

LICENSE NO. C-8922

IN THE MATTER OF
THE LICENSE OF
CECIL ADISON CHILDERS, JR., M.D.

BEFORE THE
TEXAS MEDICAL BOARD

AGREED ORDER

On the 12th day of December, 2008, came on to be heard before the Texas Medical Board (the "Board"), duly in session, the matter of the license of Cecil Adison Childers, Jr., M.D. ("Respondent").

On October 21, 2008, Respondent appeared in person, with counsel Greg C. Waddill III, 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 Julie Attebury, a member of the Board, and Richard Strax, M.D., a member of a District Review Committee. Claudia Kirk represented Board staff.

Upon the 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 Agreed Order.

FINDINGS OF FACT

The Board finds that:

1. 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.
2. Respondent currently holds Texas Medical License No. C-8922. Respondent was originally issued this license to practice medicine in Texas on August 26, 1961. Respondent is not licensed to practice in any other state.

3. Respondent is primarily engaged in the practice of psychiatry. Respondent is board certified by the American Board of Psychiatry, a member of the American Board of Medical Specialties.

4. Respondent is 75 years of age.

5. Respondent has had a prior disciplinary order from the Board. The Board entered an Agreed Order on August 25, 2005, based on Respondent's non-therapeutic prescribing and inadequate medical records documentation. Specifically, Respondent's documentation failed to support the rationale for the prescribing and substitution of medicine. The Agreed Order required Respondent to obtain 25 hours of continuing medical education ("CME") in psychopharmacology and dual diagnosis. The Agreed Order terminated upon completion of the CME requirement.

6. On July 28, 2003, Respondent first saw patient J.B. at his medical practice site. Respondent diagnosed J.B. with Bipolar Disorder. Respondent failed to fill in the initial evaluation form in J.B.'s medical record and did not include any other substantiating data to support Respondent's diagnosis of Bipolar Disorder.

7. On August 17, 2004, Respondent again saw J.B. Respondent noted that J.B. had increased depression. Respondent also noted that he provided medication education and supportive psychotherapy. J.B. also told Respondent her truck was stolen with her medication. J.B. told Respondent she had a drug problem and her anxiety had gone up. Respondent prescribed Xanax 2 mg qid and Valium 2 mg qid.

8. Respondent's next appointment with J.B. was on September 13, 2004. J.B. told Respondent she was addicted to heroin, but could not afford a methadone clinic. Respondent noted in the medical record that J.B. told him, "I'm a drug addict," I need something to stop the craving, and "I'm having panic attacks." Respondent also noted she was having major depression. Respondent also noted that he provided medication education and supportive psychotherapy. Respondent prescribed the following medications: Depakote 550 ER once daily; Lexapro 10 mg TID; Xanax 2 mg QID; and Gabatril 2 mg QID.

9. On January 10, 2005, Respondent saw J.B. and continued the medications Valium 10 mg hs, and Xanax 2 mg qid.

10. On February 21, 2005, J.B. stated that she was out of the medication Xanax. Respondent refilled the prescription for 30 more tablets.

11. According to J.B.'s father, J.B. died from a methodone overdose on May 29, 2005.

12. The Board concluded that Respondent did not have a documented patient evaluation or treatment plan for the diagnosis of bipolar depression to justify the initiation of treatment and the medical basis for other medications he prescribed over time. Furthermore, the Board could not find documentation in the medical record to support the Respondent's claims he evaluated the patient himself in making the diagnosis.

13. 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 of Fact, 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, failure to maintain adequate medical records

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 meet the standard of care; and 190.8(1)(C), failure to use proper diligence in one's professional practice.

4. 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. Such sanctions include: revocation, suspension, probation, public reprimand, limitation or restriction on practice, counseling or treatment, required educational or counseling programs, monitored practice, public service, and an administrative penalty.

5. Section 164.002(a) of the 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 shall be subject to the following terms and conditions.

