

BEFORE THE  
LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

In The Matter of:	:	
	:	NO. 91-A-017
JOSEPH L. ALLAIN, JR., M.D.	:	
(Certificate No. 02414R)	:	
	:	CONSENT ORDER
Respondent	:	

An investigation conducted on behalf of the Louisiana State Board of Medical Examiners ("Board") developed apparently reliable information indicating that Joseph L. Allain, Jr., M.D. ("Dr. Allain"), a physician licensed to practice medicine in the state of Louisiana and actively engaged in the practice of family medicine in the New Orleans area, had written and issued prescriptions for a variety of legally controlled dangerous substances, principally narcotic analgesics and benzodiazepines, in apparently excessive quantities to a number of patients. The investigation included analysis of prescription records maintained by pharmacies together with the physician's own office records with respect to these patients. Expert opinion was obtained indicating that the prescriptions issued to twenty-eight (28) patients in question were without legitimate medical justification.

Predicated on the information received during the course of its investigation, the above-entitled and numbered proceeding was noticed and docketed for hearing before the Board upon Administrative Complaint<sup>1</sup>, specifying alleged violations of the Louisiana Medical Practice Act, LSA-R.S. §§37:1261-92, to wit: "[p]rescribing, 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" LSA-R.S. §37:1285A(6); "[p]rofessional or medical incompetency" LSA-R.S. §37:1285A(12); and "[c]ontinuing or recurring medical practice which fails to satisfy the prevailing and usually accepted standards of medical practice in this state" LSA-R.S. §37:1285A(14).

As evidenced by his subscription hereto, and without denying the accuracy of the charges asserted in the Administrative Complaint described hereinabove, Dr. Allain now acknowledges the existence of probable cause for the institution of administrative proceedings against his medical licensure, further acknowledging that proof of such information upon administrative evidentiary hearing would

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<sup>1</sup> Administrative Complaint, *In the Matter of: Joseph L. Allain, Jr., M.D.*, No. 91-A-017 before the Louisiana State Board of Medical Examiners, dated July 18, 1991.

establish grounds under the Louisiana Medical Practice Act for the suspension or revocation of his license to practice medicine in Louisiana, or for such other action as the Board might deem appropriate, pursuant to LSA-R.S. §37:1285.

Recognizing his right to have the allegations and charges asserted in the aforesaid Administrative Complaint adjudicated, pursuant to LSA-R.S. §§49:955-58, and to a final decision rendered upon findings of fact and conclusions of law, Dr. Allain, nonetheless, hereby waives his right to formal adjudication and, pursuant to LSA-R.S. §49:955D, consents to entry of the order set forth hereinafter. By his subscription hereto, Dr. Allain also hereby authorizes the investigating officer designated by the Board with respect hereto, John B. Bobear, M.D., and/or legal counsel to present this Consent Order to the Board for its consideration and to fully disclose to and discuss with the Board the nature and results of the investigation.

Based upon the information provided, accordingly, and on the recommendation of the investigating officer assigned to this matter, the Board has concluded that its responsibility to ensure the health, safety and welfare of the citizens of this state, pursuant to LSA-R.S. §37:1261, will be effectively served by entry of the order set forth hereinafter, by consent.

Accordingly, in consideration of the foregoing, and pursuant to the authority vested in the Board by LSA-R.S. §37:1285 and LSA-R.S. §49:955D;

**IT IS ORDERED** that the license of Joseph L. Allain, Jr., M.D., to practice medicine in the state of Louisiana, as evidenced by Certificate No. 02414R, shall be, and the same is hereby, **SUSPENDED** for a period of eleven (11) months, said suspension to be effective commencing on November 14, 1991;

**IT IS FURTHER ORDERED** that at the expiration of the eleven (11) month suspensive period identified hereinabove, on October 14, 1992, the licensure of Dr. Allain shall be reinstated on **PROBATION** for a period of five (5) years, or until October 14, 1997. However, the reinstatement of Dr. Allain's medical license and the resumption of his practice of medicine following the eleven (11) month period of active suspension referred to hereinabove, shall be expressly conditioned upon Dr. Allain's strict compliance with and satisfaction of the following probationary terms, conditions, and restrictions:

- a) ***Dispensation of Controlled Substances - All Schedules:*** Dr. Allain shall not, during the three (3) years following his returning to the practice of medicine, or until October 14, 1995, prescribe, dispense, or administer any schedule controlled substance, without regard to the schedule in which such substance may be classified, as defined, enumerated, or included in 21 C.F.R. §1308 and/or LSA-R.S. §40:964, and any substance which may hereafter be included in such schedule by amendment or revision of the cited regulations or statute. This prohibition shall not extend, however, to medications ordered or prescriptions written by Dr.

Allain for institutional or hospital in-patients, under the permit or license of said institution or hospital. Consistent with this condition, Dr. Allain shall immediately surrender to the state and federal authorities his scheduled controlled substances permits and registrations.

