

LICENSE NO. H-4211

IN THE MATTER OF
THE LICENSE OF
ROBERT EDWARD CANTU, M.D.

BEFORE THE
TEXAS MEDICAL BOARD

AGREED ORDER ON FORMAL FILING

On the 4th day of March, 2022, came on to be heard before the Texas Medical Board (the Board), duly in session, the matter of the license of Robert Edward Cantu, M.D. (Respondent).

On October 2, 2020, Respondent appeared by videoconference, with counsel, Louis Leichter, at an Informal Show Compliance Proceeding and Settlement Conference (ISC) in response to a letter of invitation from the staff of the Board. The Board's representatives were Manuel "Manny" Quinones, a member of the Board, and Tomeka Herod, a member of a District Review Committee (Panel). Jerry Bergman represented Board staff.

The matter did not settle and was filed at the State Office of Administrative Hearings under docket number 503-21-1124. Prior to a hearing on the merits, the parties engaged in Mediation and agreed to this Order. The Board was represented by Manuel "Manny" Quinones, M.D. Respondent was represented by Louis Leichter and Darrin Dest. Jerry Bergman and Claudia Kirk represented Board staff before the State Office of Administrative Hearings.

BOARD CHARGES

Board staff alleges that Respondent committed unprofessional conduct by engaging in an inappropriate personal relationship with one patient.

BOARD HISTORY

Respondent has previously been the subject of Board discipline as follows:

1. On August 26, 2005 an Agreed Order (2005 Order) was entered based on Respondent's failure to practice in an acceptable professional manner. Respondent prescribed Adderall to a female patient with whom he had had a prior social relationship, and Respondent

did not keep medical records for her treatment. Respondent was required to take the Vanderbilt University Boundaries Course, 10 hours of Continuing Medical Education in the topic of medical record keeping and pay an administrative penalty of \$2,500.

2. On June 3, 2011, an Agreed Order (2011 Order) was entered based on Respondent's failure to maintain adequate medical records for one patient. Respondent was required to take four hours of CME in record keeping and pay an administrative penalty of \$1,000.

3. On June 15, 2018, an Agreed Order (2018 Order) was entered based on Respondent's failure to maintain professional boundaries. Respondent reinitiated the physician-patient relationship by visiting a former patient in her home while she was engaged in apparent alcohol relapse behavior. Respondent was ordered to undergo an Independent Medical Evaluation and to take the PACE boundaries course.

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. H-4211. Respondent was originally issued this license to practice medicine in Texas on December 6, 1988.
- c. Respondent is primarily engaged in psychiatry. Respondent is certified by the American Board of Psychiatry and Neurology ("ABPN"), a member of the American Board of Medical Specialties. Respondent was previously board

certified and recertified twice by the ABPN in Forensic Psychiatry and has practiced and continues to practice this subspecialty.

d. Respondent is 60 years of age.

2. Specific Panel Findings:

a. Respondent displayed unprofessional conduct by engaging in an inappropriate personal relationship with one female patient.

b. Respondent does not admit that he engaged in an inappropriate sexual relationship with this female patient and is planning to contest the pending criminal case

c. On or about December of 2021, Respondent was indicted on a charge of Assault relating to this patient's complaint and is awaiting his first court appearance. The case has not been docketed.

d. The allegations in the present case and those alleged in prior disciplinary matters before the Board do not and have never involved Respondent's forensic psychiatric practice.

e. Respondent's forensic practice constitutes approximately 30% of his practice and extends into underserved and rural communities where Respondent is often court-approved to assist the prosecution or defense in a variety of cases. Respondent has been engaged in this type of forensic work for 20 years. Respondent has multiple ongoing forensic court-approved cases where the court and the parties are relying on Respondent's continued services.

3. Mitigating Factors:

a. In determining the appropriate sanctions in this matter, the Panel considered as mitigating that Respondent has cooperated in the investigation of the allegations related to this Agreed Order.

b. Respondent neither admits nor denies the Findings of Fact and Conclusions of Law.

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.

- d. Respondent self-surrendered to law enforcement upon learning of the recent indictment and per the recommendation of the prosecutor's office was released upon his own recognizance.
- e. As of January 2022, Respondent has begun to appropriately transfer his female patients to another adequate provider.

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 Section 164.052 of the Act.
3. 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 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)(R), commission of the following violations of federal and state laws whether or not there is a complaint, indictment, or conviction: (i) any felony; (ii) any offense in which assault or battery, or the attempt of either is an essential element; (v) any misdemeanor involving moral turpitude.
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.
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 and Conclusions of Law, the Board ORDERS that Respondent shall be subject to the following terms and conditions:

1. Within 30 days of this Order's ratification, Respondent shall cease to see, examine, treat, prescribe to, provide consultation for, or otherwise practice medicine on female patients, including telemedicine. This restriction does not apply to Respondent's provision of forensic psychiatric services where he is, will be, or has been previously court approved or appointed to provide services, to cases where there is a Judicial Order or approval providing for the retention and payment of Respondent from the Court or Government funds, or to cases where Respondent is providing forensic services per retainer and fee engagements that have been ongoing, as such would be disruptive to the public health and welfare as well as the justice system.

