

SOAH DOCKET 503-10-4313.MD
LICENSE NO. G-0803

IN THE MATTER OF
THE LICENSE OF
SESHAGIRI RAO, M.D.

BEFORE THE
TEXAS MEDICAL BOARD

MEDIATED AGREED ORDER

On the 31 day of August, 201~~1~~², came on to be heard before the Texas Medical Board (the "Board"), duly in session, the matter of the license of Seshagiri Rao, M.D. ("Respondent").

On January 8, 2010, Respondent appeared in person, with counsel, Cathy F. Bailey, 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 Melinda McMichael, M.D., a member of the Board, and Noe Fernandez, a member of a District Review Committee. Elaine Snow represented Board staff.

The matter did not settle at the ISC, and the Board filed a formal complaint at the State Office of Administrative Hearings ("SOAH"). Prior to this matter going to trial, the parties agreed to mediation. The mediation was held on January 25, 2011. Respondent appeared in person with counsel, Julian Rivera. The Board was represented by Margaret McNeese, M.D., a member of the Board, and staff attorney, Elaine Snow.

Following the initial mediation, Respondent retained new counsel, Laurie York, and Scott M. Freshour took over representation for Board Staff. Prior to the matter going to trial the parties, through new counsel, were able to reach settlement.

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.

BOARD HISTORY

Respondent has previously been the subject of disciplinary action by the Board. On August 25, 2006, Respondent was assessed a \$250 administrative fine for failing to timely respond to the Board's request for information

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 that:

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. G-0803. Respondent was originally issued this license to practice medicine in Texas on August 23, 1981. Respondent is not licensed to practice in any other state.
- c. Respondent is primarily engaged in the practice of allergy and pediatrics. Respondent is board certified by the American Board Medical Specialties in Allergy and Immunology. Respondent is also board certified by the American Academy of Pediatrics, a member of the American Board of Medical Specialties.
- d. Respondent is 60 years of age.

2. Specific Findings

- a. Respondent saw Patient 1, Patient 2, Patient 3, Patient 4, and Patient 5 during the period of 2007-2008. The patients were all minor children.
- b. Respondent used intravenous ("IV") chelation therapy, suppositories, oral supplements and prescribed medicines to treat the patients with autistic spectrum disorder ("ASD"). In addition, Respondent prescribed Namenda for at least one of these patients.
- c. Respondent had patient's parents sign informed consents, but the disclosures in these forms were not complete.
- d. The medical records were not adequate in several respects records.
- e. The billing of certain office visits and services lacked the required documentation to support the coding utilized.
- f. Respondent's overall practice population is approximately 65% pediatric. Respondent's practice is 75% traditional allergy and 25% ASD. Only 10% of Respondent's ASD pediatric patients receive any form of non-traditional/CAM therapy.

3. Mitigating Factors:

- a. Respondent acknowledged that his record keeping needed improvement.
- b. Respondent has reviewed and implemented requirements of Board Rule 200 into his practice.
- c. Respondent has implemented a new detailed informed consent.
- d. Respondent has new office staff who handles all the billing and coding.
- e. There were no issues concerning Respondent's allergy practice.
- f. In determining appropriate sanctions in this case, the Panel considered that Respondent has cooperated in the investigation of the allegations related to this Agreed Order. Respondent's cooperation, through consent to this Mediated 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, the Board concludes that:

1. The Board has jurisdiction over the subject matter and Respondent pursuant to the Act.
2. Section 164.051(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's commission of an act prohibited under Section 164.052 of the Act.
3. Section 164.051(a)(3) of the Act, authorizes the Board to take disciplinary action against Respondent based on violation of a board rule; to wit, Board Rule 165, related to medical records.
4. Section 164.051(a)(6) of the Act, as further by Board Rule 190.8(1) authorizes the Board to take disciplinary action against Respondent based on Board Rule 190.8(1)(C); and Board Rule 190.8(1)(K), relating to compliance with Chapter 200 of this title (relating to Standards for Physicians Practicing Complementary and Alternative Medicine).
5. 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.
6. 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. Respondent shall be subject to the following terms and conditions for eight (8) consecutive monitoring cycles (defined below). Respondent's practice shall be monitored by a physician ("monitor"), in accordance with §164.001(b)(7) of the Act. The Compliance Division

of the Board shall designate the monitor and may change the monitor at any time for any reason. The monitor shall have expertise in the area of either pediatric neurology or developmental pediatrics. The Compliance Division shall provide a copy of this Order to the monitor, together with other information necessary to assist the monitor.

