

LICENSE NO. N-2465

IN THE MATTER OF  
THE LICENSE OF  
DR. ARIEL DE LLANOS

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AGREED ORDER ON FORMAL FILING

On the 20 day of August, 2021, came on to be heard before the Texas Medical Board (the Board), duly in session, the matter of the license of Ariel De Llanos, M.D. (Respondent).

On September 16, 2020, Respondent appeared via videoconference, with counsel Amy Welborn, at an Informal Show Compliance Proceeding and Settlement Conference in response to a letter of invitation from the staff of the Board. The Board's representatives were Sherif Zaafran, M.D. and LuAnn Morgan, members of the Board (Panel). Kemisha Williams represented Board staff and prepared this Order.

The matter did not resolve after the ISC and a formal complaint was filed at SOAH under SOAH Docket No. 503-21-2049. Prior to proceeding to a contested case hearing, the parties engaged in direct negotiation and agreed to this Order.

BOARD CHARGES

Board Staff charged that Respondent engaged in unprofessional conduct and a breach of physician-patient boundaries when he became romantically and financially involved with one patient.

BOARD HISTORY

Respondent has no prior Board history.

Upon the recommendation of the Board's representatives and with the consent of

Respondent, the Board makes the following Findings and Conclusions of Law and enters this Agreed Order.

### FINDINGS

The Board finds the following:

1. General Findings:

- a. 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 (the Act) or the Rules of the Board.
- b. Respondent currently holds Texas Medical License No. N-2465. Respondent was originally issued this license to practice medicine in Texas on April 3, 2009. Respondent is also licensed in California.
- c. Respondent is currently 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.
- d. Respondent is 66 years of age.

2. Specific Panel Findings:

- a. The Panel found that Respondent took advantage of the power differential in the doctor/patient relationship.
- b. There was also a power imbalance as employer/potential employee when Respondent suggested that he could help the patient gain employment.
- c. Respondent loaned the patient money as well, leading to a further imbalance of power.

d. Respondent felt that he adequately terminated the physician/patient relationship prior to engaging in the intimate relationship. However, his office continued to refill prescriptions for the patient after the purported termination.

3. Mitigating Factors:

In determining the appropriate sanctions in this matter, the Panel considered the following, as mitigating that Respondent has cooperated in the investigation of the allegations related to this Agreed Order. 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 164.051(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent committing an act prohibited under Section 164.052.
3. Section 164.051(a)(6) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's failure to practice medicine in an acceptable professional manner consistent with public health and welfare, as defined by Board Rules 190.8(1)(C) failure to use proper diligence in one's professional practice; and 190.8(1)(M) inappropriate prescription of dangerous drugs or controlled substances to oneself, family members, or others in which there is a close personal relationship.
4. Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against

Respondent based on Respondent committing unprofessional or dishonorable conduct that is likely to deceive or defraud the public, as proscribed by Board Rules 190.8(2)(E) engaging in sexual contact with a former patient; 190.8(2) (G) becoming financially or personally involved with a former patient in an inappropriate manner; Section 164.001 of the Act authorizes the Board to impose a range of disciplinary actions against a person for violation of the Act or a Board rule.

5. Section I 64.002(a) of the Act authorizes the Board to resolve and make a disposition of this matter through an Agreed Order.
6. Section 164.002(d) of the Act provides that this Agreed Order is a settlement agreement under the Texas Rules of Evidence for purposes of civil litigation.

#### ORDER

Based on the above Findings and Conclusions of Law, the Board ORDERS that Respondent shall be subject to the following terms and conditions:

1. This Agreed Order shall constitute a PUBLIC REPRIMAND of Respondent, and Respondent is hereby reprimanded.

2. **Independent Medical Evaluation:** Upon entry of this Order, the Executive Director of the Board will designate a physician who is board certified in psychiatry to serve as the Board's evaluating psychiatrist. The selected psychiatrist shall be located outside of the San Antonio metropolitan area. Within six months thereafter, Respondent shall submit to and obtain an independent medical evaluation from the evaluating psychiatrist with such evaluation to be presented to the Board at a future Informal Settlement Conference, pursuant to Ordering Paragraph No. 4.

