

LICENSE NO. H-4211

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

BEFORE THE
TEXAS MEDICAL BOARD

AGREED ORDER

On the 3RD day of JUNE, 2011, 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 January 14, 2011, Respondent appeared in person, with counsel Robert D. Simpson, 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 Julie Attebury, a member of the Board and Hari Reddy, D.O., a member of a District Review Committee ("Panel"). Amy McNamara represented Board staff. Christopher M. Palazola prepared this Agreed Order.

BOARD CHARGE

Board staff charged that Respondent inappropriately prescribed opiates to manage the patient's symptoms related to anxiety and depression, in spite of the patient's past history of opiate addiction. Furthermore, there were inadequate medical records documenting the care of this patient. The Panel determined Respondent was not treating the patient's anxiety and depression.

BOARD HISTORY

Respondent has previously been the subject of disciplinary action by the Board. On August 26, 2005 the Board entered an Agreed Order (2005 Order) due to Respondent's prescription of Adderall to a patient with whom he had had a prior social relationship. Respondent also failed to adequately maintain medical records for that patient. The 2005 Order required that Respondent pay an administrative penalty of \$2500 and obtain ten [10] hours of

Continuing Medical Education (CME) on the topic of medical recordkeeping. Respondent completed the terms of the 2005 Order and the Order was terminated on August 23, 2006.

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. Respondent is not licensed to practice medicine in any other state.
- c. Respondent is primarily engaged in the practice of adult psychiatry. Respondent is not board certified.
- d. Respondent is 50 years of age.

2. Specific Panel Findings:

- a. Respondent's treatment plan and actual treatment appeared reasonable, but was improperly documented in the medical records.
- b. Respondent's medical records did not include any rationale for changing medication levels or types of medications used or his assessment of the risks and benefits of making such changes to medications.

3. Mitigating Factors:

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

- i. Respondent was not treating the patient for depression, but was trying to wean her from opiate addiction and detoxify her;
- ii. A full psychiatric evaluation, with attention to chemical dependency history, was performed and a diagnosis of opiate dependency was made;
- iii. No complicating affective or anxiety disorder was present and options including in-patient and out-patient detoxification was discussed, as were various methods for detoxification and adjunctive support such as psychotherapy and 12-step program implementation;
- iv. The treatment plan put in place was to be a temporary plan with the ultimate goal to place the patient on Suboxone to detoxify her;
- v. Suboxone was decreased and the patient returned to hydrocodone due to side-effects of the Suboxone;
- vi. Respondent utilized supportive psychotherapy, psychodynamic clarification and motivational interviewing to manager her personal stress issues and the plan to taper her off hydrocodone altogether;
- vii. Respondent's treatment was consistent with the patient's diagnosis. Respondent tried to convert her to Suboxone to detoxify her several times; and
- viii. 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.

4. Aggravating Factors:

- a. In determining the appropriate sanctions in this matter, the Panel considered the following aggravating factors:
 - i. Respondent's 2005 Order also addressed issues with medical recordkeeping.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, the Board concludes that:

1. The Board has jurisdiction over the subject matter and Respondent pursuant to the Act.
2. Section 164.051(a)(3) of the Act authorizes the Board to take disciplinary action for violations of Board Rule[s], specifically Board Rule, 165.1, failure to maintain an adequate medical record for each patient that is complete, contemporaneous, and legible.
3. 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 further defined by Board Rule: 190.8(1)(C), failure to use proper diligence in one's professional practice.
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 of Fact and Conclusions of Law, the Board ORDERS that Respondent shall be subject to the following terms and conditions:

1. Within one [1] year from the date of the entry of this Order, Respondent shall enroll in and successfully complete at least four [4] hours of CME approved for Category I credits by the American Medical Association, in the topic of medical record. Proposed courses must be approved in writing in advance by the Compliance Division of the Board. To obtain approval for the course, Respondent shall submit in writing to the Compliance Division of the Board 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 Division of the Board 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.

2. Respondent shall pay an administrative penalty in the amount of \$1000 within sixty [60] days 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.

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

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

8. 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. 1 and 2.

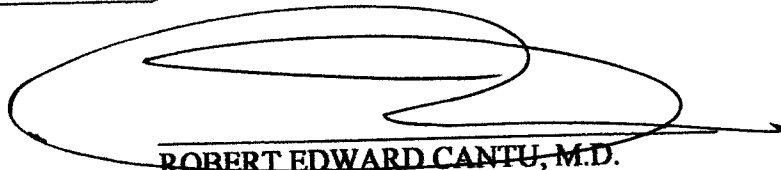
RESPONDENT WAIVES ANY FURTHER HEARINGS OR APPEALS TO THE BOARD OR TO ANY COURT IN REGARD TO ALL TERMS AND CONDITIONS OF THIS AGREED ORDER. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.

THIS ORDER IS A PUBLIC RECORD.

SIGNATURE PAGE(S) 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: 5/25/11, 2011.

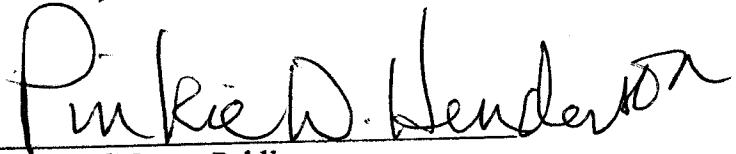


ROBERT EDWARD CANTU, M.D.
Respondent

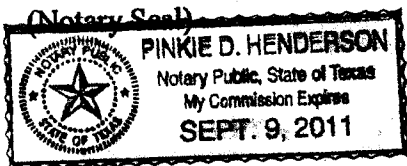
STATE OF Texas
COUNTY OF Travis

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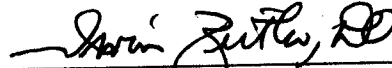
SWORN TO AND ACKNOWLEDGED BEFORE ME, the undersigned Notary Public, on this 25th day of May, 2011.



Signature of Notary Public



SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this
3RD day of JUNE, 2011.



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