

**BEFORE THE
LOUISIANA STATE BOARD OF MEDICAL EXAMINERS**

In The Matter of: :

DAVID THOMAS HENRY, M.D. :
(Certificate No. 010682) :

Respondent :

CONSENT ORDER

On December 20, 1979, David Thomas Henry, M.D. ("Dr. Henry"), received approval from the Louisiana State Board of Medical Examiners ("Board") to serve as the supervising physician for Marilyn J. Jansen, P.A. ("Ms. Jansen"), allowing her to practice as a physician's assistant under his supervision. Pursuant to the Louisiana Physicians Trained Assistant Practice Act, §37:1360.21 *et seq.* (the "Act"), and the rules and regulations adopted and promulgated by the Board¹, a physician's assistant is proscribed from conducting certain activities reserved solely to the practice of medicine. More particularly, a physician's assistant may not, among other functions, exercise independent medical judgment except in life-threatening emergencies, issue prescriptions, or perform any activity, function or service beyond the scope of those specified in her approved application by the Board.² Similarly, the Louisiana Medical Practice Act, LSA-R.S. §37:1285, prohibits the supervising or locum tenens physician from permitting a physician's assistant to engage in such conduct.

Nevertheless, an investigation conducted on behalf of the Board beginning on July 19, 1991, developed information indicating that Ms. Jansen had, on three (3) occasions in July and August, 1991, exercised independent judgement, prescribed and dispensed medication, and performed

¹See *Louisiana Register*, Vol. 4, No. 4, *Authority and Limitations of Physician's Assistants*, Rule 12(C)(1), (2) and (6), Apr. 20, 1978.

²LSA-R.S. §37:1360.21(D).

activities beyond those permitted by the Act or specified in her physician's assistant application approved by the Board.

Predicated upon the information received during the course of its investigation, an Administrative Complaint was filed against Dr. Henry charging him with violations of the Louisiana Medical Practice Act, to-wit: LSA-R.S. §37:1285A(22),(23), (6), (29) and (18).³

Dr. Henry, 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, 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. Henry also hereby authorizes the Investigating Officer designated by the Board with respect hereto personally, and/or through legal counsel, to present this Consent Order to the Board for its consideration and to fully disclose and to 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, John B. Bobear, M.D., 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, et seq., 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

³ The Louisiana Medical Practice Act provides that the Board may take action against a physician's license for:

LSA-R.S. §37:1285A(22) which prohibits "[p]ermitting a physician's assistant, within his employment, to conduct activities outside of the designated scope of the assistant's approval and registration"; LSA-R.S. §37:1285A(23) which prohibits "[k]nowingly employing a physician's assistant whose conduct includes any of the causes enumerated in this Section"; LSA-R.S. §37:1285A(6) which prohibits [p]rescribing, dispensing or administering legally controlled substances or any dependency-inducing medication in other than a legal or legitimate manner; LSA-R.S. §37:1285A(29) which prohibits "[v]iolation of any rules and regulations of the Board, or any provisions of this Part"; and LSA-R.S. §37:1285A(18) which prohibits [k]nowingly performing any act which, in any way, assists an unlicensed person to practice medicine, or having professional connection with or lending one's name to an illegal practitioner."

Board by LSA-R.S. §37:1285 and LSA-R.S. §49:955D;

IT IS ORDERED that the license of David Thomas Henry, M.D., to engage in the practice of medicine in the state of Louisiana, as evidenced by Certificate No. 010682, shall be, and the same is hereby, placed on *PROBATION* for a period of one (1) year, effective from the date of the Board's approval of this Order;

IT IS FURTHER ORDERED that during the one (1) year probationary period referred to hereinabove, Dr. Henry shall strictly comply with and satisfy the following probationary terms, conditions and restrictions:

- (a) ***Supervision of Marilyn J. Jansen, P.A.:*** Dr. Henry shall immediately terminate his relationship with Marilyn J. Jansen, P.A., and he shall resign and forfeit his position and authority to serve as her supervising physician.
- (b) ***Supervision of Physician's Assistants:*** Dr. Henry shall not, at any time following the date of the Board's approval hereof, and for the duration of his medical career, employ, hire, direct or supervise any physician's assistant in the course of his medical practice, nor shall he make application or seek authority or approval from the Board to serve as a supervising or locum tenens physician for any physician's assistant.
- (c) ***Community Service:*** For each of the twelve (12) months of the probationary period identified hereinabove, Dr. Henry shall perform eight (8) hours of community service per month, for a total of ninety-six (96) hours of community service, acceptable to and approved by the Board in writing. On or before August 20, 1992 and February 20, 1993, Dr. Henry shall cause to be submitted to the Board written certification of the community service activity completed by him during the preceding six (6) months.
- (d) ***Payment of Monetary Fine:*** Dr. Henry shall pay the sum of FIVE THOUSAND (\$5,000.00) DOLLARS to the Board within thirty (30) days from the effective date hereof; and
- (e) ***Verification of Compliance/Probation Officer:*** Dr. Henry shall submit to the attention of the Board's Probationary Officer, or such other authorized representative of the Board, a description and location of his proposed community service, as well as all other documents, items or matters, including the monetary fine provided for herein, throughout the tenure of the probationary period identified hereinabove. Moreover, Dr. Henry shall notify the Probationary Officer of his current personal and business addresses and telephone numbers, as well as any change thereof.

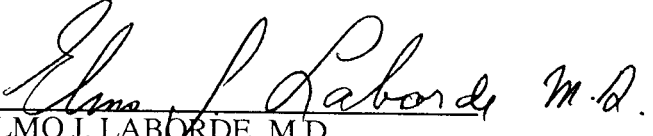
IT IS FURTHER ORDERED that this Consent Order shall be, and shall be deemed to be, a public record.

IT IS FURTHER ORDERED that any violation or failure of strict compliance with any of the terms, conditions or restrictions of this Order by Dr. Henry shall, upon proof of such violation or failure, be deemed adequate and/or sufficient cause, for the suspension and/or revocation of Dr. Henry'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 LSA-R.S. §37:1285.

New Orleans, Louisiana, this 20th day of February, 1992.

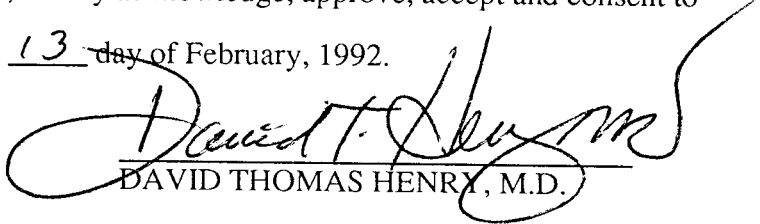
LOUISIANA STATE BOARD
OF MEDICAL EXAMINERS

BY:



ELMO J. LABORDE, M.D.
PRESIDENT

ACKNOWLEDGMENT AND CONSENT

I, DAVID THOMAS HENRY, M.D., hereby acknowledge, approve, accept and consent to entry of the above and foregoing Order, this 13 day of February, 1992.


DAVID THOMAS HENRY, M.D.

REVIEWED AND APPROVED
AS TO FORM:


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