

STATE OF TENNESSEE
DEPARTMENT OF HEALTH

IN THE MATTER OF:

Joseph E. Rich, M.D.
RESPONDENT
Knoxville, TN
License No. 26657

) BEFORE THE BOARD OF
) MEDICAL EXAMINERS
)

) DOCKET NO. 17.18-026623A
)
)
)

SECRETARY OF STATE

2002 SEP 17 PM 4:48

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AMENDED AGREED ORDER

HRB DISCIPLINARY
COORDINATOR

This matter came before the Board of Medical Examiners (hereinafter the Board) on September 17, 2002. The parties desire to amend the Agreed Order entered by the Board On May 21, 2002. The State was represented by Earl W. Roberts, Assistant General Counsel. Respondent was not represented by counsel having earlier reviewed and executed the Amended Agreed Order.

On June 7, 1999, as the results of a contested case hearing, the Board of Medical Examiners entered an Order setting forth disciplinary conditions under which the Respondent was required to practice, including the serving of a two year term of probation.

On May 21, 2002, the parties executed an Agreed Order modifying the disciplinary terms and conditions referred to above. The Board approved the Order contingent upon Dr. Allen Edmonson being supplied with a copy of Respondent's psychiatric evaluation. The Board hereby finds that this contingency has been satisfied and that Dr. Edmonson has received the requested copy of the Respondent's psychiatric evaluation.

It is the intent of the parties, among other things, to terminate Respondent's two-year term of probation and to ensure that Respondent continues in psychotherapy treatment.

Through oversight, however, said Agreed Order of May 21, 2002, only included the following disciplinary terms and conditions:

1. Respondent shall maintain an advocacy relationship with the Tennessee Medical Foundation Impaired Physician's Program (TMF) until the expiration of his current Contract with the TMF in December of 2006.
2. Upon termination of the TMF contract, Respondent shall cause to have forwarded to the Board a written report from Dr. Roland Gray or his successor with the TMF, addressing the necessity of Respondent's continued participation in the TMF program.
3. Respondent shall cause to have forwarded to the Board a six (6)-month progress report written on his behalf by Dr. Gray or his successor beginning on October 22, 2002 and every year thereafter that he is involved in TMF advocacy.
4. Respondent shall personally appear before the Board to discuss Respondent's health at its first scheduled meeting following the one year anniversary date of this Order, and thereafter Respondent shall appear before the Board once a year, as long as he is required to participate in the TMF program.
5. Any violation of the terms and conditions of this Agreed Order may constitute the basis for the reinstatement of the charges pending against Respondent before the execution of this Agreed Order; and in addition, Respondent may be charged with

the violation of a lawful Order of the Board pursuant to T.C.A. § 63-6- 214(b)(2).

6. This Agreed Order shall remain in full force and effect until all of the terms and conditions of the Order have been complied with by the Respondent.

Accordingly, the parties now desire and the Board does hereby amend the said Agreed Order as set forth on page five(5) of the Agreed Order, to include two additional paragraphs: seven (7) and eight (8), which shall read as follows:

" 7. Respondent's probation of two years is hereby terminated."

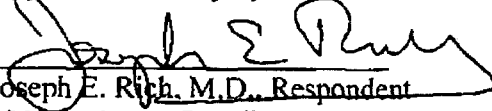
" 8. Respondent shall continue weekly psychotherapy sessions as long as he is under TMF advocacy."

All other terms, conditions and/ or findings of facts of the Agreed Order of May 21, 2002 remain in full force and effect.


So ORDERED this 17 day of Sept, 2002 by the Tennessee Board of Medical Examiners.


Panel Chairman, Board of Medical Examiners

Approved for entry by:


Joseph E. Rich, M.D., Respondent
9217 Parkwest Building
Knoxville, Tennessee 37923
(865) 694-9553


9/17/02
Date


Earl W. Roberts, Assistant General Counsel
26th Floor, Snodgrass Tower
Nashville, TN 37247-0120

9-17-02
Date

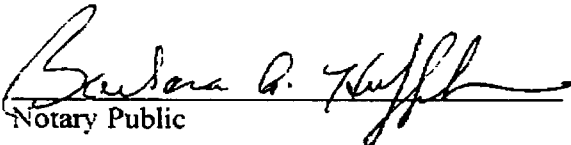
(615) 741-1611

This Order was received for filing in the Office of the Secretary of State, Administrative Procedures Division, and became effective on the 17th day of September, 2002.


