

H-6586

IN THE MATTER OF

THE LICENSE OF

JEFFREY M. SCHLUETER, D.O.

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BEFORE THE

TEXAS STATE BOARD

OF MEDICAL EXAMINERS

AGREED ORDER

On this the 15th day of May, 1996, came on to be heard before the Texas State Board of Medical Examiners ("the Board" or "the Texas Board"), duly in session the matter of the license of Jeffrey M. Schlueter, D.O. ("Respondent"). On March 19, 1996, Respondent appeared in person with counsel, Don Driscoll, at an Informal Settlement Conference/Show Compliance Proceeding in response to a letter of invitation from the staff of the Board.

The Board was represented at the Informal Settlement Conference/Show Compliance Proceeding by Catalina E. Garcia, M.D. and Jenat Terhune Turner, J.D., members of the Board. Upon recommendation of the Board's representatives, and with the consent of Respondent, the Board makes the following findings of fact and conclusions of law and enters this Order as set forth herein:

FINDINGS OF FACT

1. Respondent, Jeffrey M. Schlueter, D.O., holds Texas Medical license H-6586.

2. The Board has jurisdiction over the subject matter and Respondent. Respondent received all notice which may be required by law and by the rules of the Board. All jurisdictional requirements have been satisfied.

3. Respondent is not certified by the American Board of Medical Specialties, but is primarily engaged in the practice of psychiatry.

4. Respondent has been licensed to practice medicine in Texas for approximately 7 years.

5. Respondent has been diagnosed with adjustment disorder with mixed disturbance emotions and conduct, as well as occupational problems which in part are related to adjustment to chronic debilitating multiple sclerosis.

6. In or around March and April of 1995, Respondent engaged in inappropriate behavior during counseling of three different psychiatric patients.

7. The inappropriate behavior involved verbal statements which were considered to be embarrassing to the patients and in some instances had sexual content or involved sexual innuendo.

8. This behavior took place while Respondent was employed by the Navarro County Mental Health Mental Retardation (MHMR) facility in Corsicana, Texas. Inappropriate behavior of the same type occurred while Respondent practiced at Huguley Memorial Medical Center during 1995.

9. Respondent's employment was terminated at the MHMR facility on April 5, 1995. Respondent's privileges were surrendered December 15, 1995 at Huguley Memorial Medical Center.

10. During the summer of 1995, Respondent sought assessment and treatment at the Abbott Northwestern Hospital in Minneapolis - St. Paul, Minnesota, where Respondent underwent psychiatric inpatient care for one week.

11. Respondent was subsequently referred to the Mayo Intensive Psychotherapy Center (Mayo Center) where Respondent was assessed and treated from December 26, 1995 to January 19, 1996.

12. During treatment at the Mayo Center, Respondent was involved in intensive group therapy for a four week period, and received neuropsychological testing and a neurological assessment.

13. The Mayo Center psychiatrists recommended that Respondent reduce his workload, be supervised at work, engage in follow-up psychotherapy, and obtain neurologic follow-up.

14. Respondent reports significant improvement in his ability to refrain from inappropriate comments since his treatment at the Mayo Center.

15. Respondent reports receiving ongoing treatment from a physician for multiple sclerosis (MS) and reports participation in a MS support group.

16. Respondent has cooperated with Board staff in the investigation of the allegations related to this Agreed Order.

17. Respondent has entered into this Agreed Order pursuant to the provisions of Sections 4.02(h) and (i) of the Medical Practice Act ("the Act"), V.A.C.S., article 4495b.

18. So as to avoid the expense and inconvenience of litigating the allegations, in lieu of further investigation or a hearing, Respondent agrees to the entry of this Agreed Order, and further agrees to comply with the terms and conditions set forth herein.

19. Respondent has not previously been the subject of disciplinary action by the Board.

CONCLUSIONS OF LAW

Based on the above findings of fact, the Board concludes the following:

1. Respondent has violated Section 3.08(4) of the Medical Practice Act ("the Act"), V.A.C.S., article 4495b, which 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 or injure the public.

2. Section 4.02(h) of the Act authorizes the Board to resolve and make a disposition of this matter through an agreed order.

3. Section 4.02(i) of the Act provides that this Agreed Order is a settlement agreement under the Texas Rules of Civil Evidence for purposes of civil litigation.

4. Section 4.12 of the Act authorizes the Board to take action in regard to Respondent and Respondent's medical license as set forth below.