- (a) The independent medical evaluation shall be conducted as directed by the

Board, including, at a minimum:

- (1) Social history and background information;
- (2) History of present illness;
- (3) Mental status exam;
- (4) Review of records and other pertinent information;
- (5) Current DSM multiaxial diagnosis, and
- (6) Recommendations regarding continued care and treatment.

- (b) The Compliance Division of the Board shall furnish a copy of this Order, and any other pertinent information, to the evaluating psychiatrist, who shall make a full report to the Compliance Division of the Board regarding the evaluating psychiatrist's evaluation of Respondent and recommendations.
- (c) Respondent shall pay all fees charged by the evaluating psychiatrist.
- (d) Respondent shall follow all recommendations made by the evaluating psychiatrist regarding continued care and treatment.
- (e) Respondent's failure to cooperate with the evaluating psychiatrist or failure to follow the evaluating psychiatrist's recommendations shall constitute a violation of this Order.

3. **Monitoring Continued Care and Treatment:** During any continued care and treatment, the Board shall monitor Respondent's compliance with treatment and rehabilitation, either directly through the treating psychiatrist or through an independent monitoring psychiatrist designated by the Executive Director.

- (a) If the approved treating psychiatrist agrees to provide reports directly to the Compliance Division of the Board, with the consent of Respondent, the Executive

Director may authorize the treating psychiatrist to serve in the dual capacity as treating psychiatrist for Respondent and monitoring psychiatrist for the Board.

- (b) If the approved treating psychiatrist does not agree to provide periodic reports to the Compliance Division of the Board, or if Respondent does not consent, or if the Executive Director requires an independent monitoring psychiatrist, the Executive Director shall designate a physician who is board certified in psychiatry to serve as the Board's independent monitoring psychiatrist. Respondent shall pay all fees charged by an independent monitoring psychiatrist.
- (c) An independent monitoring psychiatrist may require Respondent to present for a personal interview up to twice each year during treatment.
- (d) Respondent shall authorize the treating psychiatrist to provide information necessary for monitoring by the Board, either directly to the Compliance Division of the Board or through an independent monitoring psychiatrist. The information shall be limited to the minimum information necessary to ensure adequate assessment of Respondent's compliance with treatment, rehabilitation, and compliance with the terms of this Order.
- (e) An independent monitoring psychiatrist shall provide periodic written reports to the Compliance Division of the Board no less than semi-annually, on March 15 and September 15 of each year, during Respondent's treatment. The monitoring reports shall include: (a) current diagnosis; (b) treatment regimen; (c) treatment compliance; (d) follow-up recommendations; and (e) prognosis.
- (f) Board staff may furnish to the monitoring psychiatrist any Board information that it determines, in its discretion, may be helpful or required for the effective

monitoring of Respondent's compliance with treatment, rehabilitation, and compliance with this Order.

- (g) Respondent's failure to cooperate with the monitoring psychiatrist shall constitute a violation of this Order.

4. Upon completion of the requirements set forth in Ordering Paragraph No. 2, Respondent shall appear at an Informal Settlement Conference before a panel of Board representatives upon written request mailed to Respondent's last known address on file with the Board at least 10 calendar days before the requested appearance date. Such appearance shall be for the purpose of reporting on and addressing issues related to the evaluation required by Ordering Paragraph No. 2.

5. Within one year following the date of the entry of this Order, Respondent shall take and pass with a score of 75 or above the Jurisprudence Examination (CTP Exam) given by the Board. Respondent is allowed three attempts to successfully pass this examination.

