

COPY

BEFORE THE BOARD OF MEDICAL EXAMINERS  
OF THE STATE OF NEVADA

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In the Matter of Charges and  
Complaint Against  
TIMOTHY T. HAMILTON, M.D.,  
Respondent.

Case No. 09-32628-1

FILED

SEP 08 2009

NEVADA STATE BOARD OF  
MEDICAL EXAMINERS

COMPLAINT

The Investigative Committee of the Nevada State Board of Medical Examiners (Board), composed of Charles N. Held, M.D., Ms. Jean Stoess, M.A., and Benjamin J. Rodriguez, M.D., at the time of the authorization of filing this formal complaint, by and through Edward O. Cousineau, counsel for the Investigative Committee, having a reasonable basis to believe that Timothy T. Hamilton, M.D., hereinafter referred to as "Respondent," has violated the provisions of NRS Chapter 630, hereby issues its formal Complaint, stating the Investigative Committee's charges and allegations, as follows:

1. Respondent license to practice medicine is currently active, and at all times alleged herein, Respondent was licensed by the Nevada State Board of Medical Examiners, pursuant to the provisions of Chapter 630 of the Nevada Revised Statutes.

2. In February of 2009, Respondent entered into a Consent Agreement with the Texas Medical Board. An associated Findings of Fact, Conclusions of Law and Order imposed a \$1,000.00 administrative penalty against Respondent. (See Exhibit 1)

3. Section 630.301(3) of the Nevada Revised Statutes provides that any disciplinary action, including without limitation, the revocation, suspension, modification or limitation of the license to practice any type of medicine by any other jurisdiction is grounds for disciplinary action.

OFFICE OF THE GENERAL COUNSEL  
Nevada State Board of Medical Examiners  
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Reno, Nevada 89502  
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4. The disciplinary action related to Respondent's license to practice medicine in the state of Arizona, constitute violations of the provisions of NRS 630.301(3).

5. Based upon the forgoing, Respondent has violated Nevada Revised Statutes 630.301(3) and is subject to discipline by the Nevada State Board of Medical Examiners as provided in Nevada Revised Statute 630.352.

WHEREFORE, the Investigative Committee prays:

1. That the Board fix a time and place for a formal hearing;


2. That the Board give Respondent notice of the charges herein against him, the time and place set for the hearing, and the possible sanctions against him;

3. That the Board determine what sanctions it determines to impose for the violation or violations committed by Respondent; and

4. That the Board make, issue and serve on Respondent its findings of facts, conclusions of law and order, in writing, that includes the sanctions imposed.

DATED this 8th day of September, 2009.

INVESTIGATIVE COMMITTEE OF THE  
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By:   
Edward O. Cousineau  
Attorney for the Investigative Committee of the  
Nevada State Board of Medical Examiners

**CERTIFICATE OF MAILING**

I hereby certify that I am employed by Nevada State Board of Medical Examiners and that on the 8<sup>th</sup> day of September 2009, I served a file copy of the COMPLAINT, ORIGINAL of the SETTLEMENT, WAIVER & CONSENT AGREEMENT & FINGERPRINTING Information, by mailing via USPS certified return receipt mail to the following:

Timothy T. Hamilton, M.D.  
1701 N. Green Valley Pkwy., Ste. 5-C.  
Henderson, NV 89074

Dated this 8<sup>th</sup> day of September 2009.



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Angie Donohoe  
Legal Assistant

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# **EXHIBIT**

**1**

LICENSE NO. L-2921

IN THE MATTER OF  
THE LICENSE OF  
TIMOTHY THOMAS HAMILTON, M.D.

BEFORE THE  
TEXAS MEDICAL BOARD

AGREED ORDER

On the 6th day of February, 2009, came on to be heard before the Texas Medical Board (the "Board"), duly in session, the matter of the license of Timothy Thomas Hamilton, M.D. ("Respondent").

On October 24, 2008, Respondent appeared in person, with counsel Jeff McClure, 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 Annette P. Ragette, a member of the Board, and Chevy C. Lee, M.D., a member of a District Review Committee. Claudia Kirk represented Board staff.

Upon the recommendation of the Board's representatives and with the consent of Respondent, the Board makes the following Findings of Fact and Conclusions of Law and enters this Agreed Order.

FINDINGS OF FACT

The Board finds that:

1. 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.
2. Respondent currently holds Texas Medical License No. L-2921. Respondent was originally issued this license to practice medicine in Texas on December 7, 2001. Respondent is also licensed to practice in Nevada (License No. 12249).

