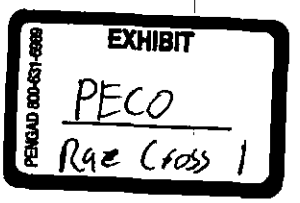

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LICENSE NO. D-2294

IN THE MATTER OF	
THE LICENSE OF	BEFORE THE
WILLIAM JAMES REA, M.D.	TEXAS MEDICAL BOARD

MEDIATED AGREED ORDER

On the 27 day of August, 2010, came on to be heard before the Texas Medical Board (the "Board"), duly in session, the matter of the license of William James Rea, M.D. ("Respondent").

On November 16, 2006, Respondent appeared in person, with counsel Stephen A. Coke, at an Informal Show Compliance Proceeding and Settlement Conference ("ISC") in response to a letter of invitation from the staff of the Board. The Board's representatives were Keith Miller, M.D. and Paulette Southard, members of the Board. Mark Martyn represented Board staff.

Following the ISC a formal complaint was filed at the State Office of Administrative Hearings ("SOAH"). Subsequent to the filing at SOAH a mediation conference was held on August 21, 2008. Respondent appeared with counsel, Algis Augustine. The Board was represented Scott Freshour.

The matter did not settle at mediation. Respondent then retained Jacques Simon as lead counsel. Discovery was undertaken in this matter. After discovery was completed but prior to convening the contested case hearing the parties reached settlement.

BOARD CHARGES

Board Staff filed a complaint at the State Office of Administrative Hearings ("SOAH") charging Respondent with violations related to five patients. The charges concerned Respondent's diagnosis and treatment of "chemical sensitivity." After the completion of discovery, it appears that notwithstanding the allegations of the complaint, the primary concern of the Board relates to and focuses on Respondent's use of chemical antigens and the informed consent for such treatment.

BOARD HISTORY

Respondent has not previously received a disciplinary order from the Board.

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

FINDINGS

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. D-2294. Respondent was originally issued this license to practice medicine in Texas on June 22, 1965. Respondent is also licensed to practice in Ohio, Arkansas, and Illinois.
3. Respondent is primarily engaged in the practice of enviromental medicine. Respondent is board certified by the American Boards of Cardiovascular Surgery and General Surgery, members of the American Board of Medical Specialties.
4. Respondent is a member of the American Academy of Environmental Medicine and the Pan American Allergy Society, and practices medicine pursuant to the guidelines of those professional associations and has certifications from those medical professional organizations.
5. Respondent is 75 years of age.

Specific Findings:

1. The case involves five patients that were diagnosed with chemical sensitivity and/or environmentally sensitivity.
2. Respondent made these determinations based on use of various tests, including but not limited: SPECT brain scan, pupillography, thermography, heart rate variability, and intradermal skin testing for sensitivity to such things as: jet and diesel fuel, natural

gas, titanium, and lake algae. The intradermal testing was the primary concern of the Board related to testing because certain injections purported to be extracts of jet fuel and diesel fuel exhaust fumes and other chemicals. Respondent denied that the injections contained any harmful substances.

3. Respondent's treatment of these patients included: environmental controls; heat depuration therapy; intravenous therapies; oxygen treatments, and antigen injections. The antigen injections were the primary concern of the Board because certain injections purported to be extracts of jet fuel and diesel fuel exhaust fumes and other chemicals. Respondent denied that the antigens contained any harmful substances.

2. Respondent during his deposition of May 21, 2010 stated that there are no active chemicals in any of the chemical antigens, only the "electromagnetic imprint" of the chemical. Respondent testified that he uses in his testing and treatment of patients antigens containing electromagnetic imprint of the following: natural gas; propane gas; ethanol; formaldehyde; phenol; unleaded gasoline and jet fuel. Respondent testified that the antigens are in fact homeopathic remedies rather than substances containing actual chemicals. Respondent testified that none of the antigens are extracts of the actual substances specified in this paragraph.

3. Board staff asserts Respondent's treatment is unsupported by medical research and is non-therapeutic. In addition, Board Staff asserts there was a lack of proper informed consent for these treatments

4. Respondent asserts that his diagnosis, care, and treatment of the above patients was appropriate and in accordance with established principles of medicine and peer reviewed articles disclosed to the Board.