Charles C. Sullivan, II, Director
Administrative Procedure Division

STATE OF TENNESSEE
COUNTY OF Davidson

On the 17th day of September, 2002, before me, a notary public in and for said County, appeared Joseph E. Rich, M.D., who upon oath, states that he has read the foregoing Agreed Order, and that he knows the contents thereof to be true, and that the signing of the same is his free act and deed.


Notary Public

My Commission Expires: May 28, 2003

**STATE OF TENNESSEE
DEPARTMENT OF HEALTH**

IN THE MATTER OF:

**Joseph E. Rich, M.D.
RESPONDENT
Knoxville, TN
License No. 26657**

) **BEFORE THE BOARD OF
) MEDICAL EXAMINERS**

) **DOCKET NO. 17.18-026623A**

AGREED ORDER

This matter came to be heard before the Board of Medical Examiners (hereinafter the Board) on the 21st day of May, 2002, pursuant to a Notice of Charges issued against the Respondent. Earl W. Roberts, Assistant General Counsel, represented the State. The Respondent, although electing to make an appearance in the matter, was not represented by counsel, having earlier reviewed and executed the Agreed Order herein. After consideration of the Notice of Charges and the statements of Assistant General Counsel and Respondent, the Board finds as follows:

FINDINGS OF FACT

1. The Respondent has, by his signature on this Order, waived his right to a contested case hearing and any and all rights to judicial review in this matter.

2. The Respondent agrees that presentation to and consideration of this Agreed Order by the Board for ratification and all matters divulged during that process shall not constitute unfair disclosure such that the Board or any of its members shall be prejudiced to the extent that it requires their disqualification from hearing this matter should this Order not be ratified. Likewise, all matters, admissions and statements disclosed or exchanged during the attempted ratification process shall not be used against the Respondent in any subsequent proceeding, unless independently entered into evidence or introduced as admissions.
3. The Respondent, Joseph E. Rich, M.D., received the doctor of medicine degree from the University of Saarland, Saarbrucken, Germany in July 1976. He became licensed to practice in Tennessee in August 1995 and was given the license number 26657.
4. At all times material hereto, Respondent held a Tennessee medical license, number 26657, issued by the Tennessee Board of Medical Examiners.
5. In June of 1999, Respondent was disciplined by the Board after a finding that in July of 1997 he had taken a ten-day vacation to Canada, leaving pre-signed scripts with his eighteen (18) year-old receptionist, who filled out at least eleven (11) of the scripts for patients who were seeking weight loss medications FenFluromine and Phentermine.
6. Based on the facts outlined above, the Board on June 7, 1999, entered an Order setting forth the following disciplinary conditions:
 - A. Respondent's license was placed on two years probation.

- B. Respondent was assessed eleven hundred (\$1100.00) dollars in civil penalties.
 - C. Respondent was to undergo psychiatric evaluation performed by a board certified psychiatrist, who was to file a written report with the Board by no later than May 17, 1999.
 - D. Respondent was to secure and maintain immediate access to and participation in the Tennessee Medical Foundation Program.
 - E. Respondent was to cause to be submitted progress reports on his behalf by Dr. Gary Olbrich, or his successor, with the TMF.
 - F. Respondent was to make an appearance before the Board on May 18, 1999 in order that the Board might assess his progress and compliance.
7. Respondent has violated the terms and conditions of the Board's June 7, 1999 Order. Specifically, the Board finds that the psychiatric evaluation was not performed until November 2001. Also, the Board finds that Respondent did not connect with the TMF program until December 16, 2001. Further, the Board finds that no six months reports were submitted on Respondent's behalf.
8. The Notice of Charges filed against the Respondent allege that the Respondent's conduct as set forth herein above constitutes grounds for disciplinary action against a person licensed to practice medicine in Tennessee, pursuant to T.C.A. § 63-6-214-(b)(2) in that the Respondent's conduct violated the terms of the Board's Order entered on June 7, 1999, and further; constitutes a violation of his probation under said Order.

9. Respondent admits to the allegations in the preceding paragraphs, seven (7) and eight (8). Both parties, however, agree to resolve the matter by compromise and settlement hereinafter set forth.

