AGREED ORDER

On the 27th day of June, 2014, came on to be heard before the Texas Medical Board (the Board), duly in session, the matter of the license of R. Juan Aguilera, M.D. (Respondent).

On March 20, 2014, Respondent appeared in person, with counsel John Lyde, 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 Julie Attebury, a member of the Board, and Leah Mabry, M.D., a member of a District Review Committee (Panel). Trina Richardson represented Board staff, and Nycia Deal prepared this Order.

BOARD CHARGES

Board staff charged that Respondent failed to use proper diligence in his professional practice. Specifically, a medical assistant at Respondent's clinic released a patient ten minutes after receiving an allergy shot, in violation of clinic protocols.

BOARD HISTORY

Respondent has not previously received a disciplinary order from the Board.

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 the following:

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. E-2966. Respondent was originally issued this license to practice medicine in Texas on August 17, 1974. Respondent is not licensed to practice in any other state.
   
c. Respondent is primarily engaged in the practice of pediatrics. Respondent is not board certified.
   
d. Respondent is 72 years of age.

2. Specific Panel Findings:
   
a. Respondent’s employee discharged a patient prior to the completion of the 20 minute waiting period following an allergy shot. The patient had an adverse reaction that required an emergency room visit and hospitalization.
   
b. Respondent’s employee administered an incorrect dosage of the shot possibly leading to the adverse reaction.

3. Mitigating Factors:
   
In determining the appropriate sanctions in this matter, the Panel considered the following mitigating factors:
   
a. Respondent has no previous disciplinary history with the Board.
   
b. Respondent took this incident seriously and implemented several remedial actions to address the issue.
   
c. Respondent changed his clinic protocols, which were already compliant with the standard of care for allergy injection, by increasing the period for observation
following an allergy injection from 20 to 30 minutes. The protocols were also changed to require that the patient be checked every 10 minutes during this 30 minute observation period.

d. Respondent also implemented changes requiring the labeling of allergy serum, adding taped labels, even though the bottles are already color-coded to prevent any error.

e. The actions taken by the medical assistant, specifically, allowing the patient to leave prior to 20 minutes and injecting the incorrect dosage were done in violation of the clinic’s protocols.

f. Respondent reviewed the medical assistant’s actions in this case and terminated her employment based on her conduct.

g. The medical assistant who was terminated had received six months training at the clinic.

h. This was the first patient in Respondent’s large and busy allergy practice who has adverse reaction to an allergy injection.

i. 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, 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, as further defined by Board Rule 190.8(1)(c), authorizes the Board to take action against Respondent.

3. 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.

Agreed Order
R. Juan A. Aguillon MD
4. Section 164.002(a) of the Act authorizes the Board to resolve and make a disposition of this matter through an Agreed Order.

5. 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 and Conclusions of Law, the Board ORDERS that Respondent shall be subject to the following terms and conditions:

1. Within one year following the date of the entry of this Order, Respondent shall enroll in and successfully complete at least eight hours of continuing medical education (CME) in the topic of risk management. The CME shall be approved for Category I credits by the American Medical Association and approved in writing in advance by the Executive Director or their designee. To obtain approval for the course, Respondent shall submit in writing to the Compliance Division of the Board information on the course, 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.

2. Respondent shall give a copy of this Order to all hospitals, nursing homes, treatment facilities, and other health care entities where Respondent has privileges, has applied for privileges, applies for privileges, or otherwise practices. Within thirty days of entry of this Order Respondent shall provide documentation, including proof of delivery, to the Compliance Division of the Board that the Order was delivered to all such facilities.

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 that 10 days notice of a Probationer Show Compliance Proceeding to address any allegation of non-compliance of this Agreed Order is adequate and reasonable notice prior to the initiation of formal disciplinary action. Respondent waives the 30-day notice requirement provided by §164.003(b)(2) of the Medical Practice Act and agrees to 10 days notice, as provided in 22 Texas Administrative Code §187.44(4).

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. This Order shall automatically terminate upon Respondent’s submission of sufficient evidence to the Compliance Division of the Board that Respondent successfully completed the requirements ordered in Ordering Paragraph Nos. 1 and 2.
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.
SIGNATURE PAGES FOLLOW.
I, Dr. JUAN AGUILERA, 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.


Dr. JUAN AGUILERA, M.D.
Respondent

STATE OF Texas §
COUNTY OF Hidalgo §

SWORN TO AND ACKNOWLEDGED BEFORE ME, the undersigned Notary Public, on this 30th day of May, 2014.

SANDRA GARCIA
Notary Public

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R. Juan A. Aguillera, MD
Legal Case 14-0256
SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this 27 day of June, 2014.

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