

IN THE MATTER OF	§	BEFORE THE
	§	
THE LICENSE OF	§	TEXAS STATE BOARD
	§	
STEVEN A. WARE, M.D.	§	OF MEDICAL EXAMINERS

AGREED ORDER

On this the 9th day of August, 1997, 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 Steven A. Ware, M.D. ("Respondent"). On June 26, 1996, Respondent appeared in person, without counsel, 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 Mrs. Penny Angelo, a member of the Board, and Clyde R. Danks, 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, Steven A. Ware, M.D., holds Texas medical license F-4652.
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 General Practice and Psychiatry.
4. Respondent has been licensed to practice medicine in Texas for approximately seventeen (17) years.
5. On August 27, 1995, Respondent was the on-call psychiatrist for the emergency room of Bayshore Medical Center ("the hospital").
6. On August 27, 1995, a patient was admitted to the hospital by an emergency room physician for care in the psychiatric unit of the hospital.

7. Respondent maintains that the patient complained of abdominal pain shortly after arriving on the Psychiatric unit and was therefore transferred to the Medical Intensive Care Unit for stabilization by the Primary Care Physician on call.

8. Respondent further maintains that on August 28, 1995, the Primary Care Physician transferred the patient back to the Psychiatric Unit.

9. Multiple attempts were made by hospital staff to contact Respondent regarding care for the patient; these attempts were unsuccessful and care of the patient was subsequently assumed by another physician.

10. On August 28, 1995, Respondent instructed a hospital case manager to give the patient a list of referrals for discharge although Respondent had not performed an evaluation of the patient.

11. The hospital summarily suspended Respondent's privileges at the hospital due to Respondent's lack of availability and failure to attend and evaluate the patient prior to recommending discharge.

12. After efforts by the hospital to notify Respondent of the Summary Suspension, Respondent did not request a hearing related to further suspension of Respondent's hospital privileges and a suspension of hospital privileges was imposed.

13. Respondent maintains that he did not receive notice of a right to a hearing on the suspension of his privileges due to a change of practice address, and therefore maintains that he was unable to contest the hospital action because he was not aware of the suspension proceedings.

14. The hospital's suspension of Respondent's hospital privileges was reported to the National Practitioner Data Bank.

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

16. 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.

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

18. Respondent neither admits nor denies that the findings of fact and conclusions of law set forth herein are accurate; however, Respondent consents to the entry of this Agreed Order to avoid the expense of litigation and to reach an expeditious resolution of this matter.

CONCLUSIONS OF LAW

Based on the above Findings of Fact the Board concludes the following:

1. Respondent has violated Section 3.08(19) 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 being removed, suspended, or having disciplinary action taken by his peers in any professional medical association or society, whether the association or society is local, regional, state, or national in scope, or being disciplined by a licensed hospital or medical staff of a hospital, including removal, suspension, limitation of hospital privileges, or other disciplinary action, if that action in the opinion of the Board was based on unprofessional conduct or professional incompetence that was likely to harm the public, and the Board finds that the actions were appropriate and reasonably supported by evidence submitted to it.

2. Respondent has violated Section 3.08(18) 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 professional failure to practice medicine in an acceptable manner consistent with public health and welfare.

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

4. 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.

5. 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.

ORDER

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

1. Respondent shall pay an administrative penalty in the amount of two thousand five hundred dollars (\$2,500.00) within ninety (90) days of the signing of this Agreed Order by the presiding officer of the Board.

2. The administrative penalty shall be paid in a single payment by cashier's check or money order payable to the Texas State Board of Medical Examiners and shall be submitted to the Director of Compliance for the Board for routing so as to be remitted to the Comptroller of Texas for deposit in the general revenue fund.

3. Respondent's failure to pay the administrative penalty as ordered shall constitute grounds for further disciplinary action by the Board based on unprofessional and dishonorable conduct likely to deceive or defraud the public or injure the public as provided for in Section 3.08(4) of the Act, and may result in a referral by the Executive Director of the Board for collection by the Office of the Attorney General.

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

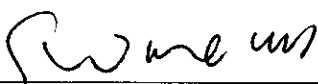
5. Any violation of the terms, conditions, or requirements of this Order by Respondent shall constitute a basis for disciplinary action by the Board against Respondent pursuant to Sections 3.08, 4.01, and 4.11 of the Act. Any violation of the terms, conditions, or requirements of this Order by Respondent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

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, STEVEN A. WARE, 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: 7/22/97, 1997



STEVEN A. WARE, M.D.
RESPONDENT

STATE OF Texas

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COUNTY OF Harris

BEFORE ME, the undersigned Notary Public, on this day personally appeared STEVEN A. WARE, 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 22nd day of July, 1997.

M. Katy Wilkinson
Signature of Notary Public

(Notary Seal)



M. Katy Wilkinson
Printed or typed name of Notary Public

My commission expires: 7-16-98

SIGNED AND ENTERED by the presiding officer of the Texas State Board of Medical Examiners on this 9th day of August, 1997.

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