

LICENSE NO. K-5062

IN THE MATTER OF

THE LICENSE OF

OLUROTIMI AYODELE ASHAYE, M.D.

BEFORE THE

TEXAS MEDICAL BOARD

AGREED ORDER

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 Olurotimi Ayodele Ashaye, M.D. (Respondent).

On September 30, 2015, Respondent appeared in person, without counsel, 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 Frank Denton, a member of the Board, and Stanley Duchman, M.D., a member of a District Review Committee (Panel). Farhan Khan represented Board Staff.

BOARD CHARGES

Board Staff charged that Respondent was the subject of a disciplinary action by the Medical Board of Idaho based on an investigation into Respondent's care, treatment, and prescribing of controlled substances to four patients.

BOARD HISTORY

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

Upon the recommendation of the Panel, 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. K-5062. Respondent was originally issued this license to practice medicine in Texas on May 16, 1998. Respondent is also licensed to practice in Oregon, Indiana, and Idaho.
- c. Respondent is 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.
- d. Respondent is 46 years of age.

2. Specific Findings:

- a. On April 27, 2015, the Medical Board of Idaho ordered Respondent to limit his prescribing of controlled substances to a hospital setting and for a limited duration, to limit Suboxone prescribing for the treatment of addiction only and to pay investigative costs in the amount of \$1,942.12.
- b. This action by the Medical Board of Idaho was the result of findings that Respondent prescribed excessive amounts of opioids and controlled substances to pain patients without adequate monitoring, without using chronic pain treatment agreements, without reviewing prescription drug profiles, and without using alternate treatment modalities.

3. Mitigating Factors:

In determining the appropriate sanctions in this matter, the Panel considered the following mitigating factors:

- a. Respondent has no previous disciplinary history with the Board.

- b. 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)(9) of the Act authorizes the Board to take disciplinary action against Respondent based on disciplinary action taken against Respondent by another state or the uniformed services of the United States.
3. 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.
4. Section 164.002(a) of the Act authorizes the Board to resolve and make a disposition of this matter through an Agreed Order.
5. 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. Respondent shall not prescribe, administer, dispense, order, write orders for, or give verbal orders for any opioids or controlled substances for pain for any patient for any purpose, except as follows:
  - a. Respondent shall be allowed to continue to prescribe Suboxone/Subutex narcotics solely for treatment of addiction.

- b. Respondent may prescribe for treatment of pain for patients in hospitals where Respondent has privileges during the course of the patient's in hospital stay.
- c. Respondent may write bridge prescriptions for patients upon discharge from the hospital which prescriptions shall not exceed 15 days.

2. With respect to Respondent's treatment of patients with Suboxone/Subutex for addiction, Respondent shall fully comply with all federal regulations applicable to the use of Suboxone/Subutex.

3. In order to have the restrictions in Ordering Paragraphs Nos. 1 or 2 modified or terminated, Respondent shall petition the Board in writing and shall personally appear before a panel of Board representatives and provide clear and convincing evidence and information which, in the discretion of the Board, adequately indicates that Respondent is competent to resume prescribing controlled substances.

Upon presentation of clear and convincing evidence to the Board that Respondent is competent to resume prescribing controlled substances, Respondent may be permitted to resume prescribing controlled substances under such terms and conditions which the Board in its discretion determines are necessary to adequately protect the public.

Petitions made pursuant to this Ordering Paragraph may not be made inconsistent with the terms set forth in Ordering Paragraph No. 12.

4. Respondent shall comply with this Order and any terms and conditions imposed by the Medical Board of Idaho. Any violation of the terms and conditions of this Order or any terms and conditions imposed by the Idaho Medical Board shall constitute a violation of this Order and a basis for disciplinary action against Respondent pursuant to the Act.

5. 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 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.

6. 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) Respondent's

license is subsequently cancelled for nonpayment of licensure fees; (c) this Order is stayed or enjoined by Court Order; or (d) for any period of time longer than 60 consecutive days that Respondent does not actively practice medicine. If Respondent leaves Texas to practice elsewhere or ceases active practice for more than 60 consecutive days, Respondent shall immediately notify the Board in writing. Upon Respondent's return to active practice or return to practice in Texas, Respondent shall notify the Board in writing. When the period of extension ends, 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.

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

8. 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.

9. 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).

10. 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.

11. Respondent shall not be permitted to supervise or delegate prescriptive authority to a physician assistant or an advanced practice nurse or to supervise a surgical assistant.

12. 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. If, after the passage of the one-year period, Respondent wishes to seek amendment or termination of these conditions, Respondent may petition the Board in writing consistent with the other requirements set forth in this Order. The Board may inquire into the request and may, in its sole discretion, grant or deny the petition without further appeal or review. 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.

**[SIGNATURE PAGES FOLLOW]**



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



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