

# LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

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## BEFORE THE LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

**NUMBER: 13-A-006  
IN THE MATTER OF:**

**FIAZ AFZAL, M. D.  
(Certificate No. 11980R)**

**ADMINISTRATIVE HEARING  
HELD ON JUNE 16, 2014**

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### DECISION AND ORDER

This matter comes before the Board pursuant to an Administrative Complaint, which charges Respondent Afzal Fiaz, M. D., with a number of violations of the Medical Practice Act, R. S. 37:1261 et seq. The matter was heard before a panel consisting of Doctors Burdine, Amusa, Busby, Valentine, Clarke, with Dr. Dawson presiding. The Respondent was present and not represented.

In the Administrative Complaint, Dr. Afzal is charged with the following violations:

1. Pursuant to La. Rev. Stat. §37:1285(1), (1) Conviction of a crime or entry of a plea of guilty or nolo contendere to a criminal charge constituting a felony under the laws Louisiana or of the United States.
2. Pursuant to La. Rev. Stat. §37:1285(2), Conviction of a crime or entry of a plea of guilty or nolo contendere to any criminal charge arising out of or in connection with the practice of medicine;

3. Pursuant to La. Rev. Stat. §37:1285(6), Prescribing, dispensing, or administering legally controlled substances or any dependency-inducing medication without legitimate medical justification therefor or in other than a legal or legitimate manner;'
4. Pursuant to La. Rev. Stat. §37:1285(14) Continuing or recurring medical practice which fails to satisfy the prevailing and usually accepted standards of medical practice in this state;'
5. Pursuant to La. Rev. Stat. §37:1285(30), Violation of any rules and regulations of the board, or any provisions of this Part..'
6. Boards Pain and Obesity Rules, Section 6921 of the Board's rules identify the provisions to which physicians should adhere in treating non-malignant chronic or intractable pain with controlled substances on a protracted basis (in excess of 12 weeks during any 12 month period). Among the items required by the rules, with which Respondent failed to satisfy with respect to this patient are the need to: perform an evaluation of the patient; arrive at a medical diagnosis; formulate a treatment plan; document the medical necessity for the use of more than one type or schedule of controlled substance in the patient's chart; and document and maintain accurate and complete records of history, physical and other examinations and evaluations as required by Section 6921 of the Board's rules. La. Adm. C. 46 XLV .6921.

### **FINDINGS OF FACT**

The violations alleged arise out of Respondent's treatment of ten patients as a physician licensed by the Board and engaged in the practice of medicine and his involvement in a criminal proceeding in the 19th Judicial District Court in the Parish of East Baton Rouge, Louisiana.

The evidence offered in support of the complaint was Respondent's medical records pertaining to each patient outlined in the complaint and the expert testimony of Dr. Tricia Aultman, who appeared by video deposition. The expert testimony of Dr. Kathy Willis was also introduced. In addition, an extract of the criminal court minutes from the 19th Judicial District Court, Parish of East Baton Rouge, Louisiana, was introduced.

Dr. Aultman, Board Certified in Internal Medicine, testified as to respondent's treatment of the ten patients listed in the complaint. She reviewed the medical records of each patient. She was of the opinion that Respondent, in each case, failed to perform a complete physical exam, received no medical history, did not formulate or document a medical diagnosis, failed to consider other remedies other than treatment with drugs, did not develop an individualized treatment

plan and performed no periodic assessments of the patients, all in violation of the Board's Rules on Treatment of Chronic Pain. In addition, she was of the opinion that Respondent's treatment of these patients failed to satisfy the physicians' standard of care.

Dr. Kathy Willis, an internist, testified that she reviewed all of these patients' charts and was of the same opinion as Dr. Aultman as set forth above. She also testified that a number of prescriptions were given by Respondent with no visit shown on the chart. She was of the opinion that Respondent distributed controlled substances with no medical basis for the administering of these drugs. She was also of the opinion that Respondent was in violation of the Board's Rules on Treatment of Chronic Pain and that his treatment of these patients did not meet the standard of care.

