

IN THE MATTER OF  
THE LICENSE OF  
GREGORY SIMON VAGSHENIAN, M.D.

BEFORE THE  
TEXAS MEDICAL BOARD

AGREED MODIFICATION ORDER

On the 7th day of April, 2006, came on to be heard before the Texas Medical Board ("the Board"), duly in session, the matter of the license of Gregory Simon Vagshenian, M.D. ("Respondent").

On January 17, 2006 Respondent appeared at an Informal Show Compliance Proceeding and Settlement Conference in response to Respondent's request for a termination of his Mediated Agreed Order, a copy of which is referred to and incorporated herein. Respondent appeared with counsel, Courtney Newton and Tony Cobos. Scott M. Freshour represented Board Staff. The Board's Representatives were Elvira Pascua-Lim, M.D., and Timothy J. Turner, members of the Board.

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 TEX. OCC. CODE ANN. Title 3, Subtitle B (the "Act") or the Rules of the Board.
2. Respondent currently holds Texas Medical License No. J-8155. Respondent was originally issued this license to practice medicine in Texas on June 28, 1995.

3. Respondent is primarily engaged in the practice of psychiatry. Respondent is board certified in this specialty by the American Board of Psychiatry and Neurology.

4. Respondent is not currently practicing medicine.

5. Respondent has previously been subject of disciplinary action by the Board by virtue of an order of temporary suspension, and the current mediated agreed order that is in effect. The basis for the current order relates to Respondent's Class C misdemeanor convictions for simple assault on three male patients at a VA clinic in Austin, Texas, which were resolved with \$500 penalties for each count.

6. A letter was written by Judge Jon Wisser clarifying that Respondent's Class C misdemeanor convictions were not of a sexual nature and explaining that Respondent was acquitted of sexual assault charges.

7. Respondent has petitioned the Board to terminate this order. The basis for this request is that Respondent has applied to practice medicine for the U.S. military, and he claims the military will not allow him to practice without an unrestricted license.

#### 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)(4) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's conviction for an act that violates a law of this state that is connected with Respondent's practice of medicine.

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. 22 Tex. Admin. Code §187.43 authorizes the Board to consider petitions for modification of agreed orders.

### 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 indefinitely from the date of the signing of this Order by the presiding officer of the Board:

1. Respondent may practice medicine only in a military setting approved by the U.S. Department of Defense only as an active duty soldier/military personnel in an active duty capacity. Upon acceptance within such a military setting, Respondent shall provide evidence to the Board of Respondent's new assignment. Respondent may also practice administrative medicine as previously defined in the Mediated Agreed Order. Respondent is not undertake any other practice of medicine in any setting.

2. Within one year from the entry of this Order, Respondent shall enroll in and successfully complete a course entitled, "Maintaining Proper Boundaries," sponsored by Center for Professional Health at Vanderbilt University Medical Center. Respondent shall deliver documentation of attendance and successful completion of this requirement to the Director of Compliance for the Board on or before the expiration of the time limit set forth for completion of the course.

3. Within one year following 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 State Board of Medical Examiners. 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 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 comply with all the provisions of the Act and other statutes regulating the Respondent’s practice.

5. 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.

6. Respondent shall inform the Board in writing of any change of Respondent's mailing or practice address within ten days of the address change. This information shall be submitted to the Permits 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 the Act.

7. Any violation of the terms, conditions, or requirements of this Order by Respondent shall constitute unprofessional conduct likely to deceive or defraud the public, and to injure the public, and shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act. Respondent agrees that ten 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 all notice requirements under Section 164.003 of the Medical Practice Act related to informal proceedings, and Section 2001.054(c) of the Administrative Procedure Act.

8. The above referenced conditions shall continue in full force and effect without opportunity for amendment, except for clear drafting error, for 24 months following the date of the signing of this order by the president of the board. If after the passage of the 24-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, in its sole discretion, grant or deny the petition without further appeal or review. Petitions for modification or termination may be filed only once a year thereafter.

