

LICENSE NO. J-4071

IN THE MATTER OF  
THE LICENSE OF  
NORA J. DAVIS, M.D.

BEFORE THE  
TEXAS MEDICAL BOARD

AGREED ORDER

On the 29 day of October, 2010, came on to be heard before the Texas Medical Board (the Board), duly in session, the matter of the license of Nora J. Davis, M.D. (Respondent).

On July 22, 2010, Respondent appeared in person, with counsel Joaquin Jimenez, 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 John D. Ellis, Jr., J.D., a member of the Board, and Kathy C. Flanagan, M.D., a member of a District Review Committee. Sarah Tuthill represented Board staff.

BOARD CHARGES

Board staff charged that Respondent non-therapeutically prescribed controlled substances and other medications and failed to maintain adequate medical records for four patients (Patient A, B, C, and D).

BOARD HISTORY

Respondent has not received a previous disciplinary order from the Board.

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 that:

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. J-4071. Respondent was originally issued this license to practice medicine in Texas on November 20, 1993. Respondent is not licensed to practice in any other state.
- c. Respondent is primarily engaged in the practice of psychiatry. Respondent is not board certified.
- d. Respondent is 46 years of age.

2. Specific Findings:

a. Patient A:

i. Standard of Care:

- I. Between approximately 2005 and 2009, Respondent treated Patient A for a variety of mental and physical disorders, including Attention Deficit Disorder (ADD), anxiety, and chronic back pain.
  - II. With regard to her treatment of Patient A's back pain, Respondent failed to consistently complete a proper history, initial and follow up examinations, monitor Patient A's ongoing condition, or attempt alternative therapies to narcotics.
- ii. Medical Records: Respondent failed to record multiple prescriptions and refills of medications provided in 2008 in the medical record.

b. Patient B:

i. Standard of Care:

- I. Patient B is the child of Patient A. Respondent initially diagnosed Patient B with ADD and obsessive compulsive disorder.
- II. Respondent prescribed Adderall without ordering appropriate laboratory work or monitoring Patient B's baseline weight prior to initiating or during the treatment.
- III. Respondent made several medication changes solely based upon telephone consults with Patient A.

ii. Medical Records:

- I. Respondent failed to accurately document several prescriptions provided to Patient B in the medical record.
- II. Overall, Respondent failed to thoroughly document her rationale in formulating her diagnoses and treatment plans.

c. Patient C:

i. Standard of Care:

- I. Patient C was Respondent's acquaintance. Respondent treated Patient C from approximately July until October of 2008.
- II. Respondent's initial evaluation failed to include an adequate medical or psychiatric history.
- III. Respondent diagnosed Patient C with anxiety disorder and attention deficit disorder without completing a thorough workup, ordering appropriate laboratory testing, or documenting sufficient data that would support her diagnoses made.

- ii. Medical Records: Respondent prescribed Patient C medications on several occasions without documenting corresponding progress notes.

d. Patient D:

i. Standard of Care:

- I. Patient D was Respondent's employee at the time of her treatment provided.
  - II. Respondent diagnosed and treated Patient D for generalized anxiety disorder and ADD without completing or documenting a thorough workup.
  - III. Respondent diagnosed and treated Patient D for an upper respiratory infection without completing or documenting an objective examination that would support her treatment provided.
- ii. Medical Records: Respondent prescribed Patient D medications on several occasions without documenting corresponding progress notes.
3. Mitigating Factors:
- a. At the time of Respondent's treatment provided, Patient A was employed as a truck driver. Patient A's occupation made it difficult for him to consistently present to Respondent's office for follow up appointments, and also made it very difficult for him to bring Patient B in for follow up evaluations.
  - b. Respondent has cooperated in the investigation of the allegations related to this Agreed Order. Respondent's cooperation, through consent to this Agreed Order, pursuant to the provisions of Section 164.002 the Act, will save money and resources for the State of Texas. 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)(3) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's violation of a rule adopted under this Act,

specifically Board Rule 165.1, rules regarding the maintenance of adequate medical records; and 170.3, rules and guidelines for the treatment of chronic pain.