The record also supports that Respondent was indicted by the East Baton Rouge Parish Grand Jury in the 19th Judicial District Court, State of Louisiana, for committing thirty-five (35) counts of Medicaid Fraud, which are felonies. He subsequently entered guilty pleas to thirty five counts under Article 893 of the Louisiana Code of Criminal Procedure and pursuant to that article, the imposition of sentence was deferred for a period of three years and Respondent was placed on supervised probation for this three year period subject to conditions of probation. This probation period could be shortened under certain conditions.

### **CONCLUSIONS OF LAW**

The various violations of the Board's Pain Rules committed by Respondent in the treatment of these patients have been proven. The record supports and the Board finds that Respondent failed to perform a complete physical exam or formulate or document a medical diagnosis and failed to formulate an individualized treatment plan for any of these patients. Additionally, he received no medical history on these patients. He also did not consider other remedies other than treatment with drugs. He performed no periodic assessments of these patient's progress.

In addition, the record further supports that Respondent has entered guilty pleas to thirty-five counts of Medicaid Fraud, which are felonies. His sentence was deferred under the law and

he was placed on probation in the 19th Judicial District Court, Parish of East Baton Rouge, Louisiana.

Accordingly, the record supports and the Board unanimously finds Respondent GUILTY of violation of the Board's Pain Rules, La. Admin. Code 46:XLV.6921 and 6923 and the Louisiana Medical Practice Act, La. R.S. 37:1285 A (30). The Board also finds Respondent GUILTY of violating the Louisiana Medical Practice Act, La. R.S. 37:1285 A (6) and (14). Finally, the Board finds Respondent GUILTY of violating La. R.S. 37:1285 (1) as a result of his criminal guilty pleas to felonies and GUILTY of violating La. R.S. 37:1285 (2) as a result of his criminal guilty pleas arising out of the practice of medicine.

### **SANCTIONS**

In view of the foregoing findings, the following sanctions are imposed:

**IT IS ORDERED** that the license of Fiaz Afzal M.D. to engage in the practice of medicine in the State of Louisiana, as evidenced by Certificate 11980R, be and the same is hereby **SUSPENDED** until his probation in the 19th Judicial District Court criminal proceeding is terminated or for two years, whichever is longer.

**IT IS FURTHER ORDERED** that Respondent pay a fine of \$5,000 and all costs of this proceeding within one year of the date of this opinion.

**IT IS FURTHER ORDERED** that the reinstatement of Dr. Afzal's license to practice medicine in the state of Louisiana shall be subject to his acceptance of and strict compliance with the following terms and conditions:

1. **Suspension of Practice/Reinstatement.** Dr. Afzal shall not practice medicine of any form in the state of Louisiana until and unless the Board issues and serves on him a written order reinstating his license to practice medicine. As express conditions to the consideration of a request for reinstatement, Dr. Afzal shall: (1) submit a new application, and satisfy all terms and conditions to be eligible for a license in LA. (2) undergo an evaluation of his competency, in a manner determined by the Board, complete any recommended remediation, and have been determined to be capable of practicing medicine competently. (3) have satisfied all of his financial obligations to the Board and paid any outstanding fees, assessed costs, or fines.

2. **Medical Ethics and Prescribing Course.** Dr. Afzal shall provide confirmation that he has taken and successfully completed the courses on medical ethics and prescribing that is acceptable to and approved by the Board.

3. **Personal Appearance before the Board.** Dr. Afzal shall contact and arrange to personally appear before the Board or its designee, at its meeting next following any request for reinstatement of his license to permit the Board to consider his compliance with the terms, conditions and restrictions of this Order and to advise the Board or its designee of his intentions with respect to his future practice of medicine.

