

IN THE MATTER OF	§	BEFORE THE
	§	
THE LICENSE OF	§	TEXAS STATE BOARD
	§	
WAYNE CHARLES JONES, M.D.	§	OF MEDICAL EXAMINERS

AGREED ORDER

On this the 19 day of May, 2000, 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 Wayne C. Jones, M.D. ("Respondent"). On May 22, 1998, Respondent appeared in person with counsel, Daniel W. Bishop, II, 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 Larry Price, D.O., a member of the Board, and David Baucom, a District Review Committee member. 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 Wayne C. Jones, M.D., holds Texas Medical license D-6049.
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 certified by the American Board of Psychiatry and Neurology.
4. Respondent is fifty-seven (57) years of age.
5. Respondent failed to keep adequate medical records for patients he was treating for substance abuse and attention deficit disorder.
6. Respondent failed to thoroughly document his rationale for administration of dangerous drugs utilized in the care and treatment of his patients.

7. Respondent failed to thoroughly document his rationale for his therapies and treatment utilized in the care and treatment of his patients.

8. Respondent has improved documentation of medical records following the beginning of the Board's investigation.

9. Respondent has recently been certified as qualified in the field of clinical psychopharmacology by the American Society of Clinical Psychopharmacology.

10. While not admitting that he has violated the Medical Practice Act ("the Act"), TEX. OCC. CODE ANN. Subtitle B, (Vernon 2000)<sup>1</sup> Respondent has chosen to avoid the expense and difficulties associated with litigation by entering into this Agreed Order, and agreeing to comply with the terms and conditions set forth herein.

11. Respondent has entered into this Agreed Order pursuant to the provisions of Sections 4.02(h) and (i) of the Medical Practice Act.

### CONCLUSIONS OF LAW

Based on the above Findings of Fact, the Board concludes the following:

1. Respondent has violated Section 3.08(4)(A) of the Medical Practice Act, which authorizes the Board to take disciplinary action against Respondent based on Respondent's commission of any act that is in violation of the laws of the State of Texas if the act is connected with Respondent's practice of medicine.

2. Respondent has violated Section 3.08(4)(B) of the Medical Practice Act which authorizes the Board to take disciplinary action against Respondent based on Respondent's failing to keep complete and accurate records of 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 disposals of these drugs to include without limitation the date of 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.

3. Section 4.12 of the Medical Practice Act authorizes the Board to take action in regard to Respondent and Respondent's medical license as set forth below.

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<sup>1</sup>The medical Practice act was formerly found at TEX. REV. CIV. STAT. ANN. (Vernon Supp. 1999). It is now codified at TEX. OCC. CODE ANN. Subtitle B, effective September 1, 1999. As all of the allegations in this matter occurred prior to Sept. 1, 1999 citations to the Medical Practice Act will be to the statute in effect at the time.

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

5. Section 4.02(h) of the Medical Practice Act authorizes the Board to resolve and make a disposition of this matter through an Agreed Order.

### 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's medical practice shall be monitored by a licensed Texas physician to insure Respondent is properly maintaining adequate medical records on all patients, and that he is keeping 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. The monitor shall be approved in advance in writing by the Executive Director of the Board based on the monitoring physician's licensure status and history, general qualifications, area of specialty, business affiliation with Respondent, and specialty certifications and training. Respondent shall provide a copy of this Agreed Order to the monitoring physician and shall allow the monitoring physician random access to Respondent's patient medical records, patient billing records, and offices. The monitoring physician shall review Respondent's medical practice and shall counsel Respondent on any perceived deficiencies. Respondent shall follow the appropriate guidance provided by the monitoring physician and shall ensure that quarterly reports from the monitoring physician are routed in a timely manner to Board representatives through the Director of Compliance for the Board. If no deficiencies are noted after the first review, the reports will be done on a bi-annual basis. Any costs incurred by the monitoring physician shall be the responsibility of Respondent and shall not be charged to patients. To request approval of a monitoring physician, Respondent shall submit in writing to the Director of Compliance of the Board the names and practice addresses of at least three physicians who are willing and able to effectively monitor Respondent's office and surgical practice. The monitoring physician may be changed at any time by the Executive Director of the Board pursuant to a written request by Respondent based upon good cause shown by Respondent for such a change.

2. 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.

3. Separate from patient records, Respondent shall maintain a file consisting of a copy of every prescription written by Respondent for controlled substances or dangerous drugs with addictive potential or potential for abuse by date issued. This file of prescription copies shall be

available for inspection by compliance officers, investigators, and other representatives of the Board during regular office hours without notice to Respondent.

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. Respondent shall properly label all drugs dispensed from Respondents office as required by law, including samples, to include the patient's name, date dispensed, directions for taking, and Respondent's name and address.

6. Respondent shall refrain from the prescription or administration of any drug for any patient unless the drug is medically indicated and is prescribed in therapeutic doses. Respondent shall not prescribe, administer, or dispense any drug with a potential for abuse to any person unless there is a legitimate medical and therapeutic need after the Respondent has taken an appropriate medical history and conducted an examination which is clinically adequate to determine a proper diagnosis and course of treatment. Respondent shall conduct adequate follow-up examinations on all patients to determine whether the course of treatment, including the prescribing of drugs, is appropriate for the medical condition of the patient and to determine if the drug regimen being prescribed or administered should be modified in any way, with documentation to be provided in the patient's chart.

7. 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. 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.

8. Respondent shall maintain adequate medical records on all patient office visits, consultations, surgeries performed, drugs provided, and treatment rendered by Respondent. These records will include at a minimum, the patients name and address, vital signs and statistics, chief complaints, history and physical findings, diagnosis and basis for diagnosis, treatment plan for each patient visit or operative procedure, a notation of all medications prescribed or otherwise provided to the patient including the quantity, dosage, and rationale for providing the medications, and detailed records of all follow-up visits. Each visit shall be noted in the patient record and dated accordingly. Respondent shall make all patient medical records available for inspection and copying

upon the oral or written request of Board consultants, investigators, compliance officers, attorneys, or the Executive Director of the Board.

9. 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.

10. 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.

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 canceled 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 license canceled for nonpayment of licensure fees.

12. Respondent shall comply with all the provisions of the Medical Practice Act ("the Act"), TEX. OCC. CODE ANN. Subtitle B, (Vernon 2000) 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 264.051, 164.052, 164.053 and 164.103 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.


16. 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. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.

THIS ORDER IS A PUBLIC RECORD.

I, WAYNE C. JONES, M.D., HAVE READ AND UNDERSTAND THE FOREGOING 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: 4-17, 2000.

  
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WAYNE C. JONES, M.D.  
RESPONDENT

STATE OF TEXAS           §  
  §  
COUNTY OF Dallas       §

BEFORE ME, the undersigned Notary Public, on this day personally appeared Wayne C. Jones, M.D. 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 17 day of April, 2000.

Donna F. Goare  
Signature of Notary Public

(Notary Seal)



Donna F Goare  
Printed or typed name of Notary Public

My Commission Expires: 5-14-2003

SIGNED AND ENTERED by the presiding officer of the Texas State Board of Medical Examiners on this 19 day of May, 2000.

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