

IN THE MATTER OF	§	BEFORE THE
	§	
THE LICENSE OF	§	TEXAS STATE BOARD
	§	
HAMID MOAYAD, D.O.	§	OF MEDICAL EXAMINERS

AGREED ORDER

On this the 22nd day of November, 1997, came on to be heard before the Texas State Board of Medical Examiners ("the Board" or "the Texas Board"), duly in session the matter of the license of Hamid Moayad, D.O. ("Respondent"). On October 14, 1997, Respondent appeared in person with counsel, Michael Sharp and Gary Werley, at an Informal Settlement Conference/Show Compliance Proceeding in response to a letter of invitation from the staff of the Board.

The Board was represented at the Informal Settlement Conference/ Show Compliance Proceeding by Penny Angelo, a member of the Board, and Peter Chang, M.D., a member of the Board. Upon 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 Order as set forth herein:

FINDINGS OF FACT

1. Respondent, Hamid Moayad, D.O., holds Texas Medical license H-4562.
2. The Board has jurisdiction over the subject matter and Respondent. Respondent received all notice which may be required by law and by the rules of the Board. All jurisdictional requirements have been satisfied.
3. Respondent is not certified by the American Board of Medical Specialties, but is board eligible in neurology.
4. Respondent has been in the practice of medicine in Texas for approximately 9 years.
5. Respondent did not adequately treat and manage 7 patients suffering from Lyme disease and chronic pain.

6. A drug audit was conducted on Respondent. The narcotic logbook was not initially available. Scheduled drugs were not maintained in a locked location. Scheduled drugs not accounted for included 124 units of 10 mg. of Lorcet which was noted in the logbook, but not found.

7. Eight packets with 2 tablets each of Fiorinal with codeine was found, but not listed. The Fiorinal was expired. Six vials of 200 mg. Testosterone were found, but not listed. A number of patient prescription bottles were also found.

8. On inspection, Respondent's logbook was found to have a number of pages missing and 40 missing bottles of Talwin. Anti-fungal Diflucan, which had been prescribed for one patient, was returned to be provided to another patient.

9. All of Respondent's crash cart drugs were expired.

CONCLUSIONS OF LAW

Based on the above findings of fact, the Board concludes the following:

1. Respondent has violated Section 3.08(4)(B) of the Medical Practice Act ("the Act"), V.A.C.S., article 4495b, which authorizes the Board to take disciplinary action against Respondent based on Respondent's failing to keep complete and accurate records of purchases and disposals of drugs listed in Chapter 481, Health and Safety Code or of controlled substances scheduled in the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C.A. Section 801 et seq. (Public Law 91-513), which require that physicians shall keep records of purchases and disposals of these drugs to include without limitation the date of purchase, the sale or disposal of the drugs by the physician, the name and address of the person receiving the drugs, and the reason for the disposing or dispensing of the drugs to the person.

2. Respondent has violated Section 3.08(18) of the Medical Practice Act ("the Act"), V.A.C.S., article 4495b, which authorizes the Board to take disciplinary action against Respondent based on Respondent's professional failure to practice medicine in an acceptable manner consistent with public health and welfare.

3. Section 4.02(i) of the Act provides that this Agreed Order is a settlement agreement under the Texas Rules of Civil Evidence for purposes of civil litigation.

4. Section 4.02(h) of the Act authorizes the Board to resolve and make a disposition of

this matter through an Agreed Order.

5. Section 4.12 of the Act authorizes the Board to impose the remedial measures set forth below.

ORDER

Based on the above findings of fact and conclusions of law, the Board ORDERS that Respondent's Texas medical license is hereby RESTRICTED under the following terms and conditions for 3 years from the date of the signing of this Agreed Order by the presiding officer of the Board:

1. Respondent shall seek a second opinion on all Lyme disease patients.
2. Respondent shall not treat any intractable pain patients, as defined by 22 T.A.C. Section 170.2.
3. Respondent shall obtain at least fifty (50) hours per year of Continuing Medical Education (CME) approved for Category I credits by the American Medical Association or by the American Osteopathic Association. The required hours shall be at least ten (10) hours in Lyme disease or related subjects and the remaining hours in Neurology. Each year Respondent shall submit to the Board proof of the prior year's CME attendance by the Order's anniversary date. Respondent shall submit proof to the Board of CME hours attended in the current year even though such may not meet the 50 hour requirement. A copy of the attendance certificate issued or a detailed report which can be readily verified by the Board shall satisfy this requirement.
4. Respondent shall maintain a logbook of all prescriptions written by Respondent for controlled substances or dangerous drugs with addictive potential or potential for abuse in chronological order by date issued. This logbook shall be made available for inspection by compliance officers, investigators, and other representatives of the Board during regular office hours without notice to Respondent. For each prescription or refill, Respondent shall legibly record in the logbook the specific dosage and amount of medication authorized, the time and date of the prescription, the patient's name, the number of refills authorized, and the medical basis for the prescription and number of authorized refills.
5. For purposes of this Agreed Order, dangerous drugs with addictive potential or potential for abuse shall include, but shall not be limited to, Stadol, Nubain, Soma, Phenergan,

Talwin, Propofol, Butalbital, and their trademark or generic equivalents in any form, as well as any chemical or chemical combination substantially similar or equivalent to such drugs.