**IT IS FURTHER ORDERED** that upon Dr. Afzal's compliance with and satisfaction of the terms and conditions hereinabove set forth, his license to practice medicine in the state of Louisiana shall be reinstated by the Board *on PROBATION* for 3 years; *provided, however*, that such reinstatement of Dr. Afzal's license and his continuing exercise of rights and privileges thereunder shall be conditioned upon his continuing acceptance of and strict compliance with the terms, conditions, and restrictions specified below:

1. **Limitation on Practice.** Dr. Afzal shall not, until further written order of the Board, engage in the practice of medicine in this state other than in a practice setting approved in advance by the Board.

2. **Prescription of Controlled Substances Prohibited.** For as long as he holds a license to practice medicine in Louisiana, Dr. Afzal shall not prescribe: (i) any substance which may be classified, defined, enumerated or included in 21 C.F.R. §§1308.11-15 or La. Rev. Stat. §40:964, as a Controlled Substance; or (ii) any substance which may hereafter be designated as one of the foregoing controlled substances by amendment or supplementation of such regulations and statute. Dr. Afzal may apply for the ability to prescribe controlled substances III-IV after a period of five (5) years from the date of his reinstatement.

3. **Continuing Medical Education.** For each year that his license remains on probation, Dr. Afzal shall obtain not less than fifty (50) credit hours per year through attendance at and participation in continuing medical education programs ("CME") accredited by the American Medical Association. On or before the anniversary of the reinstatement of his license, Dr. Afzal shall cause to be submitted to the Board written certification of the CME programs and credits completed by him during the preceding twelve (12) months.

4. **Probation Monitoring Fee.** For each year of the probationary term, Dr. Afzal shall pay the Board a probation monitoring fee of three Hundred (\$300.00) Dollars. Payment of the initial fee shall be due not later than sixty (60) days from the reinstatement of his license. All subsequent annual payments shall be due on or before the anniversary date of the initial fee payment.

**5. Cooperation with Board's Probation and Compliance Officer.** Dr. Afzal shall immediately notify the Board's Probation and Compliance Officer of any change in his current home and professional addresses and telephone numbers and he shall direct all matters required pursuant to this Consent Order to the attention of the Probation and Compliance Officer, with whom he shall cooperate on all matters and inquiries pertaining to his compliance with the terms, conditions and restrictions of this Consent Order.

**6. Absence from State - Effect on Probation.** Should Dr. Afzal at any time during the probationary term be absent from the state of Louisiana, relocate to and/or take up residency in another state or country, or discontinue practicing as a physician for a period of thirty (30) days or more, he will so advise the Board in writing. In such instance the probationary term shall be deemed interrupted and extended for no less than the period of time during which he was not engaged in practice or was absent from the state of Louisiana.

**7. Certification of Compliance with Probationary Terms/Personal Appearance Before the Board.** At least sixty (60) days prior to the conclusion of the probationary term, Dr. Afzal shall provide the Board with an affidavit certifying that he has complied with each of the terms of probation imposed upon him by this Order and he shall contact the Board and arrange for a personal appearance before the Board or its designee at its meeting preceding the expiration of the probationary term. The probationary term and all of its terms, conditions and restrictions shall be, and shall be deemed to be, extended and continued in full force and effect pending Dr. Afzal's compliance with the requirements of this provision.

**IT IS FURTHER ORDERED** that any violation or failure of strict compliance with any of the terms, conditions or restrictions set forth by this Order by Dr. Afza; shall be deemed adequate and sufficient cause, upon proof of such violation or failure, for the revocation and cancellation of 11980R license to practice medicine in the state of Louisiana or for such other action as the Board may deem appropriate, as if such violations were enumerated among the causes provided in La. Rev. Stat. §37:1285.

NEW ORLEANS, LA, this 18<sup>th</sup> day of August, 2014.

**LOUISIANA STATE BOARD OF MEDICAL EXAMINERS**

BY: Mark H. Dawson  
MARK H. DAWSON, M.D.  
*President*