ROM. The patient was on 22 mu/min Oxytocin. The respondent reduced the Oxytocin dose, but the decelerations persisted. Heart rate was intermittently difficult to trace.
15. At approximately 08:00, the patient had her epidural replaced due to increased discomfort. At 08:52 the Respondent checked the patient's cervix and noted that she had progressed to 8/100/0 - (+1). The patient became increasingly dilated 09:39 and began pushing at 10:08.
16. The fetus was delivered by vacuum extraction at 11:12. The fetus was stillborn with Apgars of 0/0/0 at 1, 5, and 10 minutes. Cord pH demonstrated severe acidosis (pH=6.837 and base excess of -14.5). Both are consistent with birth asphyxia.

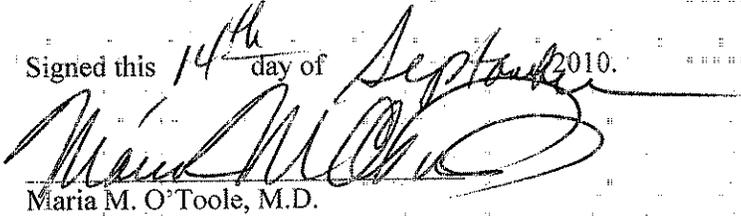
17. The neonate was revived with epinephrine and a heart rate was obtained 14 minutes, 23 seconds after birth. The neonate developed seizures and a pulmonary hemorrhage and life support was withdrawn. The neonate expired at 19:58 on the evening of 10/4/2008. Autopsy revealed E coli sepsis.
18. The patient had normal white blood cell count and remained afebrile.
19. The Obstetrical Review Group ("ORG") met on October 24, 2008 to review the Respondent's alleged failure to timely recognize and respond to fetal distress resulting in the infant's death. The ORG believes that earlier intervention and delivery may have improved the outcome.
20. The Women and Infants' Hospital notified the Board on August 21, 2009 of the claim.
21. A peer reviewer for the Board recognized the care by the Respondent to be generally inattentive. The Peer Reviewer identified the Respondent's failure to meet the standard of care in two areas: Inattention to labor progress in the setting of repetitive fetal heart rate decelerations, and failure to perform a cesarean delivery.
22. The Board of Medical Licensure and Discipline determined that the Respondent failed to correctly assess fetal well-being and consideration of earlier delivery between 9:00 and 9:30 on October 04, 2008. The Respondent is in violation of Rhode Island General Laws §5-37-5.1 (19).

THE PARTIES AGREE AS FOLLOWS:

- (1) Respondent hereby acknowledges and waives:
 - a. The right to appear personally or by counsel or both before the Board;
 - b. The right to produce witnesses and evidence in his behalf at a hearing;
 - c. The right to cross examine witnesses;
 - d. The right to have subpoenas issued by the Board;
 - e. The right to further procedural steps except for specifically contained herein;
 - f. Any and all rights of appeal of the terms of this Consent Order;
 - g. Any objection to the fact that this Consent Order will be presented to the Board for consideration and review;
 - h. Any objection to the fact that it will be necessary for the Board to become acquainted with all evidence pertaining to this matter in order to review adequately this Consent Order.
- (2) Acceptance of this Consent Order constitutes an admission by the Respondent that the findings of fact were made by the Board.

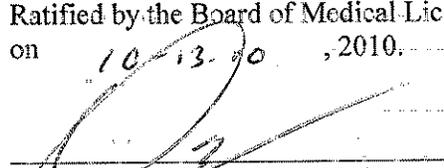
- (3) This Consent Order shall become part of the public record of this proceeding once it is accepted by all parties.
- (4) Failure to comply with the Consent Order, when signed and accepted, shall subject the Respondent to further disciplinary action.
- (5) Respondent hereby consents to a reprimand.
- (6) Respondent agrees to pay an administrative fee of Five Hundred Dollars (\$500) within sixty (60) days of the ratification of this Order.

Signed this 14th day of September, 2010.



Maria M. O'Toole, M.D.

Ratified by the Board of Medical Licensure and Discipline at a meeting held
on 10-13-10, 2010.



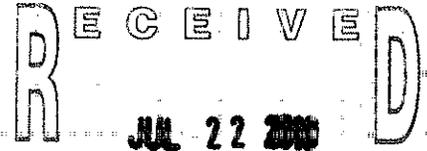
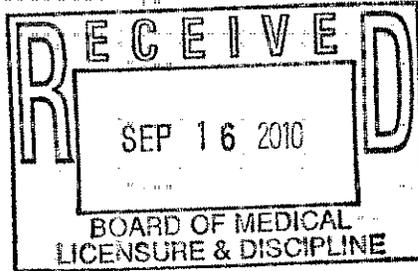
David R. Gifford, M.D., M.P.H.
Director of Health



Department of Health
Three Capitol Hill
Providence, RI 02908-5097
TTY: 711
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July 19, 2010

Maria M. O'Toole, M.D.
Suite LL6
1524 Atwood Ave.
Johnston, RI 02919



MARIA M. O'TOOLE MD

Re: C09-508

Dear Dr. O'Toole,

The Board of Medical Licensure and Discipline has reviewed the facts and circumstances surrounding the complaint regarding the patient Elena Bencivenga. The Board has found evidence of unprofessional conduct concerning the care of the patient and the fetus according to Rhode Island General Law 5-37-5.1 (19).

Accordingly, a consent order is enclosed. Please review and sign the order and return it to the Board of Medical Licensure and Discipline.

If you have any questions concerning this matter, please feel free to contact me directly.

Thank you for your prompt attention in this matter.

Sincerely,

Bruce W. McIntyre
Acting Chief Administrative Officer
Board of Medical Licensure and Discipline
3 Capitol Hill RM 205
Providence, RI 02908
(401)222-7890

MARIA M. O'TOOLE, M.D.
SUITE LL6
1524 ATWOOD AVENUE
JOHNSTON, RI 02919

REMITTANCE ADVICE

57-1-115
14834

CHECK AMOUNT Check or Cash

PAID TO THE ORDER OF *Time Munchies* *NO* DOLLARS
9/19/10 *Barbly Lawrence + Herman* *Administrative*
DATE DESCRIPTION

\$ *500.00*



Maria M. O'Toole

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