Based on the above findings of fact and conclusions of law, the Board ORDERS that Respondent's Texas medical license is hereby indefinitely RESTRICTED from the date of the signing of this Agreed Order by the presiding officer of the Board under the following terms and conditions:

1. Respondent shall submit in writing to the Director of Hearings of the Board the names of three (3) American Board Certified psychiatrists for the Executive Director's approval and, when such approval is received, shall expeditiously submit himself for evaluation and treatment by the approved psychiatrist. Respondent shall follow the psychiatrist's recommendations, if any, regarding continuing care and

treatment and shall see the approved psychiatrist for follow-up care and counseling at least once each month.

The Board and Respondent shall furnish a copy of this Agreed Order to the psychiatrist as authorization for the psychiatrist to make reports to the Board regarding Respondent's psychiatric evaluation and such other reports as the Board may request. Board staff may furnish to the approved psychiatrist any Board information which may be helpful or required for the evaluation and treatment of Respondent. Respondent's failure to cooperate with the psychiatrist shall constitute a violation of this Agreed Order.

2. Respondent shall not unilaterally withdraw from the evaluation, care, or treatment required by this Agreed Order, and shall request and authorize in writing that Respondent's physician or any other individuals involved in Respondent's care and treatment immediately report to the Board any unilateral withdrawal from treatment by Respondent.

3. Respondent's unilateral withdrawal from evaluation, treatment, or medical care required by this Agreed Order shall constitute unprofessional and dishonorable conduct, a violation of this Agreed Order, and grounds for disciplinary action under Sections 3.08(4), 4.01, 4.11, 4.12 and 4.13 of the Act. Section 4.13 authorizes the Board to temporarily suspend the license of a physician who in the determination of the Disciplinary Panel of the Board constitutes a continuing threat to the public welfare.

4. Respondent shall immediately notify the Director of Hearings for the Board or a Board Compliance Officer or Investigator upon discontinuation for any reason of any care and treatment required by the terms of this Agreed Order.

5. When requested by the Board or Board staff, Respondent shall provide to Board staff complete legible written reports regarding any

aspect of Respondent's physical or mental condition and Respondent's compliance with the terms of this Agreed Order.

6. Respondent shall abstain from the consumption of alcohol, dangerous drugs, or controlled substances in any form unless prescribed by another physician to Respondent for a legitimate and therapeutic purpose. In the event that Respondent receives alcohol, dangerous drugs, or controlled substances from another physician for the purpose of treating Respondent, Respondent shall cause the treating physician to immediately report in writing to the Board the medical condition being treated, the substance prescribed, dispensed or administered, the amount of such substance and any refills authorized, or shall have the treating physician provide the Board with a copy of Respondent's medical record which substantially reflects this information. Respondent shall give the treating physician a copy of this Agreed Order and shall ensure that a report to the Board is made by the treating physician or that a copy of Respondent's medical record is provided by the treating physician to the Board. Respondent shall immediately report by telephone to Respondent's compliance officer, the Director of Hearings, or the Assistant Administrator of Hearings and Compliance of the Board, to be followed by a letter within twenty-four (24) hours, an explanation of any incident in which Respondent ingests any alcohol, controlled substances, or dangerous drugs in any manner not prescribed by another physician for a legitimate medical purpose.

7. Except as otherwise provided for by the terms of this Agreed Order, Respondent shall not treat or otherwise serve as a physician for Respondent's immediate family, and Respondent shall not prescribe, dispense, or administer controlled substances, dangerous drugs with addictive potential or potential for abuse, or alcohol to Respondent or Respondent's immediate family. Respondent may self-administer or administer to Respondent's immediate family only such drugs and alcohol as prescribed by other physicians for a legitimate medical purpose and in compliance with the orders and directions of such physicians.

8. Respondent shall practice medicine no more than twenty-five hours per week and shall practice only in an institutional or group setting approved in advance in writing by the executive director of the Board.

9. Respondent shall participate in group therapy which is approved in advance in writing by the executive director of the Board. Respondent shall maintain a written diary detailing the subjects discussed during therapy, Respondent's responses to the issues, and any recommendations made to Respondent through the group therapy. Respondent shall make this diary available to the Board or its representatives upon request.

10. Respondent shall comply with the terms and conditions of any contract or agreement entered into by Respondent for hospital privileges and shall report in writing to the Director of Hearings for the Board or his designee any restriction, suspension, revocation, limitation, surrender, or denial of renewal in regard to any hospital privileges held, sought, or relinquished by Respondent.