6. Respondent admitted his current Informed Consent documents did not disclose that his antigen injections, were not FDA approved, and did not disclose that the chemical antigens mentioned in paragraph "2" above contained only the "electromagnetic imprint" of the chemical.

1. Mitigating Factors

   a. In determining the appropriate sanctions in this matter, the Panel considered the following mitigating factors:

i. Respondent has cooperated in the investigation of the charges 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.

ii. There were no claims of patient harm.

iii. Respondent's patients continue to support him.

CONCLUSIONS OF LAW

Based on the above Findings, 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, as defined by Board Rule §190.8(I), failure to obtain informed consent from the patient or other person authorized by law to consent to treatment on the patient's behalf before performing tests, treatments or procedures.

3. 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.

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

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

1. Respondent shall present the approved revised Informed Consent Form attached to this Order, to each and every patient who is undergoing or will undergo antigen

injections for chemical/environmental sensitivity ("Therapy"). Respondent shall include in the revised Informed Consent Form, written disclosures that explicitly state the following information:

a. notice that the Therapy being offered is not FDA approved, and that this Therapy is considered non-traditional medicine (this notice shall be written in bold, oversized print);
b. *the effectiveness/therapeutic value of Therapy is disputed;*
c. a disclaimer that formulations prescribed have never been tested by the FDA for determination of the actual contents or the medical effectiveness;
d. a written disclaimer that the "therapeutic value" of the Therapy, if any, has not been established or proven and is subject of dispute.
e. The following Disclaimers shall be made all capital bold type:
   i. **"THE TREATMENT/ANTIGEN THERAPIES BEING UTILIZED AND DESCRIBED BY RESPONDENT IN THIS DISCLOSURE STATEMENT DOES NOT CONTAIN ANY OF THE ACTUAL ACTIVE AGENT LISTED, AND CONTAINS ONLY "ELECTROMAGNETIC IMPRINT" OF THE AGENT. THE PATIENT IS NOT BEING INJECTED WITH ACTUAL ACTIVE AGENTS LISTED ON THE ANTIGEN"**

   ii. **"THE TREATMENT/ANTIGEN THERAPY BEING UTILIZED *AND DESCRIBED BY RESPONDENT IN THIS DISCLOSURE* STATEMENT IS NOT ENDORSED, SANCTIONED, OR SUPPORTED BY THE TEXAS MEDICAL BOARD."**

2. Respondent shall be required to have each patient sign an acknowledgment. This acknowledgment is specifically applicable only to those patients receiving Therapy from Respondent and/or employees of his practice. The acknowledgement shall state that: on the initial and/or first visit, after the effective date of this Order, the patient received a written copy of the Informed Consent described in Ordering Paragraph No. 1.

3. Respondent must keep the signed acknowledgement in the medical record of each patient and an additional copy of each Informed Consent and signed acknowledgement in *a separate file. This separate file shall be made available to the Compliance Division* upon request to verify compliance with requirements of Ordering Paragraphs Nos. 1 and 3 above.

4. In addition, Respondent shall not start using any now Therapy, antigens, or other formulations that contain any amounts of the active ingredient of substances that are classified as hazardous *substances and/or carcinogens* by EPA, Agency for Toxic

Substance Registration & Disease Registry (ATSDR), OSHA, or any other federal or state regulatory agency.

5. Respondent shall not change, modify, or alter his current antigen protocol as provided to Board Staff and described during his deposition on May 21, 2010.

6. Respondent shall comply with all the provisions of the Texas Medical Practice Act and all other state and federal statutes regulating the Respondent's practice.

7. 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. Cooperation within the meaning of this agreement shall include providing Board staff or designees with samples of the antigens to be tested.

8. Respondent shall inform the Board in writing of any change of Respondent's mailing or practice address within ten days of the address change. This information shall be submitted to the Permits Department and the Director of Compliance 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.

