

IN THE MATTER OF

THE LICENSE OF

DAVID WILLIAMS CARDWELL, M.D.

BEFORE THE

TEXAS MEDICAL BOARD

AGREED ORDER OF VOLUNTARY SUSPENSION

On the 7th day of February, 2014, came on to be heard before the Texas Medical Board (the Board), duly in session, the matter of the license of David W. Cardwell, M.D., (Respondent).

On August 8, 2013, Respondent's counsel Tony Cobos appeared on behalf of Respondent at an Informal Show Compliance Proceeding and Settlement Conference in response to a letter of invitation from the staff of the Board. Respondent did not appear. The Board's representatives were Michael Arambula, M.D. and David Baucom, members of the Board (Panel). Victoria Pearce represented Board staff.

FINDINGS

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 ("Act") or the Rules of the Board.

2. Respondent currently holds Texas Medical License No. E-2499. Respondent was originally issued this license to practice medicine in Texas on August 17, 1974.

3. Respondent is primarily engaged in the practice of psychiatry. Respondent is not board certified.

4. Respondent is 65 years of age.

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

Specifically:

a. On August 26, 2011, the Board and Respondent entered into an Agreed Order publicly reprimanding Respondent and requiring Respondent to have a

physician monitor his practice for eight monitoring cycles, pass within one year the medical jurisprudence examination within three attempts, complete within one year 25 hours of continuing medical education (“CME”) in medical recordkeeping and 25 hours of CME in ethics, refrain from serving as a physician for immediate family or prescribing controlled substances to himself or immediate family, and pay an administrative penalty of \$20,000 within 90 days. The Board found that Respondent had prescribed in a manner inconsistent with public health and welfare, failed to practice medicine in an acceptable professional manner, failed to obtain informed consent and inappropriately prescribed to himself, family members or others in which there was a close personal relationship.

b. On March 29, 2013, the Board entered an Order temporarily suspending Respondent’s medical license, without notice of hearing, after a disciplinary panel of the Board determined that Respondent’s continued practice of medicine constituted a continuing threat and real danger to his patients and to the public. This action was based on Respondent’s alleged sexual assault of a female patient in his office.

6. Respondent was indicted in the 167th District Court, District Clerk, Travis County, Texas for Sexual Assault of a female patient in his office. Respondent denies the charges.

7. Respondent requested a voluntary suspension of his medical license in lieu of further disciplinary proceedings.

8. 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, the Board concludes that:

1. The Board has jurisdiction over the subject matter and Respondent pursuant to the Act.

2. If proven, Section 164.053(a)(1) of the Act would authorize the Board to take disciplinary action against Respondent based on Respondent's commission of an act that violates a law of this state that is connected with Respondent's practice of medicine, specifically, Texas Penal Code Section 22.011, relating to sexual assault; and Civil Practice and Remedies Code, Chapter 81, relating to exploitation by health care provider.

3. Section 164.001(a)(1) of the Act authorizes the Board to suspend or revoke Respondent's license or other authorization to practice.

4. 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:

1. Respondent's Texas license is hereby SUSPENDED until such time as Respondent requests in writing to have the suspension stayed or lifted and personally appears before the Board, and provides clear and convincing evidence and information which, in the discretion of the Board, adequately indicates that 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 the following:

The complete and final resolution of any and all criminal charges and investigations that are currently pending, or any charges that may be brought as a result of the allegations in the above-referenced Findings. "Complete and Final Resolution" for purposes of this Order means: a final non-appealable conviction; a final adjudication of this matter, including, but not limited to, deferred adjudication, deferred disposition, or 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 the same incidents or conduct described in the above-referenced Findings.

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

3. 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 applied for privileges, applies for privileges, or otherwise practices. Within thirty days of entry of this Order Respondent shall provide documentation, including proof of delivery, to the Compliance Division of the Board that the Order was delivered to all such facilities.

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 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 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).

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.

7. By entering this Order Respondent understands and acknowledges that the Board is entitled to and expressly reserves, and is not waiving any and all of its rights to take further action against Respondent's license, if appropriate, in the event of any other determinations of further possible violations of the Medical Practice Act, whether related or unrelated, to the criminal charges referenced herein.

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, DAVID WILLIAMS CARDWELL, M.D., HAVE READ AND UNDERSTAND THIS 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: February 3, 2014.

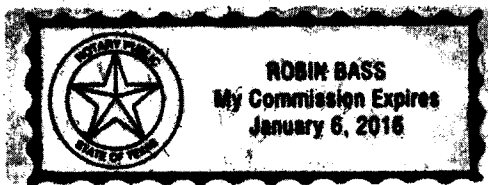
*David Williams Cardwell MD*  
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DAVID WILLIAMS CARDWELL, M.D.  
Respondent

STATE OF Texas                            §  
  §  
COUNTY OF Travis                   §

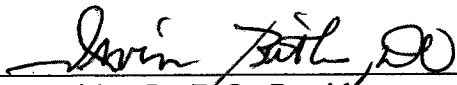
SWORN TO AND ACKNOWLEDGED BEFORE ME, the undersigned Notary Public, on this 3 day of February, 2014.

*Rob Bass*  
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Signature of Notary Public

(Notary Seal)



SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this  
7th day of February, 2014.

  
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Irvin E. Zeitler, Jr., D.O., President  
Texas Medical Board