

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

630 CAMP STREET, NEW ORLEANS, LA 70130
MAILING ADDRESS: POST OFFICE BOX 30250, NEW ORLEANS, LA 70190-0250



Telephone (504) 524-6763
FAX (504) 568-8893
Writer's Direct Dial

----- X
:
:
:
In The Matter Of
:
LUNDY E. CAVENDER, JR., M.D.
:
(Certificate No. 016319)
:
:
:
----- X

No. 95-I-055

**CONSENT
ORDER**

The above-entitled proceeding was docketed for investigation by the Louisiana State Board of Medical Examiners (the "Board") following receipt of information indicating that Lundy E. Cavender, Jr., M.D. ("Dr. Cavender"), a physician who, at all times material to the facts and matters alleged herein was engaged in the practice of Pediatric medicine in the state of Texas, but who is also licensed by the Board to engage in the practice of medicine in the state of Louisiana, as evidenced by Certificate No. 016319. Such information revealed, more particularly, that on May 11, 1995, Dr. Cavender entered into an Agreed Order with the Texas State Board of Medical Examiners ("Texas Board"), pursuant to which his license to practice medicine in the state of Texas was suspended; nevertheless, such suspension was stayed and his Texas license was placed on probation for a period of five (5) years, subject to numerous terms, conditions and restrictions.¹ The Agreed Order was predicated upon findings gathered during the course of an investigation conducted by the Texas Board which alleged that between the fall of 1990 and November of 1993, Dr. Cavender took advantage of his physician-patient relationship with the mothers of various pediatric patients by engaging in inappropriate physical contact with them, which included, in some instances, kissing, hugging and other inappropriate touching.² Such information further indicates that in May, 1994, Dr. Cavender's privileges at Huguley Memorial Medical Center were suspended as the alleged result of one or more alleged instances of inappropriate physical contact with mothers of pediatric patients. Nevertheless, hospital

¹ Agreed Order, *In the Matter of the License of Lundy E. Cavender, Jr., M.D.*, Tx. St. Bd. Med. Exam., No. H-7711 (May 11, 1995).

² Agreed Order, ¶¶ 5-6, pp. 1-2, *infra*.

privileges were subsequently reinstated subject to various terms and conditions which include, among others, a two (2) year probationary period and a chaperone requirement, following Dr. Cavender's completion of a Sexual Compulsivity Treatment Program in Dallas, Texas.³ Finally, such information indicates that Dr. Cavender entered into a professional re-entry plan with a treating psychiatrist to promote a successful reintegration back into practice, including regular practice review and a 12-step recovery program for sexual addiction.⁴

Pursuant to the terms of the Agreed Order, Dr. Cavender is required, among other conditions, to undergo at least monthly counseling and to follow the treatment recommendations of a psychiatrist approved by the Texas Board; any time Dr. Cavender performs a physical examination on any patient he must have a chaperone present in the room, who is able to directly observe him; Dr. Cavender is required to comply with all terms and conditions of his professional re-entry plan and his agreement entered into with Huguley Memorial Medical Center, each of which were attached to and incorporated in the Agreed Order; and Respondent must personally appear before the Texas Board or its designee at least one (1) time per year during the term of his probation.⁵

Investigation of the captioned matter was assigned to John B. Bobear, M.D., the Medical Consultant/Director of Investigations for the Board. Dr. Bobear's review and analysis of the matter confirms to his satisfaction that just cause exists for recommending that a formal Administrative Complaint be filed against Dr. Cavender, charging him with violation of the Louisiana Medical Practice Act (the "Act").⁶

Dr. Cavender acknowledges the substantial accuracy of the foregoing information as recited hereinabove and, further, that proof of such information upon an administrative evidentiary hearing would establish grounds under the Act for the suspension, revocation or imposition of such other terms, conditions or restrictions as the Board might deem appropriate on his license to practice medicine in the state of Louisiana.

³Agreed Order ¶¶7-10, p. 2, *infra*.

⁴Agreed Order ¶ 11, p. 2, *infra*.

⁵Agreed Order ¶ Order, pp. 3-5, *infra*.

⁶Pursuant to La. Rev. Stat. §37:1285A(29), the Board may take action against the license of a physician as a result of the '[The refusal of a licensing authority of another state to issue or renew a license, permit or certificate to practice medicine . . . in that or the revocation, suspension, or other restriction imposed on a license, permit, or certificate issued by such licensing authority which prevents or restricts practice in that state . . .]'