9. Any violation of the terms, conditions, or requirements of this Order by Respondent shall constitute unprofessional conduct likely to deceive or defraud the public, and to injure the public, and shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act. Respondent shall be provided 30-day notice of a Probationer Show Compliance Proceeding to address any allegation of non-compliance of this Agreed Order as required by the Medical Practice Act

10. The above-referenced conditions shall continue in full force and effect without opportunity for amendment, except for clear error in drafting. If, after the passage of the 12-month period, Respondent wishes to seek amendment or termination of these conditions, Respondent may petition the Board in writing. The Board may inquire into the request and may, in its sole discretion, grant or deny the petition without further appeal or review. Petitions for modifying or terminating may be filed only once a year thereafter.

11. *This Order resolves in their entirety the following board matters concerning* Respondent: SOAH Docket No. 503-07-4032, and Investigative Log or case Nos. 10-4857 and 08-1434. The Board shall take no further action against the respondent with respect to the three matters referenced above and the Board's files regarding these matters shall be closed.

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.

I, WILLIAM JAMES REA, M.D., HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT BY SIGNING, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY. I UNDERSTAND THIS AGREED ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: 6-29, 2010.

WILLIAM JAMES REA, M.D.
Respondent

SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this 27 day of August, 2010.

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

EHC-D DALLAS INFORMED CONSENT REGARDING
CHEMICAL ANTIGEN TESTING AND THERAPY.

TO: THE PATIENTS OF EHC-D and WILLIAM REA MD
FROM: WILLIAM REA MD

This document is an informed consent form disclosing the nature of intra dermal testing and therapy with chemical antigens. By signing this form you, the patient, acknowledge that all of the aspects of chemical antigen testing and therapy has been discussed with you by Dr. Rea or a qualified member of the EHC-D Dallas and that the benefits, nature and risks of the treatment and testing have been explained and disclosed to you and that all your questions regarding the same have been answered by Dr. William Rea and/or the staff of EHCD.

Your doctor has recommended and offered among other treatment, therapy and testing utilizing chemical antigens. With respect to such specific treatment and testing the following *disclosures apply for your information:*

- THE CHEMICAL ANTIGEN THERAPY OFFERED IS NOT FDA APPROVED. THE CHEMICAL ANTIGEN FORMULATIONS PRESCRIBED AND USED IN YOUR CARE HAVE NEVER BEEN TESTED BY THE FDA FOR THE DETERMINATION OF THE ACTUAL CONTENTS AND OF THE MEDICAL EFFECTIVENESS OF THE ANTIGENS.

- THE CHEMICAL THERAPY OF CHEMICAL ANTIGENS IS CONSIDERED NON TRADITIONAL MEDICINE.

- DR. REA AND EHC-D DO NOT NECESSARILY AGREE THAT THIS *THERAPY IS NON-TRADITIONAL MEDICINE.*

- THE EFFECTIVENESS AND THERAPEUTIC VALUE OF CHEMICAL ANTIGEN THERAPY IS DISPUTED.

- DR. REA AND EHC-D BELIEVE THAT THIS THERAPY IS EFFECTIVE AND HAS THERAPEUTIC VALUE AND ENDORSE ITS USE.

- **THE TREATMENT WITH AND USE OF CHEMICAL ANTIGEN THERAPIES BEING UTILIZED AND DESCRIBED BY,WILLIAM REA, M.D., OR OTHER HEALTHCARE PROVIDERS OF EHCD, IN THIS DISCLOSURE STATEMENT DOES NOT CONTAIN ANY OF THE ACTUAL ACTIVE AGENT LISTED, AND CONTAINS ONLY "ELECTROMAGNETIC IMPRINT" OF THE AGENT. THE PATIENT IS NOT BEING INJECTED WITH ACTUAL ACTIVE AGENTS LISTED ON THE ANTIGEN**

- **THE TREATMENT/ANTIGEN THERAPY BEING UTILIZED AND DESCRIBED BY RESPONDENT IN THIS DISCLOSURE STATEMENT IS NOT ENDORSED, SANCTIONED, OR SUPPORTED BY THE TEXAS MEDICAL BOARD.**

By signing and affixing your name to this document you acknowledge that you have read and understood the same and that all of your questions were answered satisfactorily to you by Dr. Rea and his staff