3. Respondent is primarily engaged in the practice of thoracic surgery. Respondent is board certified by the American Board of Surgery and the American Board of Thoracic Surgery; both are members of the American Board of Medical Specialties.
4. Respondent is 39 years of age.
5. Respondent has not received a prior disciplinary order from the Board.
6. In February of 2007, K.S. asked Respondent to prescribe the Clonazepam for her, but in the name of her best friend, M.D. Respondent had never met or spoken to M.D.
7. On February 14, 2007, Respondent wrote a prescription for 30 Clonazepam (1 mg) tablets for a person named M.D.
8. K.S. is a registered nurse co-worker, with whom Respondent worked with at the hospital
9. K.S. told Respondent that she had an agreement with M.D. to put prescriptions in her friend M.D.'s name, so K.S.'s husband would not be aware she was taking the medication.
10. On February 22, 2007, the prescription was filled at a CVS Pharmacy in Arlington, TX.
11. Although, K.S. and M.D. actually are friends, M.D. apparently was not aware the prescription was in her name. M.D. later found out about the prescription when she was denied an insurance policy and had to submit to drug testing as a result of having a Clonazepam prescription written in her name.
12. In determining the appropriate sanctions for Respondent's violation of the Act, the Board considered the following mitigation factors: Respondent has admitted his mistake and appears to be sincerely remorseful; he has reported this investigation to the medical board and hospitals, at which he has privileges, in another state where he is currently practicing, although that state's laws do not require such a report; and since finding out that M.D. had no knowledge of the prescription and had her insurance denied, Respondent has also attempted to make amends with M.D. and offered to write a letter to her insurance company.
13. Respondent does not admit or deny the Findings of Fact and Conclusions of Law set forth in this Agreed Order. However, 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 of Fact, 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 authorizes the Board to take disciplinary action against Respondent based on Respondent's failure to practice medicine in an acceptable professional manner consistent with public health and welfare, as further defined by Board Rule 190.8(1)(M), inappropriate prescription of dangerous drugs or controlled substances to oneself, family members, or others in which there is a close personal relationship.
3. Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based upon Respondent's unprofessional or dishonorable conduct that is likely to deceive or defraud the public or injure the public.
4. Sections 164.052(a)(5) and 164.053(a)(4) of the Act authorize the Board to take disciplinary action against Respondent based on Respondent writing false or fictitious prescriptions for dangerous drugs as defined by Chapter 483, Health and Safety Code, controlled substances scheduled in Chapter 481, Health and Safety Code or controlled substances scheduled in the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. Section 801 et seq.).
5. Sections 164.052(a)(5) and 164.053(a)(6) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent prescribing, administering, or dispensing in a manner inconsistent with public health and welfare, dangerous drugs as defined by Chapter 483, Health and Safety Code; or controlled substances scheduled in Chapter 481 Health and Safety Code; or controlled substances scheduled in the Comprehensive Drug Abuse Prevention and Control Act of 1970, (21 U.S.C. § 801 et seq.).
6. 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. Such sanctions include: revocation, suspension, probation, public reprimand, limitation or restriction on practice,

counseling or treatment, required educational or counseling programs, monitored practice, public service, and an administrative penalty.

7. Section 164.002(a) of the Act authorizes the Board to resolve and make a disposition of this matter through an Agreed Order.

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

1. Respondent shall pay an administrative penalty in the amount of \$1000 within 90 days following the date of the entry of this Order. The administrative penalty shall be paid in a single payment by cashier's check or money order payable to the Texas Medical Board and shall be submitted to the Board for routing so as to be remitted to the Comptroller of Texas for deposit in the general revenue fund. Respondent's failure to pay the administrative penalty as ordered shall constitute grounds for further disciplinary action by the Board, and may result in a referral by the Executive Director of the Board for collection by the Office of the Attorney General.
2. Respondent shall comply with all the provisions of the Act and other statutes regulating the Respondent's practice.
3. 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.
4. Respondent shall inform the Board in writing of any change of Respondent's mailing or practice address within 30 days of the address change. This information shall be submitted to the Permits Department and the Director of Enforcement for 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.
5. 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. 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).

6. Respondent shall be permitted to supervise and delegate prescriptive authority to physician assistants and advanced practice nurses and to supervise surgical assistants.

7. This Order shall automatically terminate upon the provision of evidence to the Board demonstrating that Respondent has successfully completed the requirements in Ordering Paragraph No. 1.

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.



SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this 6th day of February, 2009.

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

STATE OF TEXAS  
COUNTY OF TRAVIS

Sally Durocher, certify that I am an official assistant custodian of records for the Texas Medical Board, and that this is a true and correct Copy of the original, as it appears on file in this office.

Witness my official hand and seal of the Board,  
this 5th day of March, 2009  
Sally Durocher  
Assistant Custodian of Records