Recognizing his right to have notice of such allegations and charges asserted against him, to administrative adjudication of such charges, at which time Dr. Cavender would be entitled to be represented by legal counsel, to call witnesses and to present evidence on his own behalf in defense or in mitigation of the charges made, and to a decision thereon by the Board based upon written findings of fact and conclusions of law, pursuant to La. Rev. Stat. §§49:955-965, Dr. Cavender, nonetheless, hereby waives his right to notice of charges and formal adjudication and, pursuant to La. Rev. Stat. §49:955(D), consents to entry of the Order set forth hereinafter and acknowledges and waives any right to which he may be entitled pursuant to the Louisiana Administrative Procedure Act or which otherwise may be afforded to him by law, to contest his agreement to or the force and effect of this document in any court relating to the matters referred to herein. By his subscription hereto, Dr. Cavender also hereby authorizes the Investigating Officer designated by the Board with respect hereto, as well as his legal counsel assisting him in connection herewith, 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, and he waives any objection to such disclosures under La. Rev. Stat. §49:960. Dr. Cavender expressly acknowledges that the disclosure of information to the Board by the Investigating Officer or his legal counsel shall be without prejudice to the Investigating Officer's authority to file a formal Administrative Complaint against him or to the Board's capacity to adjudicate such Complaint, should the Board decline to approve this Consent Order.

Based upon the information provided, accordingly, and upon the recommendation of the Investigating Officer assigned to this matter, the Board has concluded that its responsibility to insure the health, safety and welfare of the citizens of this state, pursuant to La. Rev. Stat. §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 La. Rev. Stat. §37:1285 and La. Rev. Stat. §49:955(D);

IT IS ORDERED that the license of Lundy E. Cavender, Jr., M.D., to engage in the practice of medicine in the state of Louisiana, as evidenced by Certificate No. 016319, be, and the same is hereby, placed **ON PROBATION**, for a period five (5) years from the effective date hereof; *provided, however*, that Dr. Cavender's continuing exercise of the rights and privileges thereunder shall be conditioned upon his acceptance of and strict compliance with the following minimum terms, conditions and restrictions:

- a) **Practice of Medicine in Louisiana Prohibited for Five (5) Years.** In no event shall Dr. Cavender relocate to Louisiana for the purpose of practicing medicine until the passage of at least five (5) years from the effective date of this Order.

- b) **Satisfaction of Terms and Conditions Imposed Upon His Medical License by Any State Medical Licensing Board.** Dr. Cavender shall satisfactorily comply with and complete all probationary terms, conditions and restrictions imposed upon his license by the Texas Board's Agreed Order, referred to hereinabove. Moreover, should Dr. Cavender ever seek reinstatement of his Louisiana medical license, he shall provide satisfactory proof that his license in any other state where he is licensed to practice medicine is unrestricted, in good standing and is not the subject of any then pending inquiry, investigation or action.
- c) **Personal Appearance Before the Board.** In the event that Dr. Cavender decides to return to Louisiana for the purpose of practicing medicine at any time following the five (5) year probationary period, and satisfaction of the other terms and conditions imposed hereinabove, he shall contact the Board at least sixty (60) days in advance of his return to Louisiana to arrange an appearance before the Board at its next regularly scheduled meeting. At such meeting, Dr. Cavender shall demonstrate his compliance with the probationary terms and conditions imposed upon him by the Texas Agreed Order, and this Order, and he shall discuss with the Board his intended plans for the practice of medicine in this state.
- d) **Additional Probationary Terms.** In addition to such other terms and conditions as are placed upon his Louisiana license by this Order, Dr. Cavender hereby consents to, agrees with and acquiesces in the imposition of any additional probationary terms, conditions or restrictions, as well as the length or nature thereof, which in the sole discretion of the Board it may deem necessary or appropriate to impose upon his Louisiana license should he decide to relocate to the state of Louisiana for the purpose of engaging in the practice of medicine at any time following the five (5) year probationary period referred to herein.
- e) **Verification by Probation/Compliance Officer.** Dr. Cavender shall immediately notify the Board's Probation/Compliance Officer of any change in his personal and professional addresses and telephone numbers and shall direct all matters, requests or inquiries relating to this Order to his attention.

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

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

New Orleans, Louisiana, this 7 day of December, 1995.

**LOUISIANA STATE BOARD OF
MEDICAL EXAMINERS**

BY: 

KEITH C. FERDINAND, M.D.
Vice-President

**ACKNOWLEDGEMENT
AND CONSENT**

I, LUNDY E. CAVENDER, JR., hereby acknowledge, approve, accept and consent to entry of the above and foregoing Order, this 26 day of October, 1995.


LUNDY E. CAVENDER, JR., M.D.

WITNESS:

