



IN THE MATTER OF:
Rafael Montalvo-Ayala M.D.
License Number MD 12429
Case # C16-406

CONSENT ORDER

The Rhode Island Board of Medical Licensure and Discipline (hereinafter "Board") has reviewed and investigated the above referenced complaint pertaining to Dr. Rafael Montalvo-Ayala (hereinafter "Respondent") through its Investigative Committee.

FINDINGS OF FACT

1. Respondent is a licensed physician in Rhode Island and was issued his license on July 2nd, 2007. Respondent's specialty is Pediatrics. His Practice is located at Santiago Medical Group, Inc, 85 Pearson Avenue, Pawtucket, Rhode Island.
2. The Board received a notice of litigation of care given to Patient A (alias) (deceased) on or about 4/17/2015. Patient A was 3 years and 11 months old at the time of her death.
3. Respondent was the attending physician for Patient A from 2012 until Patient A died in April of 2015.
4. Patient A presented to Respondent on April 15, 2015 for a follow up visit (Patient A was treated at Hasbro Emergency Department April 12, 2015). At the follow up visit Respondent assessed patient as having Asthma and prescribed Q-var. There was no Respiratory Rate recorded in the medical record for Patient A and lungs were described as clear.

5. Patient A came back to see Respondent on April 17, 2015 with a chief complaint of vomiting, fever and difficulty breathing. Additionally, in the history of present illness, it is reported *“the patient is here for subjective fever, vomiting and abdominal pain (left side) and very painful and cough.”* The vital signs do not record a respiratory rate nor is a pulse recorded, the pulse oximetry is 94%. The lungs are described as *“diffuse wheezing, coarse rhonchi.”* The heart exam is described as *“RRR no murmurs.”* The abdominal exam was deferred. The chest exam revealed suprasternal retractions. Respondent’s assessment was *“asthma”* and prescribed azithromycin and acetaminophen.
6. Respondent received a phone call at 0200 on April 18th with the news that Patient A had died. The autopsy revealed basilar abscesses in right lower lobe extending to the middle lobe with bilateral pleural effusion as well as cardiomegaly and hepatomegaly.
7. It is alleged that Respondent has violated RIGL 5.37.5.1 section (19) ... *failure to conform to, the minimal standards of acceptable and prevailing medical practice in his or her area of expertise as is determined by the board. ...*

Based on the foregoing, the parties agree as follows:

1. Respondent admits to the jurisdiction of the Board.
2. Respondent has agreed to this Consent Order and understands that it is subject to final approval of the Board, and this Consent Order is not binding on Respondent until final ratification by the Board.
3. If ratified by the Board, 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 on 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 those specifically contained herein;
 - f. Any and all rights of appeal of this Consent Order; and

- g. Any objection to the fact that this Consent Order will be presented to the Board for consideration and review.
 - h. Any objection that this Consent Order will be reported to the National Practitioner Data Bank, Federation of State Medical Boards as well as posted on the department's public web site.
4. Respondent agrees to pay within (60) days of the ratification of this Consent Order an administrative fee to the Board with a check for \$1300 dollars made payable to the Rhode Island General Treasurer for costs associated with investigating the above-referenced complaint.
5. Respondent hereby agrees to this reprimand on his physician license.
6. Respondent agrees to successfully complete, within six (6) months of the ratification of this order, a Board approved course of at least 8 hours' duration on subject matter to be agreed upon by the Board and Respondent.
7. In the event that any term of this Consent Order is violated, after it is signed and accepted, the Director of the Department of Health shall have the discretion to impose further disciplinary action. If the Director imposes further disciplinary action, Respondent shall be given notice and shall have the right to request a hearing within twenty (20) days of the suspension and/or further discipline. The

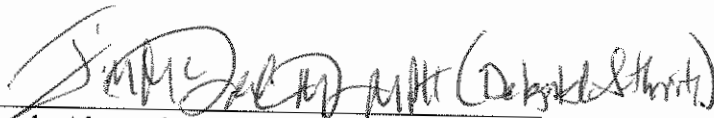
8. Director of the Department of Health shall also have the discretion to request a hearing after notice to Respondent of a violation of any term of this Consent Order. The Board may suspend Respondent's license, or impose further discipline, for the remainder of Respondent's licensing period if any alleged violation is proven by a preponderance of evidence.

Signed this 19 day of October, 2017.



Rafael Montalvo-Ayala, M.D.

Ratified this 9th day of November 2017 by the Board of Medical Licensure and Discipline.



Nicole Alexander-Scott, M.D., M.P.H.

Director

Rhode Island Department of Health

3 Capitol Hill, Room 401

Providence, Rhode Island 02908