

IN THE MATTER OF  
THE LICENSE OF  
THOMAS EDWARD DIAZ, M.D.

BEFORE THE  
TEXAS STATE BOARD OF  
MEDICAL EXAMINERS

AGREED ORDER

On the 7 day of October, 2005, came on to be heard before the Texas State Board of Medical Examiners (the "Board"), duly in session, the matter of the license of Thomas Edward Diaz, M.D. ("Respondent").

On July 15, 2005, Respondent appeared in person, with counsel, Mike Sharp, at an Informal Show Compliance Proceeding and Settlement Conference in response to a letter of invitation from the staff of the Board. Dinah Brothers represented Board staff. The Board's representatives were Patricia Blackwell, a member of the Board, and Janet Tornelli-Mitchell, M.D., a member of the District Review Committee.

Upon the 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 Agreed Order.

FINDINGS OF FACT

The Board finds that:

1. 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 TEX. OCC. CODE ANN. Title 3, Subtitle B (Vernon 2004) (the "Act") or the Rules of the Board.

2. Respondent currently holds Texas Medical License No. H-4284. Respondent was originally issued this license to practice medicine in Texas on December 6, 1988. Respondent is not licensed to practice in any other state.

3. Respondent is primarily engaged in family practice. Respondent is board certified by the American Board of Medical Specialties in Family Practice.

4. Respondent is 45 years of age.

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

6. Respondent sold vitamins and supplements to five patients for prevention and longevity health treatments out of his clinic at a profit to Respondent.

7. Respondent prescribed human growth hormone to one of the female patients for anti-aging effects.

8. Mitigating factors included that Respondent has voluntarily ceased selling vitamins and supplements, has improved his record-keeping, and has significantly changed his practice.

9. Mitigating factors included that Respondent does not prescribe human growth hormone to patients in his practice for anti-aging purposes, and the patient in question came to Respondent's office already using human growth hormone.

10. 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.

## 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)(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.

3. Section 164.051(a)(3) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's violation of Board Rule 165, which requires the maintenance of adequate medical records.

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. Such sanctions include: revocation, suspension, probation, public reprimand, limitation or restriction on practice, counseling or treatment, required educational or counseling programs, monitored practice, public service, and an administrative penalty.

5. Section 164.002(a) of the Act authorizes the Board to resolve and make a disposition of this matter through an Agreed Order.

6. Section 164.002(d) of the Act provides that this Agreed Order is a settlement agreement under the Texas Rules of Evidence for purposes of civil litigation.

## ORDER

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that:

1. Respondent shall pay an administrative penalty in the amount of \$5,000 within 120 days 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 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. 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.

2. Respondent shall be permitted to supervise and delegate prescriptive authority to a physician assistant, advanced practice nurse, or surgical assistant.

3. This Order shall terminate without further Board action upon payment of the \$5,000 administrative penalty.

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.

I, THOMAS EDWARD DIAZ, 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 7, 2005.



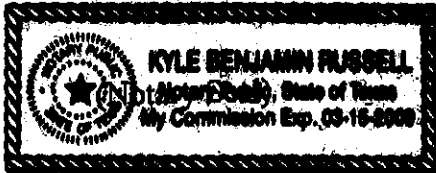
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Thomas Edward Diaz, M.D.  
Respondent

STATE OF Texas

COUNTY OF Dallas

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SWORN TO AND ACKNOWLEDGED BEFORE ME, the undersigned Notary Public, on this 8<sup>th</sup> day of September, 2005.



[Signature]  
Signature of Notary Public

SIGNED AND ENTERED by the presiding officer of the Texas State Board of Medical Examiners on this 7 day of October, 2005.

[Signature]  
Roberta M. Kalafut, D.O., President  
Texas State Board of Medical Examiners