a. As requested by the Compliance Division, Respondent shall prepare and provide complete legible copies of selected patient medical and billing records. ("selected records") These Selected Records shall be limited to autism or developmentally delayed pediatric cases treated by Respondent. The Compliance Division may select records for more than 10 patients, up to 20 % of the autism or developmentally delayed pediatric patients seen during a reporting period. If Respondent fails to see at least 10 patients during any three-month period, the term of this Order shall be extended until Respondent can submit a sufficient number of records for a monitor to review.

b. The monitor shall perform the following duties:

- 1) Personally review the selected records;
- 2) Prepare written reports documenting any perceived deficiencies and any recommendations to improve Respondent's practice of medicine or assist in the ongoing monitoring process. Reports shall be submitted as requested by the Compliance Division; and
- 3) Perform any other duty that the Compliance Division determines will assist the effective monitoring of Respondent's practice.

c. The Compliance Division shall provide to Respondent a copy of any deficiencies or recommendations submitted by the monitor. Respondent shall implement the recommendations as directed by the Compliance Division.

d. A "monitoring cycle" begins when the Compliance Division selects patient records for review, and concludes when Respondent receives the monitor's report for that group of records.

The monitor shall be the agent of the Board, but shall be compensated by the Respondent through the Board. Such compensation and any costs incurred by the monitor shall be paid by Respondent to the Board and remitted by the Board to the monitor. Respondent shall not charge the compensation and costs paid to the monitor to any patients.

2. Within one year from the date of the entry of this Order, Respondent shall enroll in and successfully complete at least ten hours of continuing medical education ("CME") approved for Category I credits by the American Medical Association equally divided in the following topics; five hours of medical record keeping and five hours of autism and developmental disorders. Each topic must be approved in writing in advance by the Executive director or their designee. To obtain approval for the courses, Respondent shall submit in writing to the Compliance Division of the Board information on the courses, 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.

3. The time period of this Order shall be extended for any period of time that: (a) Respondent subsequently practices exclusively outside the State of Texas; (b) Respondent's license is subsequently cancelled for nonpayment of licensure fees; (c) this Order is stayed or enjoined by Court Order; or (d) for any period of time longer than 60 consecutive days that Respondent does not actively practice medicine. If Respondent leaves Texas to practice elsewhere or ceases active practice for more than 60 consecutive days, Respondent shall immediately notify the Board in writing. Upon Respondent's return to active practice or return to practice in Texas, Respondent shall notify the Board in writing. When the period of extension ends, Respondent shall be required to comply with the terms of this Order for the period of time remaining on the Order. Respondent shall pay all fees for reinstatement or renewal of a license covering the period of extension or tolling.

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

5. 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.

6. 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 the 30-day notice requirement provided by §164.003(b)(2) of the Medical Practice Act.

7. 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.

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

9. The above-referenced conditions shall continue in full force and effect without opportunity for amendment, except for clear error in drafting, for one year following the date of the entry of this Order. If, after the passage of the one-year 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 without further appeal or review. 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. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.

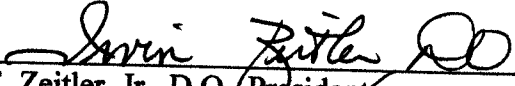
THIS ORDER IS A PUBLIC RECORD.

I, SESHAGIRI RAO, 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: 8/16/2012, ~~2011~~

DSeshagiri Rao MD
SESHAGIRI RAO, M.D.
Respondent

SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this
31 day of August, 2012.


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