Dated:

EHC-D

BY:_____

Patient:_____

PECO
Rea
Cross
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HEARING CONDUCTED BY THE
TEXAS STATE OFFICE OF ADMINISTRATIVE HEARINGS
SOAH DOCKET NO. _____
TEXAS MEDICAL LICENSE NO. D-2294

IN THE MATTER OF THE	
COMPLAINT AGAINST	BEFORE THE
WILLIAM JAMES REA, M.D.	TEXAS MEDICAL BOARD

COMPLAINT

TO THE HONORABLE TEXAS MEDICAL BOARD AND THE HONORABLE ADMINISTRATIVE LAW JUDGE TO BE ASSIGNED:

COMES NOW, the Staff of the Texas Medical Board (the "Board"), and files this Complaint against William James Rea, M.D., ("Respondent"), based on Respondent's alleged violations of the Medical Practice Act ("the Act"), Title 3, Subtitle B, Texas Occupations Code, and would show the following:

I. INTRODUCTION

The filing of this Complaint and the relief requested are necessary to protect the health and public interest of the citizens of the State of Texas, as provided in Section 151.003 of the Act.

II. LEGAL AUTHORITY AND JURISDICTION

Respondent is a Texas physician and holds Texas Medical License No. D-2294, issued by the Board on June 22, 1965, which was in full force and effect at all times material and relevant to this Complaint. All jurisdictional requirements have been satisfied. Respondent received notice of the Informal Settlement Conference (ISC) and appeared at the ISC. All procedural rules were complied with, including but not limited to, Board Rules 182 and 187, as applicable.

III. PROCEDURAL BACKGROUND

1. The Board received information that Respondent may have violated the Act and, based on that information, conducted an investigation. The investigation compiled evidence that

support allegations of a violation.

2. Respondent was invited to attend an Informal Show Compliance Proceeding and Settlement Conference ("ISC"), held on March 9, 2007, which was conducted in accordance with §2001.054(c), TEX. GOV'T CODE and §164.004 of the Act. The Board representatives, including one physician and one public member ("Panel"), reviewed and considered evidence from the investigation, as well as any information presented by Respondent. The Panel determined that Respondent had not shown compliance with all requirements of the Act. The Panel recommended that a formal complaint be filed at the State Office of Administrative Hearings.

IV. FACTUAL ALLEGATIONS

Board Staff has received information and based on that information believes that Respondent has violated the Act. Based on such information and belief, Board Staff alleges:

A. **VIOLATIONS OF THE STANDARD OF CARE.** With regard to each of the patients mentioned below, Respondent has committed common and consistent actions that violate the Act and Board Rules. This pattern of substandard medical practice makes Respondent's conduct even more egregious than if it had occurred in a single case. Respondent has violated the standard of care for each of these patients as follows:

1. Respondent's testing methods are below the standard of care.
    a) The tests do not even qualify as experimental, and are more properly described as pseudoscience. There are no reputable studies from peer review journals that confirm their use in clinical practice. For example:
        1. Checking for genetic single nucleotide polymorphism (SNPs) that is "abnormal" has no clinical relevance.
        2. Single photon emission tomography (SPECT) scanning is used without validation to establish a diagnosis of "neurocognitive" disorders has no validation.
        3. There is no scientific basis for using skin testing to establish a diagnosis of an allergy to neurotransmitters or lake algae. In fact, there is no such disorder.

4. Some of the tests used by Respondent, such as pupillography, have absolutely no basis in the scientific literature.
5. There is no scientific basis for other routine evaluations done by Respondent such as hair mineral analysis, venous blood gas analysis, and thermography.

b) Respondent's skin testing procedures are inconclusive, and not consistent with any practice standards.

2. Respondent fails to properly interpret tests.

a) A simple test for delayed hypersensitivity (cell mediated immunity) is a test for anergy or lack of anergy.

