

**STATE OF TENNESSEE
DEPARTMENT OF HEALTH**

IN THE MATTER OF:)	BEFORE THE TENNESSEE BOARD
)	OF MEDICAL EXAMINERS
CHIP H. FOUNTAIN, M.D.)	
RESPONDENT)	DOCKET NO.: 17.18-099874A
)	
COOKEVILLE, TENNESSEE)	
TENNESSEE LICENSE NO. 37909)	

AGREED ORDER

This matter came to be heard before the Tennessee Board of Medical Examiners (hereinafter “the Board”) on the ____ day of May, 2009, pursuant to a Notice of Charges issued against Respondent by the Division of Health Related Boards of the Tennessee Department of Health (hereinafter “the State”). The State was represented by Andrea Huddleston, Assistant General Counsel. Respondent was represented by counsel, Jack D. Lowery, Jr., Esquire. After consideration of the Notice of Charges and presentation of counsel, the Board finds as follows:

1. Respondent agrees that presentation to and consideration of this Agreed Order by the Board for ratification and all matters divulged during that process shall not constitute unfair disclosure such that the Board or any of its members shall be prejudiced to the extent that requires their disqualification from hearing this matter should this order not be ratified.
2. Respondent understands the nature of the charges and is represented by counsel.
3. Respondent is aware of each of Respondent’s rights, including the right to a hearing on the charges and allegations, the right to appear personally and by counsel, the right to confront and cross-examine witnesses who would testify against Respondent, the right to testify and present evidence on Respondent’s own behalf, as well as to the issuance of

subpoenas to compel the attendance of witnesses and the production of documents, the right to contest the charges and allegations, and other rights which are accorded Respondent pursuant to the Administrative Procedures Act and other applicable laws, including the right to seek reconsideration, review by the Chancery Court and appellate review.

4. In order to avoid the expense and uncertainty of a hearing, Respondent freely and voluntarily waives each and every one of these rights set forth above and admits the truth of the allegations herein contained. Respondent agrees that cause exists to discipline his license.
5. Respondent understands that by signing this Agreed Order, Respondent is enabling the Board to issue its order without further process. In the event that the Board rejects this Agreed Order for any reason, it will be of no force or effect for either party.

I. FINDINGS OF FACT

6. Respondent has been at all times pertinent hereto licensed by the Board as a medical doctor in the State of Tennessee, having been granted Tennessee medical license number 37909 by the Board on August 13, 2003.
7. Between approximately 2004 and 2006, Respondent engaged in a romantic and/or sexual relationship with a minor child between the ages of thirteen and fifteen years old. The minor child in question is the daughter of a psychiatric patient of Respondent. This relationship came to light when Respondent asked the patient for permission to marry the minor girl.

II. CONCLUSIONS OF LAW

The facts as found in the Findings of Fact are sufficient to establish that Respondent has violated the following statutes or rules which are part of the Medical Examiners Practice Act, (TENN. CODE ANN. § 63-6-101, *et seq.*) for which disciplinary action before and by the Board of Medical Examiners is authorized:

8. The facts contained in paragraphs 6 through 7, *supra*, constitute grounds for disciplinary action against Respondent's license to practice medicine in the State of Tennessee pursuant to the Tennessee Medical Practice Act which authorizes disciplinary action against a Respondent who has violated TENN. CODE ANN. § 63-6-214(b)(1):

Unprofessional, dishonorable or unethical conduct.

9. The facts contained in paragraphs 6 through 7, *supra*, constitute grounds for disciplinary action against Respondent's license to practice medicine in the State of Tennessee pursuant to the Tennessee Medical Practice Act which authorizes disciplinary action against a Respondent who has violated TENN. CODE ANN. § 63-6-214(b)(2):

Violation or attempted violation, directly or indirectly, or assisting in the violation of, or conspiring to violate, any provision of this chapter or any lawful order of the board issued pursuant thereto, or any criminal statute of the state of Tennessee.

III. REASONS FOR DECISION

The Tennessee Board of Medical Examiners takes this action in order to protect the health, safety and welfare of the citizens of the State of Tennessee.

IV. ORDER

THEREFORE, in consideration of the above Findings of Fact and Conclusions of Law, it is **ORDERED, ADJUDGED, and DECREED** as follows:

10. The Tennessee medical license of Chip H. Fountain, M.D., license number 37909, is hereby **REVOKED**, commencing the date of ratification of this Agreed Order.
11. Respondent must pay, pursuant to TENN. CODE ANN. § 63-6-214(k) and Rule 0880-2-.12(1)(j) of the Official Compilation Rules and Regulations of the State of Tennessee, the actual and reasonable costs of prosecuting this case to the extent allowed by law, including all costs assessed against the Board by the Division's Bureau of Investigations in connection with the prosecution of this matter. These costs will be established by an Affidavit of Costs prepared and filed by counsel for the Department. The maximum amount for the assessment of costs shall be seven-thousand and five-hundred dollars (\$7,500.00).
12. Respondent understands that this is a formal disciplinary action and will be reported to the Health Integrity and Protection Data Bank (H.I.P.D.B.) and/or similar agency.

V. NOTICE

13. Any and all costs shall be paid in full within thirty (30) days from the issuance of the Affidavit of Costs by submitting a **certified check, cashier's check, or money order** payable to the **State of Tennessee**, which shall be mailed or delivered to: **Disciplinary Coordinator, The Division of Health Related Boards, Tennessee Department of**

Health, 227 French Landing, Suite 300, Heritage Place Metro Center, Nashville, Tennessee 37243. A notation shall be placed on said check that it is payable for the costs of **Chip H. Fountain, M.D., Docket Number 17.18-099874A.**

So **ORDERED** by the Tennessee Board of Medical Examiners this ____ day of May, 2009.

Chairperson
Tennessee Board of Medical Examiners

APPROVED FOR ENTRY:

Chip H. Fountain, M.D.
Respondent
Tennessee License Number 37909
Chelsea Bay Family Psychiatry
2370 Quinlano Lake Road, Suite 110
Cookeville, Tennessee 38506

DATE

Jack D. Lowery, Jr., Esq.
Attorney for the Respondent
Lowery Lowery & Cherry, PLLC
Lowery Building
150 Public Square
Lebanon, Tennessee 37087

DATE

Andrea Huddleston, B.P.R. 016155
Assistant General Counsel
Office of General Counsel
Tennessee Department of Health
Plaza 1, Suite 210
220 Athens Way
Nashville, Tennessee 37243
(615) 741-1611

DATE

CERTIFICATE OF FILING

This Order was received for filing in the Office of the Tennessee Secretary of State, Administrative Procedures Division, and became effective on the _____ day of May, 2009.

Thomas G. Stovall, Director
Administrative Procedures Division

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this document has been served upon Respondent, Chip H. Fountain, M.D., through Respondent's attorney, Jack D. Lowery, Jr., Esq., Lowery Lowery & Cherry, PLLC, Lowery Building, 150 Public Square, Lebanon, Tennessee 37087, by delivering same in the United States First Class Mail, Postage Pre-Paid, with sufficient postage thereon to reach its destination.

This the _____ day of May, 2009.

Andrea Huddleston
Assistant General Counsel
Tennessee Department of Health