

IN THE MATTER OF
THE LICENSE OF
RICHARD EDWARD SOFINOWSKI, M.D.

BEFORE THE
TEXAS MEDICAL BOARD

AGREED ORDER OF SUSPENSION

On the 4th day of December, 2015, came on to be heard before the Texas Medical Board (the "Board"), duly in session, the matter of the license of Richard Edward Sofinowski, M.D., ("Respondent").

On February 6, 2014, a Disciplinary Panel (the "Panel") of the Board composed of Margaret McNeese, M.D., J. Scott Holiday, D.O. and David Baucom, members of the Board duly in session, was convened to hear the matter of the Application for Temporary Suspension (Without Notice of Hearing) of the license Respondent. An Order Granting Temporary Suspension (Without Notice of Hearing) was entered on February 6, 2014.

On February 20, 2014, a subsequent Disciplinary Panel of the Board was convened, composed of Michael Arambula, M.D., Pharm. D., a member of the Board and Sharon Barnes, a member of a District Review Committee ("Panel"). Frank Hopkins and Christopher M. Palazola represented Board staff. An Order Granting Suspension (With Notice of Hearing) was entered on February 20, 2014.

On May 13, 2014, Counsel Darrin Dest appeared on behalf of Respondent who did not attend an Informal Show Compliance Proceeding and Settlement Conference ("ISC") in response to a letter of invitation from the staff of the Board. The Board's representatives were Stanley S. Wang, M.D. a member of the Board and James H. Dickerson, a member of a District Review Committee ("Panel"). Christopher M. Palazola represented Board staff. C. Heather Barham prepared this Order.

FINDINGS

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 the Medical Practice Act, Title 3, Subtitle B, Texas Occupations Code ("Act") or the Rules of the Board.

2. Respondent currently holds Texas Medical License No. J-2347. Respondent was originally issued this license to practice medicine in Texas on November 14, 1992.

3. Respondent was primarily engaged in the practice of psychiatry. Respondent is board certified by the American Board of Psychiatry and Neurology, a member of the American Board of Medical Specialties.

4. Respondent is 49 years of age.

5. Respondent has previously been the subject of disciplinary action by the Board. Specifically:

a. On February 6, 2014 and February 20, 2014 (following disciplinary hearings initiated With and Without Notice of Hearing, respectively) the Board entered an Orders temporarily suspending Respondent's medical license after a disciplinary panel of the Board determined that Respondent's continued practice of medicine constituted a continuing threat and real danger to his patients and to the public. These actions were based on Respondent's arrest and subsequent indictment by a Federal grand jury on one count of conspiracy to distribute controlled substances outside the scope of professional practice. Responded failed to appear at either proceeding. The temporary suspension remains in place until superseded by subsequent order of the Board.

6. On November 13, 2013, Respondent was arrested at his residence by agents of the Drug enforcement Agency (DEA) and Williamson County Sheriff's Office, after authorities searched his home and discovered 11.5 grams of methamphetamine and several hundred tablets of controlled substances.

7. Respondent is currently subject of a SOAH Complaint filed in Docket No. 503-15-4447.MD.

8. Rather than contest the charges pending at SOAH, Respondent agrees to the Voluntary Suspension of his license.

9. Respondent has cooperated in the investigation of the allegations related to this Agreed Order. The Respondent neither admits nor denies the information given above. 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, the Board concludes that:

1. The Board has jurisdiction over the subject matter and Respondent pursuant to the Act.
2. Section 164.001(a)(1) of the Act authorizes the Board to suspend or revoke Respondent's license or other authorization to practice.
3. Section 164.002(a) of the Act authorizes the Board to resolve and make a disposition of this matter through an Agreed Order.
4. Section 164.051(a)(1) authorizes the Board to take disciplinary action against a Respondent that commits an act prohibited under Section 164.052.
5. iii) Section 164.053(a)(1), authorizes the Board to take disciplinary action against a Respondent that commits an act that violates any state or federal law if the act is connected with the physician's practice of medicine, and under the following provisions:
 - 21 U.S.C. Section 841 (a)(1): Except as authorized by this subchapter, it shall be unlawful for any person knowingly or intentionally to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance; or
 - 21 U.S.C. Section 846: Any person who attempts or conspires to commit any offense defined in this subchapter shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

ORDER

Based on the above Findings and Conclusions of Law, the Board ORDERS that:

1. Respondent's Texas license is hereby SUSPENDED until such time as Respondent requests in writing to have the suspension stayed or lifted and personally appears before the Board, and provides clear and convincing evidence and information which, in the discretion of

the Board, adequately indicates that Respondent is physically, mentally, and otherwise competent to safely practice medicine¹.