2. Notwithstanding Ordering Paragraph No. 1, Respondent may continue to treat established female patients who he has treated for over fifteen (15) years and who are medically and clinically compromised to undergo transfer without decompensation as they are in frail health. For these patients Respondent must ensure that the patient receives a copy of this Board Order, signs a Board-approved waiver explaining the circumstances of this Order and their receipt of the Order, and the patient (or their guardian) consents to continued treatment by Respondent. For purposes of this paragraph, "established" shall indicate the uninterrupted care and management of the patient's psychiatric needs for a period of at least fifteen years. Respondent shall provide a list of these patients to his Board compliance officer and permit the compliance officer to verify that the patient meets the criteria for "established" as defined above.

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

4. 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 the University of Vanderbilt or an equivalent course approved in advance by the Executive Director or a designee. To obtain approval for a course other than the Vanderbilt 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.

5. Within one year from the date of the entry of this Order, Respondent shall enroll in and successfully complete at least 16 hours of continuing medical education (CME) approved

for Category I credits by the American Medical Association or the American Osteopathic Association, divided as follows: eight hours in the topic of Ethics, and eight hours in the topic of Risk Management; each approved in writing in advance by the Executive Director or a 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. By entering this Order Respondent understands and acknowledges that the Board is entitled to, expressly reserves, and is not waiving any and all of its rights to take further action against Respondent's license, if Respondent is found guilty, pleads guilty, takes deferred adjudication, or enters any other form of plea bargain or agreed resolution, in any criminal matters related to the investigations (Investigation Log 18-9032, Legal Number 20-0929) resolved with this Order so long as any such agreement constitutes an additional violation of the Medical Practice Act or Board Rules.

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 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 that the Order was delivered to all such facilities.

8. 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.

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 practice or mailing address within 10 days of the address change. This information shall be submitted to the Registrations 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 with this Agreed Order is adequate and reasonable notice prior to the initiation of formal disciplinary action. Respondent agrees that any proceeding related to this Order may be held in person, by teleconference, or by videoconference at the discretion of the Board.

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 in accordance with OP #1.

13. The above-referenced conditions shall continue in full force and effect without opportunity for amendment, except for clear error in drafting, **until Respondent's criminal proceeding that is subject to this investigation and order is resolved**, which for the purposes of this Order means an initial conviction, deferred adjudication, deferred disposition, or any other form of plea bargain or agreed resolution; or dismissal of allegations with prejudice so that

Respondent cannot be subject to being charged with crimes arising from the same incidents or conduct.

Upon presentation of evidence that **Respondent's criminal proceeding that is subject to this investigation and Order is resolved**, if 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.

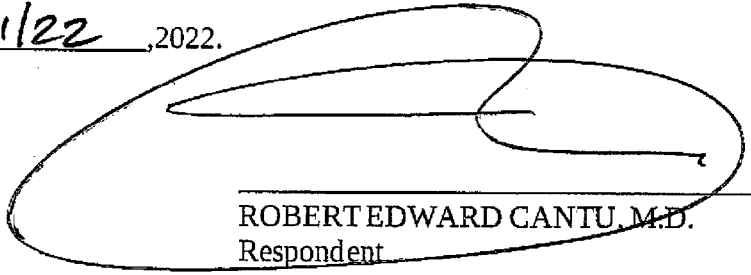
RESPONDENT WAIVES ANY FURTHER HEARINGS OR APPEALS TO THE BOARD OR TO ANY COURT IN REGARD TO ALL TERMS AND CONDITIONS OF THIS AGREED ORDER. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.

THIS ORDER IS A PUBLIC RECORD.

(SIGNATURE PAGES FOLLOW)

I, ROBERT EDWARD CANTU, 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.

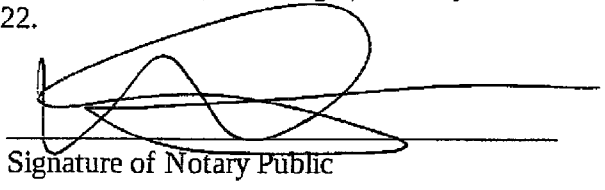
DATED: 2/1/22, 2022.


ROBERT EDWARD CANTU, M.D.
Respondent

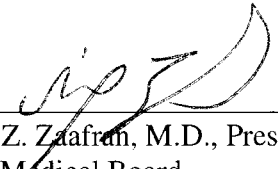
STATE OF TEXAS §
COUNTY OF TRAVIS §

SWORN TO AND ACKNOWLEDGED BEFORE ME, the undersigned Notary Public, on this 1 day of FEBRUARY, 2022.




Signature of Notary Public

4th SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this
day of March, 2022.



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