1. Respondent's practice shall be monitored by a physician ("monitor"), in accordance with §164.001(b)(7) of the Act, for a period of one year following the date of the entry of this Order. The Compliance Division of the Board shall designate the monitor and may change the monitor at any time for any reason. The monitor shall have expertise in a similar specialty area as Respondent. The Compliance Division shall provide a copy of this Order to the monitor, together with other information necessary to assist the monitor.

a. As requested by the Compliance Division, Respondent shall prepare and provide complete legible copies of selected patient medical and billing records ("selected records"). The Compliance Division shall select records for at least 30 patients seen by Respondent during each three-month period following the last day of the month of entry of this Order ("reporting period"). The Compliance Division may select records for more than 30 patients, up to 10 percent of the patients seen during a reporting period. If Respondent fails to see at least 30 patients during any three-month period, the term of this Order shall be extended until Respondent can submit a sufficient number of records for a monitor to review.

b. The monitor shall perform the following duties:

- 1) Personally review the selected records;
- 2) Prepare written reports documenting any perceived deficiencies and any recommendations to improve Respondent's practice of medicine or assist in the ongoing monitoring process. Reports shall be submitted as requested by the Compliance Division; and
- 3) Perform any other duty that the Compliance Division determines will assist the effective monitoring of Respondent's practice.

c. The Compliance Division shall provide to Respondent a copy of any deficiencies or recommendations submitted by the monitor. Respondent shall implement the recommendations as directed by the Compliance Division.

d. The monitor shall be the agent of the Board, but shall be compensated by the Respondent through the Board. Such compensation and any costs incurred by the monitor shall be paid by Respondent to the Board and remitted by the Board to the monitor. Respondent shall not charge the compensation and costs paid to the monitor to any patients.

2. The time period of this Order shall be extended for any period of time that (a) Respondent subsequently resides or practices outside the State of Texas, (b) Respondent's license is subsequently canceled for nonpayment of licensure fees, or (c) this Order is stayed or enjoined by Court Order. If Respondent leaves Texas to live or practice elsewhere, Respondent shall immediately notify the Board in writing of the dates of Respondent's departure from and subsequent return to Texas. 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 extended Order. Respondent shall pay all fees for reinstatement or renewal of a license covering the period of extension.

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

4. 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.

5. Respondent shall inform the Board in writing of any change of Respondent's mailing or practice address within 10 days of the address change. This information shall be submitted to the Permits Department and the Director of Enforcement 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 the Act.

6. 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. 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).

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

8. This Order shall automatically terminate only upon the provision of evidence to the Board demonstrating that Respondent has successfully completed the requirements in Ordering Paragraph No. 1.

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, CECIL ADISON CHILDERS, Jr., 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: _____, 2008.

CECIL ADISON CHILDERS, Jr., M.D.
Respondent

STATE OF _____ §
 §
COUNTY OF _____ §

SWORN TO AND ACKNOWLEDGED BEFORE ME, the undersigned Notary Public, on this _____ day of _____, 2008.

(Notary Seal)

Signature of Notary Public

SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this
_____ day of _____, 2008.

Roberta M. Kalafut, D.O., President
Texas Medical Board

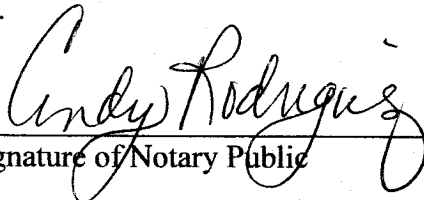
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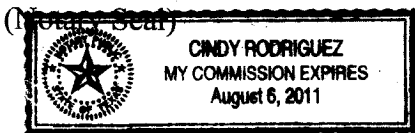
DATED: 11/25/08, 2008.


CECIL ADISON CHILDERS, Jr., M.D.
Respondent

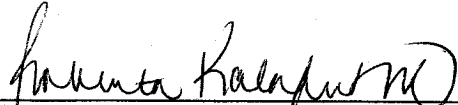
STATE OF Texas §
COUNTY OF Muess §
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SWORN TO AND ACKNOWLEDGED BEFORE ME, the undersigned Notary Public, on this 25th day of November, 2008.


Signature of Notary Public



SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this
12th day of December, 2008.



Roberta M. Kalafut, D.O., President
Texas Medical Board