

G-5263

IN THE MATTER OF	§	BEFORE THE
	§	
THE LICENSE OF	§	TEXAS STATE BOARD
	§	
DAVID JOEL KORMAN, M.D.	§	OF MEDICAL EXAMINERS

AGREED ORDER

On this the 18 day of August, 1995, 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 David Joel Korman, M.D. ("Respondent"). On July 13, 1995, Respondent appeared in person with counsel, John McShane, 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 Charles W. Monday, Jr., M.D., a member of the Board, and Thomas Marvelli, M.D., a district review committee member. 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, David Joel Korman, M.D., holds Texas Medical license G-5263.

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 12 years.

5. In the fall of 1990, Respondent engaged in a sexual relationship with patient T.P. The patient's therapy and Respondent's sexual involvement ended in December, 1990.

6. Subsequent to his sexual relationship with T.P., Respondent began making financial payments to T.P. Respondent contends that prior to and during the time of his relationship with T.P. he was experiencing significant personal problems including the ending of a 14 year marriage.

7. Due to the above described relationship with T.P., Respondent voluntarily submitted to psychotherapy under the care and treatment of Herb Gomberg, M.D. in 1994. Respondent is still under the care and treatment of Dr. Gomberg and is not on any medication. Respondent has also discontinued his psychotherapy of patients based upon his nontherapeutic relationship and sexual involvement with patient T.P.

8. In January, 1995, Respondent reported his relationship with patient T.P. to the Board.

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

10. Respondent's cooperation, through consent to this Agreed Order, will save money and resources for the State of Texas.

11. 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.

12. 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 RESTRICTED under the following terms and conditions for five (5) years from the date of the signing of this Agreed Order by the presiding officer of the Board:

1. Entry by the Board of this Agreed Order shall constitute a PUBLIC REPRIMAND.

2. Respondent shall not engage in psychotherapy of female patients except for short-term acute care in a hospital setting.

3. Within one (1) year from the date of the signing of this Order by the presiding officer of the Board Respondent shall obtain six (6) hours of ethics through courses or programs which have been approved in writing by the Executive Director of the Board. The required hours may be in any area of ethics and not just in the area of medical ethics. To obtain approval, Respondent shall submit to the Director of Hearings for the Board complete information on the courses or programs to include, but not limited to, course content and faculty. Documentation of attendance and successful completion of this requirement for ethics instruction shall be delivered to the Director of Hearings for the Board on or before the end of the first year this Agreed Order is in effect.

4. 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.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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 or medical records pertaining to Respondent. 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.

13. 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.

14. 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.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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, DAVID JOEL KORMAN, 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: August 9, 1995

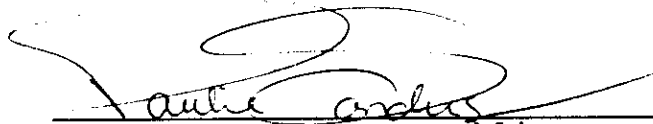
David Joel Korman, M.D.
DAVID JOEL KORMAN, M.D.
RESPONDENT

STATE OF Texas
COUNTY OF Dallas

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BEFORE ME, the undersigned Notary Public, on this day personally appeared David Joel Korman, M.D., 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 9th day of August, 1995.



Signature of Notary Public

(Notary Seal)

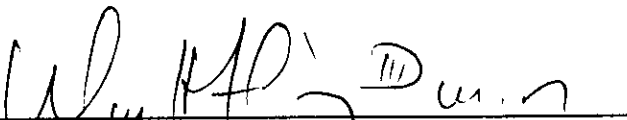


PAULINE SANDERSON

Printed or typed name of Notary Public

My commission expires: 10-31-98

SIGNED AND ENTERED by the presiding officer of the Texas State Board of Medical Examiners on this 18 day of August, 1995.



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