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 further defined by Board Rule(s): 190.8(1)(A), failure to treat a patient according to the generally accepted standard of care; 190.8(1)(B), failure to use proper diligence in one's professional practice; 190.8(1)(D), failure to safeguard against potential complications; and 190.8(1)(H), failure to disclose reasonable alternative treatments to a proposed procedure or treatment.

4. Sections 164.052(a)(5) and 164.053(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent prescribing or administering a drug or treatment that is nontherapeutic in nature or nontherapeutic in the manner the drug or treatment is administered or prescribed.

5. 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.

6. Section 164.002(a) of the Act authorizes the Board to resolve and make a disposition of this matter through an Agreed Order.

7. 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. Within one year from the date of the entry of this Order, Respondent shall enroll in and successfully complete at least 24 hours of continuing medical education (CME), to be divided as follows:

- a. A minimum of eight hours in the subject area of medical recordkeeping;
- b. A minimum of eight hours in the subject area of risk management; and
- c. A minimum of eight hours in the subject area of psychopharmacology.

For all CME requirements set forth in this Ordering Paragraph, all courses must be approved for Category I credits by the American Medical Association, and approved in writing

and in advance by the Compliance Division of the Board. To obtain approval for the course, Respondent shall submit in writing to the Compliance Division of the Board information on the course, to include at least a reasonably detailed description of the course content and faculty, as well as the 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. The CME requirements set forth in this paragraph shall be in addition to all other CME required for licensure maintenance.

2. Within one year from the date of the entry of this Order, Respondent shall enroll in and successfully complete the course entitled "Maintaining Proper Boundaries," offered by the University of Texas Southwestern Medical Center and the Santé Institute of Professional Education and Research, or an equivalent course approved in advance by the Executive Director. To obtain approval for a 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.

3. 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 Medical Jurisprudence Examination ("JP Exam") given by the Texas Medical 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 medical 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 Medical Practice 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 MEDICAL PRACTICE 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.

4. Respondent shall pay an administrative penalty in the amount of \$1,000 within 60 days of the date of the entry of this Order. The administrative penalty shall be paid in a single payment by cashier's check or money order payable to the Texas Medical Board and shall be submitted to the Board for routing so as to be remitted to the Comptroller of Texas for deposit in the general revenue fund. Respondent's failure to pay the administrative penalty as ordered shall constitute grounds for further disciplinary action by the Board, and may result in a referral by the Executive Director of the Board for collection by the Office of the Attorney General.

5. Respondent shall comply with all the provisions of the Act and other statutes regulating the Respondent's practice.

6. 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.

7. 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 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 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 days notice, as provided in 22 Texas Administrative Code §187.44(4).

8. 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.

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

10. This Order shall automatically terminate upon Respondent's submission of sufficient evidence to the Compliance Division of the Board that Respondent successfully completed the requirements ordered in Ordering Paragraph Nos. 1 to 4.

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, NORA J. DAVIS, 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: 10/20<sup>1</sup>, 2010.

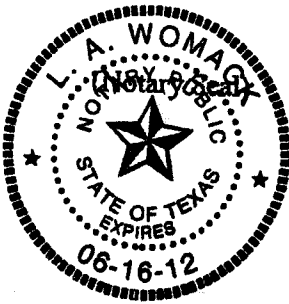
Nora J. Davis MD  
NORA J. DAVIS, M.D.  
Respondent

STATE OF Texas  
COUNTY OF Harris

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SWORN TO AND ACKNOWLEDGED BEFORE ME, the undersigned Notary Public, on this 20<sup>th</sup> day of October, 2010.

[Signature]  
Signature of Notary Public



SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this 29  
day of October, 2010.

Melinda McMichael MD for  
Irvin E. Zeitler, Jr., D.O., President  
Texas Medical Board