11. Respondent's medical practice, including any office and surgical practice, shall be monitored by a licensed Texas physician approved in advance in writing by the Executive Director of the Board based on the monitoring physician's licensure status and history, general qualifications, area of specialty, business affiliation with Respondent, and specialty certifications and training. Respondent shall provide a copy of this Agreed Order to the monitoring physician and shall allow the monitoring physician random access to Respondent's patient medical records, patient billing records, and offices. The monitoring physician shall review Respondent's medical practice and shall counsel Respondent on any perceived deficiencies. Respondent shall follow the appropriate guidance provided by the monitoring physician and shall ensure that quarterly reports from the monitoring physician are routed in a timely manner to Board representatives through

the Director of Hearings for the Board. Any costs incurred by the monitoring physician shall be the responsibility of Respondent and shall not be charged to patients.

To request approval of a monitoring physician, Respondent shall submit in writing to the Director of Hearings of the Board the names and practice addresses of at least three physicians who are willing and able to effectively monitor Respondent's office and surgical practice. The monitoring physician may be changed at any time by the Executive Director of the Board pursuant to a written request by Respondent based upon good cause shown by Respondent for such a change.

12. Respondent shall maintain adequate medical records on all patient office visits, consultations, surgeries performed, drugs provided, and treatment rendered by Respondent. These records will include at a minimum, the patient's name and address, vital signs and statistics, chief complaints, history and physical findings, diagnosis and basis for diagnosis, treatment plan for each patient visit or operative procedure, a notation of all medications prescribed or otherwise provided to the patient including the quantity, dosage, and rationale for providing the medications, and detailed records of all follow-up visits. Each visit shall be noted in the patient record and dated accordingly. Respondent shall make all patient medical records available for inspection and copying upon the oral or written request of Board consultants, investigators, compliance officers, attorneys, or the Executive Director of the Board.

13. Respondent shall personally appear before the Board, a committee of the Board, or a panel of Board representatives, at least one (1) time each year that Respondent is under the terms and conditions of this Agreed Order. Such appearances shall be for the purpose of reporting on and addressing issues related to Respondent's compliance with the terms and conditions of this Agreed Order.



14. Respondent shall personally appear before the Board, a committee of the Board, or panel of Board representatives, upon written request mailed to Respondent's last known address on file with the Board at least ten (10) calendar days before the requested appearance date. Such appearances shall be for the purpose of reporting on and addressing issues related to Respondent's compliance with the terms and conditions of this Agreed Order.

15. To verify that Respondent has complied with and is in compliance with the terms and conditions of this Agreed Order, Respondent shall fully cooperate with the Board and the Board staff, including but not limited to, Board attorneys, investigators, compliance officers, consultants, and other such employees or agents of the Board in any way involved in investigation, review, or monitoring associated with Respondent's compliance with this Agreed Order. Failure to cooperate as required by this paragraph and the terms of this Agreed Order shall constitute a basis for disciplinary action against Respondent pursuant to Sections 3.08, 4.01, and 4.11 of the Act.

16. Upon request by the Board or a member of the Board staff, Respondent shall immediately execute, and provide as needed, any and all medical releases as may be requested by the Board or Board staff to obtain copies of medical treatment records of Respondent to include, but not limited to, any such releases required to obtain treatment records of Respondent protected by 42 C.F.R. subchapter A, part 2, and any subsequent amendments. Failure to execute and provide such releases shall constitute a basis for disciplinary action against Respondent pursuant to Sections 3.08, 4.01, and 4.11 of the Act.

17. Upon request by the Board or a member of the Board staff, Respondent shall immediately execute, and provide as needed, any and all releases as may be requested by the Board or Board staff to obtain copies of peer review records pertaining to Respondent at any hospital where Respondent has privileges. Failure to execute and provide such

releases shall constitute a basis for disciplinary action against Respondent pursuant to Sections 3.08, 4.01, and 4.11 of the Act.

18. Respondent shall give a copy of this Agreed Order to all hospitals, nursing homes, treatment facilities, and other health care entities where Respondent has privileges, has applied for privileges, or applies for privileges.

19. Respondent shall ensure that any inquiries which are made by any person or entity through any means to Respondent or Respondent's employees regarding Respondent's Texas medical licensure status are answered by accurate reference to this Agreed Order.

