

LICENSE NO. D-6049

IN THE MATTER OF
THE LICENSE OF
WAYNE CHARLES JONES, M.D.

BEFORE THE
TEXAS MEDICAL BOARD

AGREED ORDER

On the 14 day of June, 2019, came on to be heard before the Texas Medical Board (Board), duly in session, the matter of the license of Wayne Charles Jones, M.D. (Respondent).

On October 31, 2018, 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 Robert Hootkins, M.D., a member of a District Review Committee (Panel). Nikki Karr represented Board staff during the ISC; Michelle A. McFaddin prepared the Agreed Order.

BOARD CHARGES

Board Staff alleges that Respondent inappropriately touched a patient while making inappropriate comments. No chaperone was present during the patient's physical examination.

BOARD HISTORY

Respondent has previously been the subject of disciplinary action by the Board.

On or about May 19, 2000, the Board entered into an Agreed Order with Respondent that imposed certain terms and conditions: (1) Respondent's license to practice medicine was restricted for a period of three years; (2) he was required to undergo practice monitoring; (3) he was required to maintain copies of all prescriptions and drug logs; and (4) he was required to successfully complete 50 hours of continuing medical education (CME). This action was based on Respondent's failure to document his justification for prescribing controlled substances to multiple patients, some of whom were known drug abusers.

On or about August 26, 2011, the Board entered into a Mediated Agreed Order with Respondent that also imposed certain terms and conditions: (1) chart monitoring for eight, consecutive cycles; and (2) eight hours of CME on the topic of risk management. This action

was based on Respondent's failure to adequately document psychiatric evaluations, his failure to provide adequate justification for prescriptions of controlled substances to patients, and his failure to maintain adequate medical records.

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 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, TEX. OCC. CODE ANN. §§151.001 *et seq.* (Vernon Supp. 2017) (Act) or the rules of the Board.
- b. Respondent currently holds Texas Medical License No. D-6049. Respondent was originally issued this license to practice medicine in Texas on August 27, 1969. Respondent is not licensed to practice in any other state.
- 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 75 years of age.

2. Specific Panel Findings:

- a. Respondent inappropriately touched one patient while making inappropriate comments during an office visit; no chaperone was present during the patient's physical examination.
- b. Respondent has no independent recollection of his encounter with the patient during the office visit, relying solely on the patient's medical record.

- c. Despite the fact that half of his patients are female, he has no policy of using a chaperone during his examination of his female patients and could not recollect whether he had ever used a chaperone.
3. Mitigating Factors:
- In determining the appropriate sanctions in this matter, the Panel considered the following mitigating factors: 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)(1) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's commission of an act prohibited under §164.052 of the Act.
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 190.8(1)(C), failure to use proper diligence in one's professional practice.
4. Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based upon Respondent's unprofessional or dishonorable conduct that is likely to deceive or defraud the public, as provided in §164.053 of the Act, or injure the public, as further defined by Board Rules: 190.8(2)(E), engaging in sexual contact with a patient; 190.8(2)(F), engaging in sexually inappropriate behavior or comments directed towards a patient; and 190.8(2)(K), behaving in an abusive or assaultive manner towards a patient or patient's family that interferes with patient care.

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. Respondent's Texas license is hereby RESTRICTED as follows: Respondent shall not care, treat, or prescribe to any female patients.

2. **Competency Evaluation.** Within 60 days from the date of the entry of this Order, Respondent shall undergo a competency evaluation to determine whether Respondent is physically, mentally, and otherwise competent to safely practice medicine. Such evidence and information shall include at a minimum, but shall not be limited to, complete legible copies of medical records and reports of psychological and neuropsychiatric evaluations conducted by or under the direction of a psychiatrist certified by the American Board of Medical Specialties in Psychiatry, approved in writing in advance by the Executive Director of the Board, addressing Respondent's current mental and physical status and clearly indicating that Respondent is able to safely practice medicine. Such records, reports, and evaluations shall specifically address any potential or actual impairment of Respondent due to substance abuse or an organic mental condition, and shall address any tendencies toward compulsive behavior, relapse, recidivism, or recurrence in regard to the possibility of actions, conditions, or misconduct similar to that described in the preceding findings of fact. A copy of this Order shall be provided by Respondent to the approved psychiatrist as a reference for the evaluation, and as authorization for the psychiatrist to provide to the Board any and all records and reports related to the evaluations conducted pursuant to this paragraph. Respondent shall execute any and all releases for medical records necessary to effectuate the provisions of this paragraph.

3. Within one year from the date of the entry of this Order, Respondent shall enroll in and successfully complete the professional boundaries course offered by University or the

University of California San Diego Physician Assessment and Clinical Education (PACE) program or an equivalent course approved in advance by the Executive Director. To obtain approval for a course other than the PACE 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.

4. 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.

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 in Texas 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 showing that the Order was delivered to all such facilities.

6. Pursuant to Board Rule 189.15, 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) this Order is stayed or enjoined by Court Order; or (c) for any period of time longer than 60 consecutive days that Respondent does not actively practice medicine and such cessation in practice is NOT due to a suspension of Respondent's license. Respondent shall immediately notify the Board in writing in the event that Respondent leaves Texas to practice elsewhere or ceases active practice for more than 60 consecutive days. Upon Respondent's return to active practice or return to Texas, Respondent shall notify the Board in writing. Upon return to Texas or active practice, 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. Tolling shall be in accordance with Board Rule 189.15.

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 45-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 be permitted to supervise and delegate prescriptive authority to physician assistants and advanced practice nurses and to supervise surgical assistants.

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. 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)

I, WAYNE CHARLES JONES, 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: March 27th, 2019.

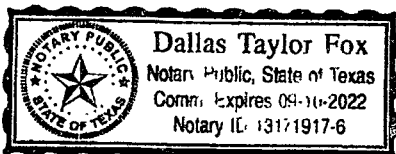
Wayne Charles Jones M.D.
WAYNE CHARLES JONES, M.D.
Respondent

STATE OF TEXAS §
COUNTY OF Dallas §
§

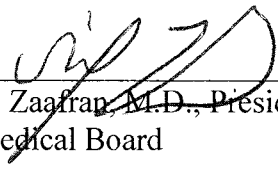
SWORN TO AND ACKNOWLEDGED BEFORE ME, the undersigned Notary Public, on this 27th day of March, 2019.

[Signature]
Signature of Notary Public

(Notary Seal)



SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this
14 day of June, 2019.



Sherif Z. Zaafran, M.D., President
Texas Medical Board