Respondent's failure to take and pass the JP Exam within three attempts within one year following the date of the entry of this Order shall constitute a violation of this Agreed Order. After a committee of the Board or a panel of Board representatives (Board Representatives), has considered the information related to Respondent's violation of this provision and has determined that Respondent has not fulfilled the requirements of this provision, Respondent's license shall be IMMEDIATELY SUSPENDED pursuant to correspondence to Respondent from the Executive Director or Secretary Treasurer of the Board indicating that Board Representatives have considered the information related to Respondent's violation of this provision and have determined that Respondent has not fulfilled the requirements of this provision. Although Respondent shall be invited to provide information or testimony to the Board Representatives,

Respondent specifically waives any administrative due process under the Act, or the Administrative Procedure Act, for the Board Representatives to consider this information. THIS SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING AT THE STATE OFFICE OF ADMINISTRATIVE HEARINGS OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE ACT OR THE ADMINISTRATIVE PROCEDURE ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS AND ALL RIGHTS OF APPEAL Respondent shall be notified of any suspension by certified mail, return receipt requested to Respondent's last known address on file with the Board. If Respondent's license is suspended on such a basis, the suspension shall remain in effect until such time as Respondent takes and passes the JP Exam and subsequently appears before the Board in person and provides sufficient evidence which, in the discretion of the Board, is adequate to show that Respondent possesses the skills and knowledge to safely practice in Texas and is otherwise physically and mentally competent to resume the practice in this state.

6. Within one year from the date of the entry of this Order, Respondent shall enroll in and successfully complete the professional boundaries course offered by University of California San Diego Physician Assessment and Clinical Education (PACE) program or an equivalent course approved in advance by the Executive Director or a designee. To obtain approval for a course other than PACE course, Respondent shall submit in writing to the Compliance Division of the Board information on the course that includes description of the course content, faculty, 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.



7. At all times while Respondent is under the terms of this Order, Respondent shall give a copy of this Order to all hospitals, nursing homes, treatment facilities, and other health care entities in Texas where Respondent has privileges, has pending an application for privileges, applies for privileges, or otherwise practices. Within 30 days of being first contacted by the Compliance Division of the Board following entry of this Order, Respondent shall provide to the Compliance Division of the Board documentation, including proof of delivery, that the Order was delivered to all such facilities.

8. Pursuant to Board Rule 189.15, the time period of this Order shall be extended for any period of time that:

- (a) Respondent subsequently practices exclusively outside the State of Texas;
- (b) this Order is stayed or enjoined by Court Order; or
- (c) for any period of time longer than 60 consecutive days that Respondent does not actively practice medicine and such cessation in practice is NOT due to a suspension of Respondent's license. Respondent shall immediately notify the Board in writing in the event that Respondent leaves Texas to practice elsewhere or ceases active practice for more than 60 consecutive days. Upon Respondent's return to active practice or return to Texas, Respondent shall notify the Board in writing. Upon return to Texas or active practice, Respondent shall be required to comply with the terms of this Order for the period of time remaining on the Order. Respondent shall pay all fees for reinstatement or renewal of a license covering the period of extension or tolling. Tolling shall be in accordance with Board Rule 189.15, except that the requirement to obtain an IME shall not be tolled..

9. Respondent shall comply with all the provisions of the Act and other statutes

regulating the Respondent's practice.

10. 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.

11. Respondent shall inform the Board in writing of any change of Respondent's practice or mailing address within 10 days of the address change. This information shall be submitted to the Registrations Department and the Compliance Department of 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 the Act. Respondent agrees that 10 days' notice of a Probationer Show Compliance Proceeding to address any allegation of non-compliance with this Agreed Order is adequate and reasonable notice prior to the initiation of formal disciplinary action. Respondent agrees that any proceeding related to this Order may be held in person, by teleconference, or by videoconference at the discretion of the Board.

12. Respondent shall be permitted to supervise and delegate prescriptive authority to physician assistants and advanced practice nurses and to supervise surgical assistants.

13. 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.

