

LICENSE NO. G-9499

IN THE MATTER OF
THE LICENSE OF
ARNOLD WALTER MECH, M.D.

BEFORE THE
TEXAS MEDICAL BOARD

AGREED ORDER

On the 16 day of August, 2019, came on to be heard before the Texas Medical Board (the Board), duly in session, the matter of the license of Arnold Walter Mech, M.D. (Respondent).

On April 1, 2019, Respondent appeared in person, with counsel Ryan D. Wozny, 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 Margaret C. McNeese, M.D., a member of the Board, and Annette Raggette, a member of a District Review Committee (Panel). Samer Shobassy represented Board staff.

BOARD CHARGES

Board staff charged Respondent with standard of care violations and unprofessional conduct related to a pattern of lack of diligence in Respondent's practice of medicine and compliance with the Board. Respondent failed to notify patients concerning the relocation from his former practice address, which caused confusion and difficulty for patients seeking continuity of care or release of their medical records. Additionally, Respondent failed to timely cooperate with Board staff requests for information and medical records through several Board issued subpoenas.

BOARD HISTORY

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

On August 27, 2008, the Board entered an Agreed Order requiring Respondent to be subject to a Board chart monitor's quarterly review of medical records for five years; to obtain on an annual basis 20 hours of continuing medical education (CME) in child and adolescent psychopathology (10 hours) and child and adolescent psychopharmacology (10 hours); to obtain

annually for the first two years 10 hours of CME in medical record-keeping; and to pay an administrative fee of \$2500. The Order was based on Respondent's use of psychotropic medication, some in high doses, in the treatment of a child. In addition, Respondent failed to document adequately in the patient's medical records.

On August 26, 2011, the Board entered an Agreed Order requiring Respondent pay an administrative fee of \$2000 within 60 days. The Order was based on Respondent prescribing controlled substances after his DPS controlled substances registration expired.

On August 31, 2012, the Board entered a Modified Agreed Order modifying the 2008 Order to terminate the chart-monitoring requirement and requiring Respondent to complete within one year four hours of CME in risk management and four hours in medical record-keeping, based on Respondent's compliance with the 2008 Order except for his lacking three hours of required CME.

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, Texas Occupations Code (the Act) or the Rules of the Board.
 - b. Respondent currently holds Texas Medical License No. G-9499. Respondent was originally issued this license to practice medicine in Texas on February 22, 1986. 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 66 years of age.

2. Specific Panel Findings:

- a. Respondent failed to timely respond to the Board's request for information and failed to timely respond to subpoenas for medical records for multiple Board investigations.
- b. Respondent failed to timely update his address with the Board, and failed to timely ensure notice of relocation to patients which affected continuity of care for some patients.
- c. For one patient, Respondent's failure to timely provide the patient with a copy of her 72-hour electroencephalogram (EEG) report violated the standard of care.
- d. Respondent's failure to provide proper notice upon moving his practice affected several patients.

3. Mitigating Factors:

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

- a. Circumstances existed beyond Respondent's control that resulted in Respondent moving his practice. As a result, Respondent was unable to provide timely notice to his patients and unable to access records to timely provide to 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.
- c. 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 159.006(a) & (d) of the Act authorize the Board to take disciplinary action against Respondent based on Respondent's failure to release medical records pursuant to a written release within 15 days following receipt of the request.

3. Section 160.009(b) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's failure to comply with a board subpoena.

4. Section 164.051(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent committing an act prohibited under Section 164.052.

5. 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 Rules: 165.2(a) & (b), failure to release medical records pursuant to a written release within 15 business days following receipt of the request; 165.5(b)(4), failure to provide notice to patients of physician's intentions to relocate by notice placed in a conspicuous location in or on the façade of the physician's office announcing the relocation of the practice 30 days prior to the relocation; 166.1(d), failure to notify the Board in writing within 30 days of a physician's change of mailing or practice address or professional name from the addresses or professional name on file with the Board; 173.3(d), failure to report a change of address to the Board within 30 days after the change occurs; and, 179.4(a), upon the request by the Board representatives, a license shall furnish to the Board copies of medical records or the original records within a reasonable time period, as prescribed at the time of the request.