CONCLUSIONS OF LAW

For conduct such as outlined above, the Board has the power to revoke, suspend, restrict, limit or otherwise discipline a previously issued license for such a time as it may determine. T.C.A. § 63-6-214(a).

REASONS FOR DECISION

The Board takes this action to protect the health, safety, and welfare of the public. Therefore, it is ORDERED BY THE BOARD, and agreed to by the Respondent, as follows:


1. Respondent shall maintain an advocacy relationship with the Tennessee Medical Foundation Impaired Physician's Program (TMF) until the expiration of his current contract with the TMF in December of 2006.
2. Upon termination of the TMF contract, Respondent shall cause to have forwarded to the Board a written report from Dr. Roland Gray or his successor with the TMF, addressing the necessity of Respondent's continued participation in the TMF program.

3. Respondent shall cause to have forwarded to the Board a six (6)-month progress report written on his behalf by Dr. Gray or his successor beginning on October 22, 2002 and every year thereafter that he is involved in TMF advocacy.
4. Respondent shall personally appear before the Board to discuss Respondent's health at its first scheduled meeting following the one year anniversary date of this Order, and thereafter Respondent shall appear before the Board once a year, as long as he is required to participate in the TMF program.
5. Any violation of the terms and conditions of this Agreed Order may constitute the basis for the reinstatement of the charges pending against Respondent before the execution of this Agreed Order; and in addition, Respondent may be charged with the violation of a lawful order of the Board pursuant to T.C.A. § 63-6-214(b)(2).
6. This Agreed Order shall remain in full force and effect until all of the terms and conditions of the Order have been complied with by Respondent.


So ORDERED this 21st day of May, 2002 by the Tennessee Board of Medical Examiners.


Panel Chairman, Board of Medical Examiners

Approved for entry by:

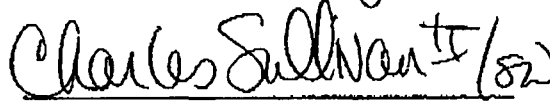

Joseph E. Rich, M.D., Respondent
9217 Parkwest Building
Knoxville, Tennessee 37923
(865) 694-9553

5-10-02
Date


Earl W. Roberts, Assistant General Counsel
26th Floor, Snodgrass Tower
Nashville, TN 37247-0120
(615) 741-1611

5-11-02
Date

This Order was received for filing in the Office of the Secretary of State, Administrative Procedures Division, and became effective on the 21 day of May, 2002.


Charles C. Sullivan, II, Director
Administrative Procedure Division

STATE OF TNCOUNTY OF Rutherford

On the 10 day of May, 2002, before me, a notary public in and for said County, appeared Joseph E. Rich, M.D., who upon oath, states that he has read the foregoing Agreed Order, and that he knows the contents thereof to be true, and that the signing of the same is his free act and deed.


Notary Public

My Commission Expires:

NOTARY COMMISSION
EXPIRES 6-22-2004

**STATE OF TENNESSEE
DEPARTMENT OF HEALTH**

IN THE MATTER OF:

) **BEFORE THE BOARD OF**
) **MEDICAL EXAMINERS**

Joseph E. Rich, M.D.
RESPONDENT

) **DOCKET NO. 17J8-026623A**
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Knoxville, TN
License No. 26657

NOTICE OF CHARGES

The Division of Health Related Boards for the Department of Health, would show:

I. JURISDICTION AND NOTICE OF RIGHTS

1. The Tennessee Board of Medical Examiners (hereinafter referred to as the "Board") is responsible for the regulation and supervision of the practice of medicine in the State of Tennessee. T.C.A., Section 63-6-101. et seq.
2. The Respondent has been issued a license to practice medicine in the State of Tennessee in August of 1995.
3. Tennessee Code Annotated, §63-6-214, grants the Board the power and duty to suspend or revoke or otherwise discipline a licensee who has violated the provisions of Title 63, Chapter 6, of Tennessee Code Annotated. The Board is further empowered to assess a civil penalty not in excess of one thousand (\$1,000.00) dollars for each separate violation of the provisions of Title 63, Chapter 6 (The Tennessee Medical Practice Act). T.C.A. § 63-

Title 63, Chapter 6 (The Tennessee Medical Practice Act). T.C.A. § 63-6-214.