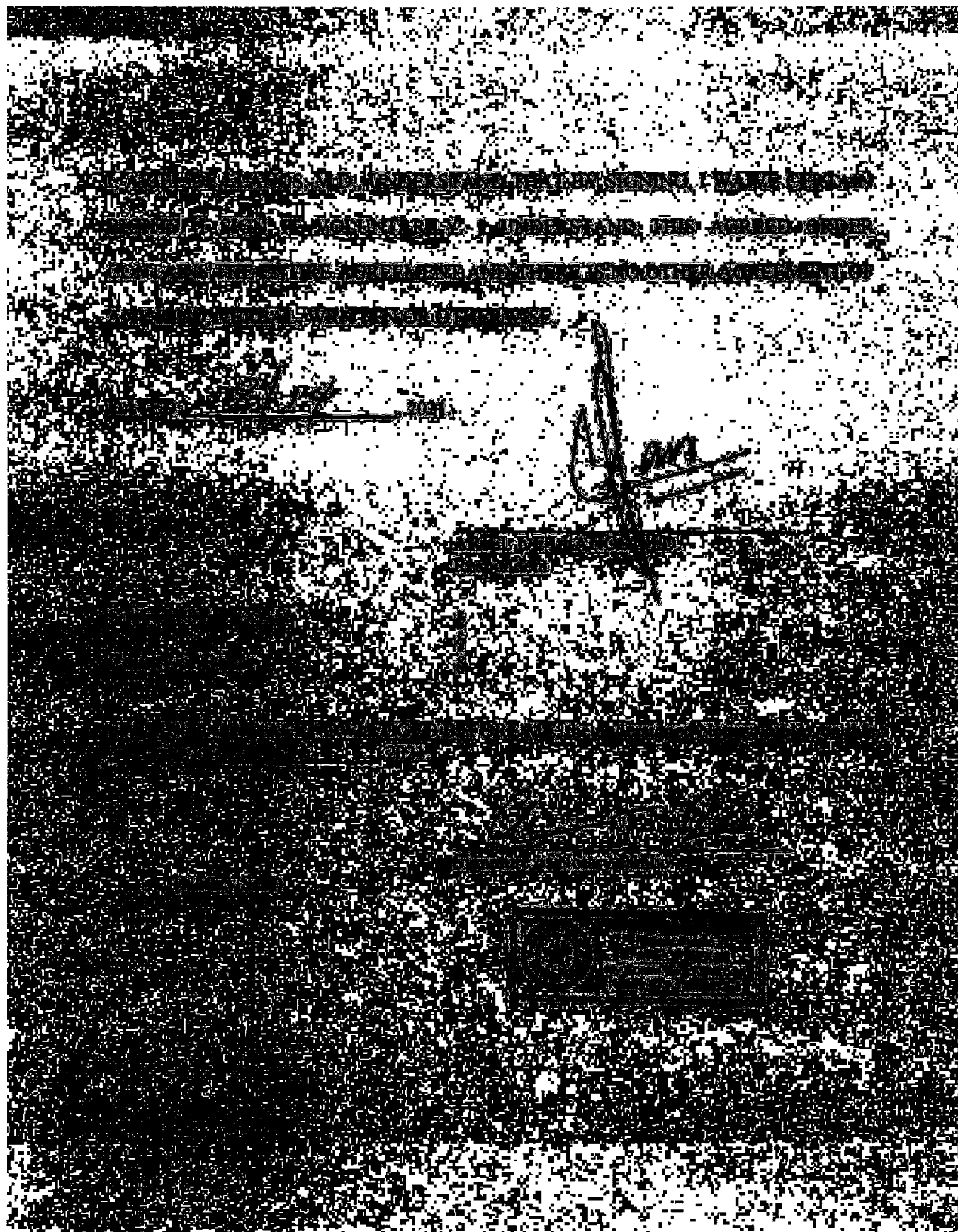
14. The above-referenced conditions shall continue in full force and effect without opportunity for amendment, except for clear error in drafting, for one year following the date of

the entry of this Order. At the end of the one year, provided Respondent is in full compliance with the Order, the Order will automatically terminate. However, the Order will not terminate if Respondent is undergoing ongoing treatment as recommended by the evaluating psychiatrist until such time as Respondent is released from treatment or the Board Grants Modification or Termination of the Order.

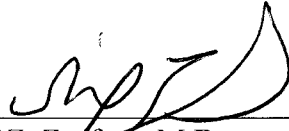
RESPONDENT WAIVES ANY FURTHER HEARINGS OR APPEALS TO THE BOARD OR TO ANY COURT IN REGARD TO ALL TERMS AND CONDITIONS OF THIS AGREED ORDER. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.

THIS ORDER IS A PUBLIC RECORD.

**(SIGNATURE PAGES FOLLOW)**



SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this  
20 day of August 2020.



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Sherif Z. Zafran, M.D.  
President Texas Medical Board