9. Respondent shall personally appear before the Board, a committee of the Board, or a panel of Board representatives one time the first year, and each year thereafter that this Order is in effect upon written request and at the sole discretion of the board, mailed to Respondent's last known address on file with the Board at least ten calendar days before the requested appearance date. 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 Order

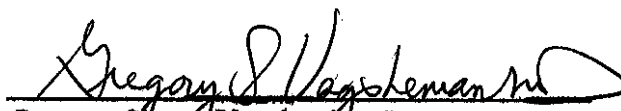
10. This order supercedes all previous orders.

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, GREGORY SIMON VAGSHENIAN, 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: 3 April, 2006, 2006.

  
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Gregory Simon Vagshenian, M.D.  
Respondent

STATE OF Texas

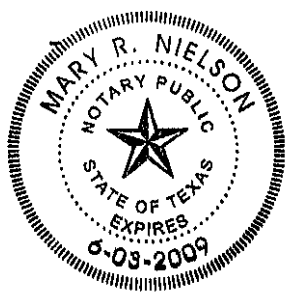
COUNTY OF Travis

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SWORN TO AND ACKNOWLEDGED BEFORE ME, the undersigned Notary Public, on this 3rd day of April, 2006.

Mary R. Nielson  
Signature of Notary Public

(Notary Seal)



Mary R. Nielson  
Printed or typed name of Notary Public  
My commission expires:  
6-3-09

7th **SIGNED AND ENTERED** by the presiding officer of the Texas Medical Board on this April day of \_\_\_\_\_, 2006.

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

HEARING CONDUCTED BY THE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS  
SOAH DOCKET NO. 503-02-2973  
LICENSE NO. J-8155

IN THE MATTER OF  
THE COMPLAINT AGAINST  
GREGORY SIMON VAGSHENIAN, M.D.

BEFORE THE  
TEXAS STATE BOARD OF  
MEDICAL EXAMINERS

MEDIATED AGREED ORDER

On the 8th day of October, 2004, 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 Gregory Simon Vagshenian, M.D. ("Respondent").

On February 15, 2002, a Disciplinary Panel of the Board temporarily suspended Respondent's license to practice medicine, based on allegations of inappropriate sexual conduct by Respondent while treating patients.

A formal Complaint was filed at SOAH on May 10, 2002, following an Informal Show Compliance and Settlement Conference ("ISC") held on March 15, 2002. A second ISC was held on June 21, 2002, and the Complaint was amended to include additional allegations on August 21, 2001.

Based on Respondent's request, the SOAH hearing was continued, pending conclusion of criminal proceedings regarding allegations similar to those included in the formal Complaint. Another ISC was held on May 20, 2004, and Board Staff amended its Complaint to include allegations regarding the criminal conviction.

On September 22, 2004, Respondent appeared in person, with counsel, Courtney Newton and Tony Cobos, at a mediation conference. Robert D. Simpson represented Board staff. The Board was represented by Paulette B. Southard, a member of the Board.

Upon the recommendation of the Board's representative 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 TEX. OCC. CODE ANN. Title 3, Subtitle B (Vernon 2004) (the "Act") or the Rules of the Board.

2. Respondent currently holds Texas Medical License No. J-8155. Respondent was originally issued this license to practice medicine in Texas on June 28, 1995. Respondent is also licensed to practice medicine in the state of California.

3. Prior to his temporary suspension, Respondent was primarily engaged in the practice of psychiatry. Respondent is board certified in this specialty by the American Board of Psychiatry and Neurology.

4. Respondent is 57 years of age.

5. Respondent has previously been the subject of disciplinary action by the Board by virtue of an order of temporary suspension entered on February 15, 2002.

6. On February 9, 2004, Respondent was convicted by the 299<sup>th</sup> Judicial District Court of Travis County, Texas in Cause Number 9034198 of the offense of assault, a Class "C" misdemeanor regarding an incident that occurred on or about February 8, 2001. Respondent was acquitted of the felony offense of sexual assault. The conviction was based on allegations regarding Respondent's actions with Patient KB in the course of his practice of medicine at the Central Texas Veterans Health Care System in their Austin, Texas clinic ("VA Clinic"). Respondent was ordered to pay a fine of \$500, however no other conditions were imposed. Findings of Fact regarding Patient KB were also included in the Board's order of temporary suspension.