20. Upon request by any person or entity, either orally or in writing, Respondent shall provide a complete and legible copy of this Agreed Order to the requesting party within ten (10) calendar days of the request.

21. In the event that this Order is modified from an indefinite restriction to a set period of time, the time period of this Order shall be extended for any period of time in which Respondent subsequently resides or practices medicine outside the State of Texas, is in official retired status with the Board, or for any period during which Respondent's license is subsequently cancelled for nonpayment of licensure fees. If Respondent leaves Texas to live or practice medicine elsewhere, Respondent shall immediately notify the Board in writing of the dates of Respondent's departure from and subsequent return to Texas. Upon Respondent's return to practice in Texas or Respondent's relicensure, Respondent shall be required to comply with the terms of this Order for the period of time remaining on the Order when Respondent left the practice of medicine in Texas, retired, or had his license cancelled for nonpayment of licensure fees.

22. Respondent shall comply with all the provisions of the Medical Practice Act ("the Act"), V.A.C.S., article 4495b, and other statutes regulating the practice of medicine, as is required by law for physicians licensed by the Board.

23. Respondent shall inform the Board in writing of any change of Respondent's office or mailing address within ten (10) days of the address change. This information shall be submitted to the Verification Department and the Director of Hearings for 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 Sections 3.08, 4.01, and 4.11 of the Act.

24. Any violation of the terms, conditions, or requirements of this Order by Respondent shall constitute a basis for disciplinary action by the Board against Respondent pursuant to Sections 3.08, 4.01, and 4.11 of the Act. Any violation of the terms, conditions, or requirements of this Order by Respondent shall constitute evidence of unprofessional or dishonorable conduct likely to deceive or defraud the public or injure the public.

25. The above-referenced conditions shall continue in full force and effect without opportunity for amendment, except for clear error in drafting, for 12 months following entry of this Order. If, after the passage of the 12 month 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. Petitions for modifying or terminating may be filed only once a year thereafter.

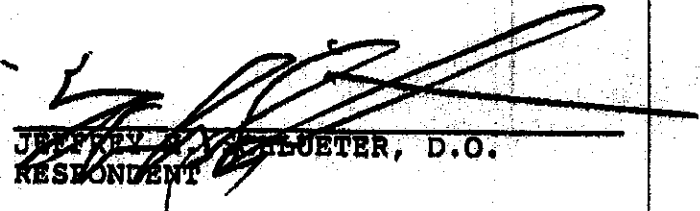
RESPONDENT WAIVES ANY FURTHER HEARINGS OR APPEALS TO THE BOARD OR TO ANY COURT IN REGARD TO ALL TERMS AND CONDITIONS OF THIS AGREED ORDER. NOTHING IN THIS ORDER SHALL BE DEEMED A WAIVER OF RESPONDENT'S RIGHTS UNDER STATUTE OR THE UNITED STATES OR TEXAS CONSTITUTIONS TO APPEAL AN

ORDER OR ACTION OF THE BOARD SUBSEQUENT TO THIS AGREED ORDER EXCEPT AS RESPONDENT MAY HAVE OTHERWISE AGREED TO HEREIN. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.

THIS ORDER IS A PUBLIC RECORD.

I, JEFFREY M. SCHLUETER, D.O., 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.

DATE: *May 6, 1996*  
 1996

  
JEFFREY M. SCHLUETER, D.O.  
RESPONDENT

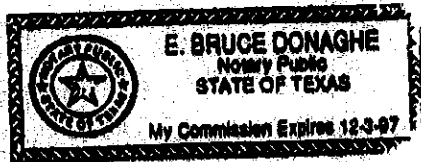
STATE OF Texas  
COUNTY OF Dallas

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BEFORE ME, the undersigned Notary Public, on this day personally appeared Jeffrey M. Schlueter, D.O. known to me to be the person whose name is subscribed to this instrument, an Agreed Order, and who after being by me duly sworn, on oath, stated that he executed the same for all purposes expressed therein.

Given under my hand and official seal and office this 6<sup>th</sup> day of May, 1996.

(Notary Seal)



E. Bruce Donaghe  
Signature of Notary Public

E. Bruce Donaghe  
Printed or typed name of Notary Public

My commission expires: 12-3-97

SIGNED AND ENTERED by the presiding officer of the Texas State Board of Medical Examiners on this 15th day of May, 1996.

William H. Fleming, III, M.D.  
President, Texas State Board of Medical Examiners