- b) *Prescription Log:* At the conclusion of the three (3) year prohibition on the prescription, dispensation, or administration of any schedule controlled substance referred to hereinabove, Dr. Allain may prescribe, dispense or administer Schedule II-V controlled substances to patients in his private office using his own controlled substances permits, provided that Dr. Allain shall keep and maintain an accurate log indicating the substance prescribed, dispensed or administered, the date prescribed, dispensed or administered, the patient to whom prescribed, dispensed or administered (designated by patient number or chart number to preserve patient confidentiality), and the reason for which the medication was prescribed, dispensed or administered. Dr. Allain shall keep and maintain such a prescription log for the two (2) year balance of the probationary period ordered above, from October 14, 1995 through October 14, 1997, submitting copies of such log to the Board's Probation Officer or other designated representative quarterly during the first year, and semi-annually through the second year. Further, Dr. Allain shall permit access by the Board's Probation Officer or his authorized representative to the prescription log at any time throughout the probationary period.
- c) *Psychiatric Evaluation:* As a pre-condition to the resumption of Dr. Allain's practice of medicine on October 14, 1992, Dr. Allain shall, at his own expense, submit to a psychiatric evaluation by a physician acceptable to and/or approved by the Board in writing and Dr. Allain shall cause said physician to submit to the Board a written report evidencing that Dr. Allain is capable of practicing medicine with reasonable skill and safety to patients.
- d) *Continuing Medical Education:* Dr. Allain shall obtain not less than fifty (50) credit hours per year for three (3) years (October 31, 1991 - October 31, 1994) through attendance at and participation in continuing medical education (CME) programs accredited by and qualifying for the Physicians Recognition Award of the American Medical Association, and he shall obtain such award within three (3) years of the date hereof. On or before October 31, 1992, 1993 and 1994, Dr. Allain shall cause to be submitted to the Board's Probation Officer written certification of the CME programs and credits completed by him during the preceding twelve (12) months. With respect to the CME credits ordered hereinabove, Dr. Allain shall attain not less than fifty (50) CME credits

in a course or courses approved by the Board in writing, which shall concentrate on the appropriate prescribing of controlled substances.

- e) ***Payment of Fine:*** Dr. Allain shall pay to the Board a monetary fine in the amount of FIVE THOUSAND AND NO/100 (\$5,000.00) DOLLARS, to be paid in full on or before Dr. Allain's return to the practice of medicine on October 14, 1992.
- f) ***Cooperation with Board's Probationary Officer:*** Dr. Allain shall immediately notify the Board's Probation Officer of any change in his current professional and personal addresses and telephone numbers and he shall direct all all communications mandated by this Consent Order, including the surrender of his controlled substances permits and registrations, prescription logs, CME requirements, and the monetary fine to the attention of the Probation Officer. Dr. Allain may expect scheduled or unscheduled visits by the Probation Officer during the course of his probation to ensure compliance with this terms of this Consent Order and he shall cooperate with the Probation Officer or his authorized representative on all matters.

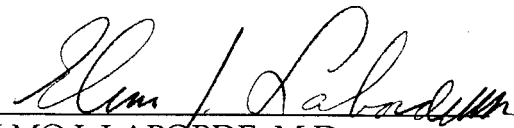
**IT IS FURTHER ORDERED** that any violation of or failure of strict compliance with any of the terms, conditions or restrictions of this order by Dr. Allain shall, upon proof of such violation or failure, be deemed adequate and/or sufficient cause for the revocation and cancellation of Dr. Allain's medical license or for such other disciplinary action as the Board deems appropriate, as if such violations were enumerated among the causes provided in LSA-R.S. §37:1285.

**IT IS FURTHER ORDERED** that this Consent Order shall be, and shall be deemed to be, a public record.

**IT IS FURTHER ORDERED** that the Administrative Complaint be, and the same are hereby dismissed, without prejudice.

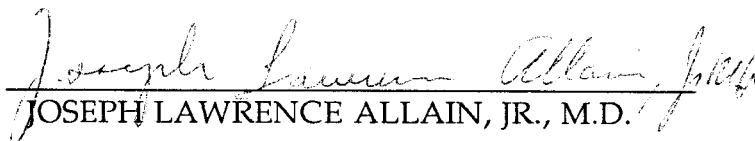
New Orleans, Louisiana, this 30<sup>th</sup> day of October, 1991.

LOUISIANA STATE BOARD  
OF MEDICAL EXAMINERS

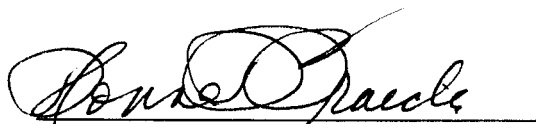
BY:   
ELMO J. LABORDE, M.D.  
PRESIDENT

ACKNOWLEDGMENT AND CONSENT

I, JOSEPH LAWRENCE ALLAIN, JR., M.D., hereby acknowledge, approve, accept and consent to entry of the above and foregoing Order, this \_\_\_\_ day of October, 1991.

  
JOSEPH LAWRENCE ALLAIN, JR., M.D.

ACCEPTED AND APPROVED  
AS TO FORM:



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