7. On February 9, 2004, Respondent was convicted by the 299<sup>th</sup> Judicial District Court of Travis County, Texas in Cause Number 9030692 of the offense of assault, a Class "C" misdemeanor regarding an incident that occurred on or about April 28, 2000. Respondent was acquitted of the felony offense of sexual assault. The conviction was based on allegations regarding Respondent's actions with Patient AP in the course of his

practice of medicine at the VA Clinic. Respondent was ordered to pay a fine of \$500, however no other conditions were imposed.

8. On February 9, 2004, Respondent was convicted by the 299<sup>th</sup> Judicial District Court of Travis County, Texas in Cause Number 9030690 of the offense of assault, a Class "C" misdemeanor on each of seven counts alleging incidents that occurred on or about August 31, 1998, October 26, 1998, November 2, 1999, November 19, 1999, May 25, 2000, October 20, 2000, and February 20, 2001. Respondent was acquitted of the felony offense of sexual assault. The conviction was based on allegations regarding Respondent's actions with Patient RM in the course of his practice of medicine at the VA Clinic. Respondent was ordered to pay a fine of \$500 on each of the seven counts (total \$3,500), however no other conditions were imposed.

9. The Texas Penal Code provides that conviction for a Class "C" misdemeanor shall be punished by a fine not to exceed \$500, however no confinement in jail or imprisonment is allowed and such conviction does not impose any legal disability or disadvantage.

10. Respondent denies that he has engaged in any improper conduct with patients and asserts that triage physical examinations of patients were ordered by the VA Clinic. However, given Respondent's considerable time and effort in costly proceedings, Respondent desires to resolve this matter through this Mediated Agreed Order.

11. Respondent's cooperation, through consent to this Mediated 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 as to disputed claims, 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. Sections 164.052(a)(5) and 164.053(a)(1) of the Act authorize the Board to take disciplinary action against Respondent based on Respondent's conviction for an act that violates a law of this state that is connected with Respondent's practice of medicine.

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

4. 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 of Fact and Conclusions of Law, the Board ORDERS that:

1. Respondent's Texas license is hereby RESTRICTED under the following terms and conditions:

2. Respondent shall not engage in the practice of medicine that involves direct patient contact or the prescription of any drugs or medication for any person. Respondent shall limit his medical practice to Administrative, non-clinical medicine only. For purpose of this Order, Administrative, non-clinical medicine means, administration or management utilizing the medical and clinical knowledge, skill, and judgment of a registered medical practitioner, and capable of affecting the health and safety of the public or any person. This may include administering or managing a hospital or other health service, developing health operational policy, planning or purchasing health services, or record review of patient care and recommendations based upon such record review. Medical administration does not involve directly diagnosing or treating patients.

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 ten days of the address change. This information shall be submitted to the Permits 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 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, and to injure the public, and shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act. Respondent agrees that ten 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 all notice requirements under Section 164.003 of the Medical Practice Act related to informal proceedings, and Section 2001.054(c) of the Administrative Procedure Act.

7. 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 without further appeal or review. Petitions for modifying or terminating may be filed only once a year thereafter.

8. This Order supercedes all previous Orders of the Board.

**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, GREGORY SIMON VAGSHENIAN, 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: 12 October, 2004.

Gregory Simon Vagshenian  
Gregory Simon Vagshenian, M.D.  
Respondent

STATE OF Texas  
COUNTY OF Tarrant

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SWORN TO AND ACKNOWLEDGED BEFORE ME, the undersigned Notary Public, on this 12 day of October, 2004.

Misty Haberer  
Signature of Notary Public

(Notary Seal)



Misty Haberer  
Printed or typed name of Notary Public  
My commission expires:  
6/22/08

SIGNED AND ENTERED by the presiding officer of the Texas State Board of Medical Examiners on this 19 day of October, 2004.

Lee S. Anderson  
Lee S. Anderson, M.D., President  
Texas State Board of Medical Examiners