6. Respondent shall become familiar with and comply with all statutes, rules, and regulations, both State and Federal, pertaining to the prescribing, administering, dispensing, supplying, storing, and disposal of dangerous drugs and controlled substances.

7. Respondent shall personally appear before the Board, a committee of the Board, or a panel of Board representatives, at least one (1) time each year that Respondent is under the terms and conditions of this Agreed Order. Such appearances shall be for the purpose of reporting on and addressing issues related to Respondent's compliance with the terms and conditions of this Agreed Order.

8. To verify that Respondent has complied with and is in compliance with the terms and conditions of this Agreed Order, Respondent shall fully cooperate with the Board and the Board staff, including but not limited to, Board attorneys, investigators, compliance officers, consultants, and other such employees or agents of the Board in any way involved in investigation, review, or monitoring associated with Respondent's compliance with this Agreed Order. Failure to cooperate as required by this paragraph and the terms of this Agreed Order shall constitute a basis for disciplinary action against Respondent pursuant to Sections 3.08, 4.01, and 4.11 of the Act.

9. Respondent shall give a copy of this Agreed Order to all hospitals, nursing homes, treatment facilities, and other health care entities where Respondent has privileges, has applied for privileges, or applies for privileges.

10. Respondent shall ensure that any inquiries which are made by any person or entity through any means to Respondent or Respondent's employees regarding Respondent's Texas medical licensure status are answered by accurate reference to this Agreed Order.

11. The time period of this Order shall be extended for any period of time in which Respondent subsequently resides or practices medicine outside the State of Texas, is in official retired status with the Board, or for any period during which Respondent's license is subsequently cancelled for nonpayment of licensure fees. If Respondent leaves Texas to live or practice medicine elsewhere, Respondent shall immediately notify the Board in writing of the dates of Respondent's departure from and subsequent return to Texas. Upon Respondent's return to practice in Texas or

Respondent's relicensure, Respondent shall be required to comply with the terms of this Order for the period of time remaining on the Order when Respondent left the practice of medicine in Texas, retired, or had his or her license cancelled for nonpayment of licensure fees.

12. Respondent shall comply with all the provisions of the Medical Practice Act ("the Act"), V.A.C.S., article 4495b, and other statutes regulating the practice of medicine, as is required by law for physicians licensed by the Board.

13. Respondent shall inform the Board in writing of any change of Respondent's office or mailing address within ten (10) days of the address change. This information shall be submitted to the Verification Department and the Director of Compliance for the Board. Failure to provide such information in a timely manner shall constitute a basis for disciplinary action by the Board against Respondent pursuant to Sections 3.08, 4.01, and 4.11 of the Act.

14. Any violation of the terms, conditions, or requirements of this Order by Respondent shall constitute a basis for disciplinary action by the Board against Respondent pursuant to Sections 3.08, 4.01, and 4.11 of the Act. Any violation of the terms, conditions, or requirements of this Order by Respondent shall constitute evidence of unprofessional or dishonorable conduct likely to deceive or defraud the public or injure the public.

15. The above-referenced conditions shall continue in full force and effect without opportunity for amendment, except for clear error in drafting, for 12 months following entry of this Order. If, after the passage of the 12 month period, Respondent wishes to seek amendment or termination of these conditions, Respondent may petition the Board in writing. The Board may inquire into the request and may, in its sole discretion, grant or deny the petition. Petitions for modifying or terminating may be filed only once a year thereafter.

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. NOTHING IN THIS ORDER SHALL BE DEEMED A WAIVER OF RESPONDENT'S RIGHTS UNDER STATUTE OR THE UNITED STATES OR TEXAS CONSTITUTIONS TO APPEAL AN ORDER OR ACTION OF THE BOARD SUBSEQUENT TO THIS AGREED ORDER EXCEPT AS RESPONDENT MAY HAVE OTHERWISE AGREED TO HEREIN.

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: 11/3, 1997


HAMID MOAYAD, DO
RESPONDENT

STATE OF Texas
COUNTY OF TARRANT

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BEFORE ME, the undersigned Notary Public, on this day personally appeared Hamid Moayad, D.O. known to me to be the person whose name is subscribed to this instrument, an Agreed Order, and who after being by me duly sworn, on oath, stated that he executed the same for all purposes expressed therein.

Given under my hand and official seal and office this 3rd day of November, 1997.

Paula Waddell
Signature of Notary Public

(Notary Seal)



Paula Waddell
Printed or typed name of Notary Public

My commission expires: Nov. 21, 1998

SIGNED AND ENTERED by the presiding officer of the Texas State Board of Medical Examiners on this 22 day of November, 1997.

William H. Fleming, III
William H. Fleming, III, M.D.
President, Texas State Board of
Medical Examiners