6. 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 defined by Board Rules: 190.8(1)(A), failure to treat a patient according to the generally accepted standard of care; 190.8(1)(C), failure to use proper diligence in one's professional practice; 190.8(1)(D), failure to safeguard against potential complications; and 190.8(1)(J), termination of patient care without providing reasonable notice to the patient.

7. Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's unprofessional or dishonorable conduct that is likely to deceive or defraud the public, as provided by Section 164.053, or injure the public, and further defined by Board Rules: 190.8(2)(B), failure to comply with a Board request for information; 190.8(2)(C), providing false information to the board; 190.8(2)(D), failure to cooperate with Board staff; 190.8(2)(L), failure to timely respond to communications from a patient; and, 190.8(2)(P), behaving in a disruptive manner towards licensees, hospital personnel, other

medical personnel, patients, family members or others that interferes or could be reasonably expected to adversely impact the quality of care rendered to a patient.

8. 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.

9. 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 and Conclusions of Law, the Board ORDERS that Respondent shall be subject to the following terms and conditions:

1. This Agreed Order shall constitute a PUBLIC REPRIMAND of Respondent, and Respondent is hereby reprimanded.

2. Within 25 business days from the date of the entry of this Order, Respondent shall provide copies of **ALL** patients' medical records to the respective patients included in investigations that arose as a result of Respondent's change of practice address, in accordance with Board Rule 165.2. Respondent shall provide to the Compliance Division of the Board documentation, including proof of delivery, that the applicable medical records were provided to the patients timely.

3. Within one year from the date of the entry of this Order, Respondent shall enroll in and successfully complete the practice management course offered by 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 PACE courses, 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. 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) as follows: at least 12 hours in the topic of ethics; and, at least 12 hours in the topic of risk management, approved for Category I credits by the American Medical Association or American Osteopathic Association and approved in writing in advance by the Executive Director or an authorized designee. To obtain approval for the course, Respondent shall submit in writing to the Compliance Department 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 Department 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.

6. Respondent shall pay an administrative penalty in the amount of \$3,000 within one year 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.

7. 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.

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

9. 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.

10. 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-days' 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).

11. 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.

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

13. 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. 2 – 6.

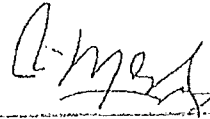
RESPONDENT WAIVES ANY FURTHER HEARINGS OR APPEALS TO THE BOARD OR TO ANY COURT IN REGARD TO ALL TERMS AND CONDITIONS OF THIS AGREED ORDER. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.

THIS ORDER IS A PUBLIC RECORD.

(SIGNATURE PAGES FOLLOW)

I, ARNOLD WALTER MECH, 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.

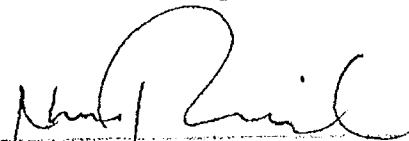
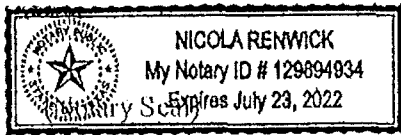
DATED: 22nd July, 2019.



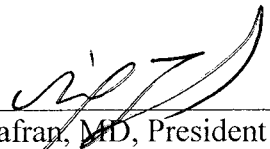
ARNOLD WALTER MECH, M.D.,
Respondent

STATE OF Texas §
COUNTY OF Dallas §

SWORN TO AND ACKNOWLEDGED BEFORE ME, the undersigned Notary Public, on this 22nd day of July, 2019.


Signature of Notary Public

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



Sherif Z. Zaafran, MD, President
Texas Medical Board