

IN THE MATTER OF	§	BEFORE THE
	§	
THE LICENSE OF	§	TEXAS STATE BOARD
	§	
MICHAEL G. SAMUELS, D.O.	§	OF MEDICAL EXAMINERS

AGREED ORDER

On this the 10th day of May, 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 Michael G. Samuels, D.O. ("Respondent"). On March 13, 1997 Respondent appeared in person with counsel, John Curtis, 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 Russell Thomas, D.O., a member of the Board, and Ann Nolen, D.O., 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, Michael G. Samuels, D.O., holds Texas medical license G-3944.
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 41 years old.
4. Respondent is not certified by any specialty Board.
5. Respondent administered scientifically unproven and non-FDA approved treatments, which Respondent terms "blood irradiation", to adult patients without informing the patients of the risks associated with the treatment and without adequately documenting the treatment provided.
6. Respondent misled the patients receiving the blood irradiation therapy by informing them that it could reduce the viral load in the blood of AIDS/ HIV patients.

7. Respondent falsely informed the patients receiving the blood irradiation therapy that it would reduce the AIDS virus in the blood.

8. Respondent billed the blood irradiation procedures as allergy photo patch testing, thereby misleading insurers.

9. Respondent has provided human growth hormone to adult patients without adequate medical rationale to support the treatment.

10. Respondent is currently under investigation by the FDA for Respondent's use of human growth hormone.

11. Respondent provided a "special announcement" to all his patients which made the scientifically unsupported claim that Aslan Therapy could cure certain illnesses such as Alzheimer's disease, Lupus, Schizophrenia, and Diabetes.

12. Respondent did not inform patients that Aslan therapy was experimental and not approved by the FDA.

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. Respondent has violated Section 3.08(4)(E) 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 prescribing or administering a drug or treatment that is nontherapeutic in nature or nontherapeutic in the manner the drug or treatment is administered or prescribed.

3. Respondent has violated Section 3.08(4)(G) 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 persistently or flagrantly overcharging or overtreating patients.

4. Respondent has violated Section 3.08(7) 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 advertising professional superiority or the performance of professional service in a superior manner if the advertising is not readily subject to verification.

5. 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.

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

7. 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.

8. Section 4.12 of the Act authorizes the Board to suspend the medical license of Respondent.

9. Section 4.125 of the Act authorizes the Board to impose a monetary administrative penalty not to exceed five thousand dollars (\$5,000.00) for each separate violation of the Act or Board rule by a person licensed or regulated under the Act.

ORDER

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that Respondent's Texas medical license is hereby **SUSPENDED**; however, the suspension is **STAYED** and Respondent is placed on **PROBATION** 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. Respondent shall provide adequate informed consent for blood irradiation therapy and Aslan therapy that shall specify that the treatment is unproven and not FDA approved. Respondent shall inform patients of all risks involved in bold letters not less than one inch, and Respondent shall document the same in the patients chart.
2. Respondent shall not make false representations to patients.
3. Respondent shall truthfully advertise if he advertises.
4. Respondent shall comply with all FDA and Department of Health regulations.
5. Respondent shall become familiar with and comply with all statutes, rules, and regulations, both State and Federal, pertaining to the prescribing, administering, dispensing, supplying, storing, and

disposal of dangerous drugs and controlled substances.

6. Respondent shall refrain from the prescription or administration of any drug for any patient unless the drug is medically indicated and is prescribed in therapeutic doses. Respondent shall not prescribe, administer, or dispense any drug with a potential for abuse to any person unless there is a legitimate medical and therapeutic need after the Respondent has taken an appropriate medical history and conducted an examination which is clinically adequate to determine a proper diagnosis and course of treatment. Respondent shall conduct adequate follow-up examinations on all patients to determine whether the course of treatment, including the prescribing of drugs, is appropriate for the medical condition of the patient and to determine if the drug regimen being prescribed or administered should be modified in any way.

7. 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.

8. Respondent shall attend at least fifty (50) hours per year of Continuing Medical Education (CME) approved for Category I credits by the American Medical Association or by the American Osteopathic Association. At least one course shall be in the area of treating infectious diseases. Each year Respondent shall submit to the Board proof of the prior year's CME attendance by the Order's anniversary date. Respondent shall submit proof to the Board of CME hours attended in the current year even though such may not meet the 50 hour requirement. A copy of the attendance certificate issued or a detailed report which can be readily verified by the Board shall satisfy this requirement.

9. As part of Respondent's fifty (50) hours of CME, Respondent shall obtain ten (10) hours of ethics per year. Documentation of attendance and successful completion of each yearly requirement for ethics shall be delivered to the Director of Hearings for the Board on or before the end of each year this Agreed Order is in effect. This ethics instruction is not limited to medical ethics.

10. Respondent shall pay an administrative penalty in the amount of ten thousand dollars (\$10,000) within six (6) months of the signing of this Agreed Order by the presiding officer of the Board.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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 canceled 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 canceled for nonpayment of licensure fees.

16. 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.

17. 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.

18. 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.

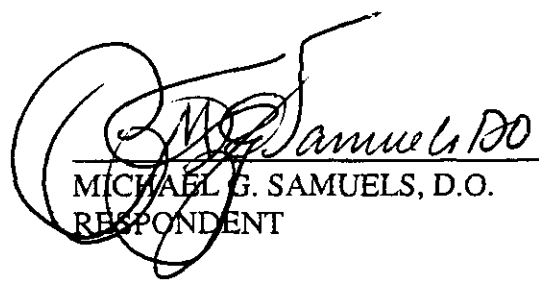
19. Any violation of the terms, conditions, or requirements of this Order by Respondent shall constitute a basis for disciplinary action by the Board against Respondent pursuant to Sections 3.08, 4.01, and 4.11 of the Act. Any violation of the terms, conditions, or requirements of this Order by Respondent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

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, MICHAEL G. SAMUELS, 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.

DATED: April 24, 1997


MICHAEL G. SAMUELS, D.O.
RESPONDENT

STATE OF Texas
COUNTY OF Dallas

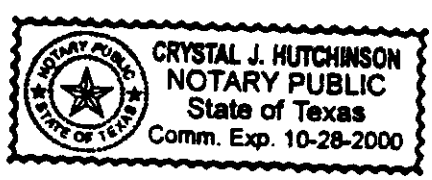
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BEFORE ME, the undersigned Notary Public, on this day personally appeared MICHAEL G. SAMUELS, D.O. , known to me to be the person whose name is subscribed to this instrument, an Agreed Order, and who after being by me duly sworn, on oath, stated that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

Given under my hand and official seal and office this 24 day of April, 1997.

Crystal J. Hutchinson
Signature of Notary Public

(Notary Seal)



Printed or typed name of Notary Public

My commission expires: _____

SIGNED AND ENTERED by the presiding officer of the Texas State Board of Medical Examiners on this 10th day of May, 1997.

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