2. Such evidence and information shall include at a minimum, but shall not be limited to the following:

The complete and final resolution of any and all criminal charges and investigations that are currently pending, or any charges that may be brought as a result of the allegations in the above-referenced Findings. "Complete and Final Resolution" for purposes of this Order means: a final non-appealable conviction; a final adjudication of this matter, including, but not limited to, deferred adjudication, deferred disposition, or other form of plea bargain or agreed resolution; or dismissal of allegations with prejudice so that Respondent cannot be subject to being charged with crimes arising the same incidents or conduct described in the above-referenced Findings.

3. If all criminal charges against Respondent are resolved (as defined in paragraph 2 in this section), a Board representative shall file a formal complaint pursuant to the Act as soon as practicable, alleging the violations of this Order under this provision and seeking such disciplinary action as may be appropriate, including permanent revocation of Respondent's license. The formal complaint may also include allegations of other violations of this Order and other violations of the Act. The parties may resolve the issues by an agreed order, either before or after the filing of a formal complaint. Respondent shall comply with all the provisions of the Act and other statutes regulating the Respondent's practice.

4. Respondent shall fully cooperate with the Board and the Board staff, including 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 Order. Failure to fully cooperate shall constitute a violation of this order and a basis for disciplinary action against Respondent pursuant to the Act.

5. Respondent shall inform the Board in writing of any change of Respondent's office or mailing address within 10 days of the address change. This information shall be submitted to the Registration Department and the Compliance Department of the Board. Failure to provide such

¹ In applying the Clear and Convincing standard, the Board recognizes that this standard is not applicable in any proceeding filed at the State Office of Administrative Hearings, and that the appropriate burden of proof is to be applied at SOAH pursuant to applicable law.

information in a timely manner shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act. Respondent agrees that 10 day notice of a Show Compliance Proceeding to address any allegation of non-compliance of this Agreed Order is adequate and reasonable notice prior to the initiation of formal disciplinary action. Respondent waives the 30-day notice requirement provided by §164.003(b)(2) of the Medical Practice Act and agrees to 10 day notice, as provided in 22 Texas Administrative Code §187.44(4).

6. Any violation of the terms, conditions, or requirements of this Order 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. By entering this Order Respondent understands and acknowledges that the Board is entitled to and expressly reserves, and is not waiving any and all of its rights to take further action against Respondent's license, if appropriate, in the event of any other determinations of further possible violations of the Medical Practice Act, whether related or unrelated, to the criminal charges referenced herein.

8. This Agreed Order relates to Legal Case No. 14-0380 and is intended to address all matters related to that Legal Case.

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.

SIGNATURE PAGES FOLLOW

I, RICHARD EDWARD SOFINOWSKI, M.D., HAVE READ AND UNDERSTAND THIS 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: 9-9, 2015.

Richard Edward Sofinowski M.D.
RICHARD EDWARD SOFINOWSKI, M.D.
Respondent

STATE OF Texas

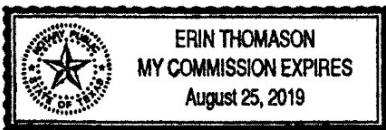
§
§
§

COUNTY OF Travis

SWORN TO AND ACKNOWLEDGED BEFORE ME, the undersigned Notary Public, on this 9th day of September, 2015.

Erin Thomason
Signature of Notary Public

(Notary Seal)



SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this
4th day of December, 2015.



Michael Arambula, M.D., Pharm. D. President
Texas Medical Board