4. A Respondent in a disciplinary action is entitled to be represented by legal counsel, personally appear before the Board, to present witnesses, have subpoenas issued and receive thirty-(30) days notice of the charges before being required to appear for a hearing. A respondent who cannot afford legal counsel may contact their local bar association or legal services office for information about the possibility of free or low cost counsel.
5. Proceedings for disciplinary action against a license holder are conducted in accordance with the Tennessee Uniform Administrative Procedures Act, Title 4, Chapter 5, of the Tennessee Code Annotated, T.C.A. Section 63-6-216.

II. STATEMENT OF FACTS

1. The Respondent, Joseph E. Rich, M.D., received the doctor of medicine degree from the University of the Saarland, Saarbrücken, Germany in July 1976. He became licensed to practice in Tennessee in August of 1995 and was given the license number MD 26657.
2. In June of 1999, Respondent was disciplined by the Board after a finding that in July of 1997, he had taken a ten day vacation to Canada leaving pre-signed scripts with his eighteen year old receptionist, who filled out at least eleven of the scripts for patients who were seeking weight loss medications.

FenFluromine and Phenterine.

3. Based upon the facts as outlined above, the Board on June 7, 1999, entered an Order setting forth the following disciplinary conditions:
 - a. Respondent's license was placed on two years probation.
 - b. Respondent was assessed eleven hundred dollars in civil penalties.
 - c. Respondent was to under go a psychiatric evaluation performed by a board certified psychiatrist. who was to file a written report with the Board by no later then May 17, 1999.
 - d. Respondent was to secure and maintain immediate access to and participation in the Tennessee Medical Foundation Program.
 - e. Every six months the Respondent was to cause to be submitted, progress reports on his behalf by Dr. Gary Olbrich.
 - f. Respondent was to make an appearance before the Board on May18, 1999, in order that the Board could assess his progress and compliance.
4. Respondent has violated the terms and conditions of the Board's June 7, 1999 Order. Specifically, the psychiatric evaluation was not generated until November 2001. Also, Respondent did not connect with the TMF program until December 16, 2001. Further, no six months reports were submitted on his behalf.

III. CAUSE OF ACTION

The facts as alleged in Section II. of this Notice constitute a violation of the Medical Practice Act, T.C.A. § 63-6-214 (b)(2) in that Respondent's conduct violated the terms of the Board's Order entered on June 7, 1999, and further; constitutes a violation of his probation under said Order

IV. CIVIL PENALTY ASSESSMENT

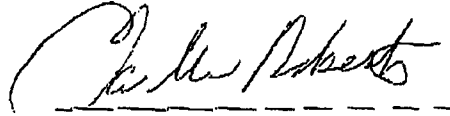
Based upon the facts and causes of action in this Notice of Charges the Division proposes the assessment of a civil penalty in whatever amount the Board is permitted to access by law.

V. NOTICE AND PETITION FOR RELIEF

Premises considered, the Division hereby:

1. Issues to the Respondent a copy of this Notice of Charges
2. Gives notice that if the Respondent does not enter an appearance and defend, a default judgment may be entered.
3. Gives notice that this matter will be presented at the Board Hearing Room, First Floor, Cordell Hull Building 425 5th Avenue North, Nashville, TN 37247 on May 21, 2002 at 1:00 P.M.
4. Petitions that at the hearing of this cause, the Board determine whether the Respondent is guilty of violating the provisions of T.C.A. §63-6-101 et seq. and the Board further determine whether Respondent should be assessed a fine or otherwise disciplined.

Respectfully submitted on this 17th day of April, 2002.

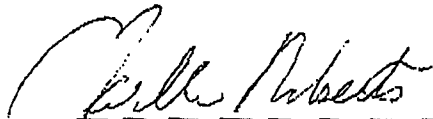


Earl W. Roberts
Assistant General Counsel
Office of General Counsel
Department of Health
Tennessee Tower, 26th Floor
312 8th Avenue North
Nashville, TN 37247
(615) 741- 1611

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Charges has been served upon the
Respondent, Joseph Rich, by placing a copy in the U.S. mail Addressed to the

Respondent at 9217 Parkwest Blvd., Suite E1, Knoxville, TN 37923 on this 17th day of
April, 2002.



Earl W. Roberts