

DOCKET NO. 503-99-1689

TEXAS STATE BOARD OF MEDICAL EXAMINERS	§ § §	BEFORE THE TEXAS STATE
VS.	§	BOARD OF
BERNARD JOSEPH DOLENZ, M.D.	§	MEDICAL EXAMINERS

FINAL ORDER OF THE BOARD

During open meeting at Austin, Texas, the Texas State Board of Medical Examiners finds that after proper and timely notice was given, the above-styled case was heard by an Administrative Law Judge who made and filed a Proposal for Decision containing the Administrative Law Judge's Findings of Fact and Conclusions of Law. The Proposal for Decision was properly served on all parties and all parties were given an opportunity to file exceptions and replies as part of the record herein.

The Texas State Board of Medical Examiners, after review and due consideration of the Proposal for Decision, and exceptions and replies filed, if any, adopts the following Findings of Fact and Conclusions of Law of the Administrative Law Judge. All proposed Findings of Fact and Conclusions of Law not specifically adopted herein are hereby denied.

FINDINGS OF FACT

1. Bernard Joseph Dolenz, M.D. (Respondent), is a licensed Texas physician.
2. Respondent was issued a medical license by the Texas State Board of Medical Examiners (the Board or the Texas Board) on or about January 19, 1959.
3. Respondent holds Texas medical license C-7391.
4. Respondent's medical license is currently expired, but was in full force and effect at all time and dates material and relevant to the Board's complaint.
5. On or about March 18, 1998, Respondent was indicted on 18 counts of felony mail fraud for submitting bills to insurance companies and the United States Department of Labor requesting payment for treatments or services purportedly rendered to patients.
6. On or about August 3, 1998, Respondent was convicted on 12 counts of felony mail fraud in the United States District Court, Northern District of Texas, Dallas Division, for submitting bills to insurance companies requesting payment for treatments or services purportedly rendered to patients.

7. On or about December 17, 1998, Respondent was sentenced to serve 90 months in prison and a three year term of probation to commence after his prison term was served. Respondent was also order to pay approximately \$1.6 million in restitution and a \$600 fine.
8. Respondent's prison term commenced on January 14, 1999. Respondent is currently incarcerated at Fort Worth Medical Facility, United States Bureau of Prisons.
9. On October 1, 1999, the Board sent notice of the hearing in this case to Respondent by certified mail, return receipt requested, at his last known address in the Board's records, c/o Mr. Alberto Munguia, Federal Medical Center (#31480-077), 3150 Horton Road, Fort Worth, Texas 76119-5996 and to 6102 Swiss Avenue, Dallas, Texas 75214. The notices were received at those addresses on October 5 and 20, 1999, respectively, as evidenced by the signed return receipts (green card).
10. The notice of the hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short, plain statement of the matters asserted.
11. The notice of the hearing disclosed, in 10-point, bold-face type, that if Dr. Dolenz failed to appear at the hearing, the factual allegations in the notice would be deemed admitted as true and the relief requested might be granted by default.
12. The hearing was convened as scheduled November 9, 1999. Respondent did not appear at the hearing either in person or through a representative.

CONCLUSIONS OF LAW

1. The Texas State Board of Medical Examiners (the Board) has jurisdiction over this matter pursuant to TEX. OCC. CODE ANN. chs. 154 and 164 (Vernon 2000).¹
2. The State Office of Administrative Hearings (SOAH) has jurisdiction over all matters relating to the conduct of a hearing in this proceeding, including the preparation of a proposal for decision with findings of fact and conclusions of law, pursuant to TEX. OCC. CODE ANN. § 164.007 (Vernon 2000), and TEX. GOV'T CODE ANN. ch. 2003 (Vernon 2000).

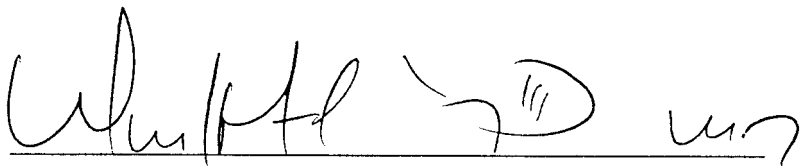
¹ Sections 4.01, 4.02, 4.03, 4.05, and 4.11.

3. Adequate and timely notice was provided in accordance with TEX. GOV'T CODE ANN. § 2001.052 (Vernon 1999) and 1 TEX. ADMIN. CODE (TAC) § 155.55 (1999).
4. The factual allegations in the notice of hearing, Findings of Fact Nos. 5 - 8, were admitted as true pursuant to 1 TAC § 155.55.
5. Respondent's conduct, including actions and/or omissions, as described in Finding of Fact No. 5, constitutes grounds for the Board to revoke or suspend Respondent's Texas medical license pursuant to TEX. OCC. CODE ANN. § 164.051(a)(2)(A) (Vernon 2000).²
6. Respondent's Texas medical license should be revoked pursuant to TEX. OCC. CODE ANN. §§ 164.051, 164. 52(a)(5), 164.057, 164.058, and 164.101 (Vernon 2000).³

NOW, THEREFORE, IT IS ORDERED by the Texas State Board of Medical Examiners pursuant to TEX. OCC. CODE ANN. §§ 164.051, 164.052(a)(5), 164.057, 164.058, and 164.101 (Vernon 2000), that Texas medical license No. C-7391 held by Bernard Joseph Dolenz, M.D., be, and hereby is, revoked. The Board's order shall become effective the date the order is signed by the chairman.

Passed and approved at the regular meeting of the Texas State Board of Medical Examiners at Austin, Texas, on the 30 day of March, 2000.

TEXAS STATE BOARD OF MEDICAL EXAMINERS



William H. Fleming, III, M.D.

President, Texas State Board of Medical Examiners

² Section 3.08(2) of the Act.

³ Sections 3.08, 4.01, and 4.12 of the Act.