1. In one patient discussed below (E.F.), Respondent remarked that the test was "abnormal" and suggestive of significant immune system dysfunction. In fact, the test showed that there was a significant response to several antigens, which is a *normal response.*
2. Yet for another patient (E.L.), the cell mediated immune response test was negative (no response). No response is a significant finding suggestive of anergy. For this patient, no further work-up was done to evaluate or confirm a significant finding suggestive of T-cell mediated immune defect. No attempt was made to refer the patient to a board-certified immunologist to evaluate a complex defect such as this in a person who has had multiple pneumonias-based history.

b) Respondent demonstrates a substandard knowledge of basic immunology. Important issues in the understanding of basic immunology are obviously lacking from Respondent's interpretation of tests and diagnostic studies.

c) Respondent repeatedly fails to appropriately apply the results of his testing. The diagnoses given do not follow from the testing results. Since many of the tests performed have no clinical utility or application, they may yield objective results, such as with pupillography, but the fact that they are objective does not mean they have any clinical significance.

d) The SPECT scan reports all read word-for-word the same for all patients. These reports are highly subjective and have no accepted pathologic correlation.

e) Respondent's unscientific tests mislead patients into believing they have either an autoimmune or immunologic basis for their complaints, when in fact, they do not.

3. Respondent's diagnoses are not supported by accurate interpretation of valid tests.
   a) Respondent gives the patients diagnoses of deficiencies in their immune function when the tests themselves show this is not the case
   b) Respondent gives diagnoses that are nonexistent in the medical literature. Respondent seemed to have coined some syndrome called "vasculitis-radix paradox." There is no scientific basis for such a syndrome. It is well below the standard of care to use these pseudoscientific methods to diagnose illnesses.
4. Respondent's treatments are inappropriate, not based on any evidence, not based on any physiologic correlate, are nonsensical and can be harmful.
   a) The "heat depuration therapy" is simply a sauna, which has no known medical therapeutic indication for the diseases Respondent purports to treat.
   b) Respondent's treatments are potentially harmful. Injections of neurotransmitters, mycotoxins, jet fuel, natural gas, and other chemicals can be a dangerous practice.
5. The patients' consents do not inform the patients regarding the unproven nature of the therapies and testing recommended. These tests are unnecessary and not likely to lead to clinical diagnoses that are helpful or consistent with the clinical findings.
4. Respondent's training and certification do not qualify him to perform his clinical practice. Respondent is neither board certified nor trained as an allergist. His initial training in the 1970s was in the field of thoracic surgery. He claims to have board certification in the field of environmental medicine, which is not recognized by the American Board of Internal Medicine.
5. Respondent's violations involve more than one patient and cause an increased potential for harm to the public. Respondent's treatments that he provided to these five patients are intentional, premeditated, knowing, or grossly negligent acts that constitute a violation of the Act.

B. EVALUATION, TESTING, DIAGNOSIS, AND TREATMENT OF SPECIFIC PATIENTS.

Respondent's violations of the Medical Practice Act discussed above are demonstrated in his care and treatment of the following patients:

1. PATIENT A.R.:

   a) Respondent first saw A.R. on September 16, 2002. A.R. complained of headaches, sinusitis, chronic fatigue, joint pains and muscle pains. A.R. attributed her problems to paint fume exposure 13 years before.

   b) Respondent noted that A.R. had "dysfunctional neurocognitive symptoms." Her medical history showed that she previously had a thyroidectomy and problems with multiple sensitivities involving thyroid medications. Respondent also noted that A.R. was sensitive to a variety of other materials such as newspapers, car exhaust, perfumes, carpets and various other common household products and allergens.

   c) Based on his examination of A.R., Respondent concluded she had a "positive Romberg test[1]." He recorded that she showed "erythematous" and "swollen turbinates" on nasal examination.

   d) Respondent evaluated A.R. with numerous tests. These included SPECT brain scan, hair mineral analysis, blood mineral analysis, cell mediated immunity evaluation, urine trichothecene levels, stool cultures, skin testing, venous blood gas analysis, pupillography, thermography and amino acid profiles. He also ordered serum analyses for aromatic and chlorinated hydrocarbons as well as pesticides and polychlorinated biphenyl.

   e) Based on these tests, Respondent diagnosed A.R. with a toxic encephalopathy, toxic effects of petrochemicals and solvents, toxic effects of pesticides, toxic effects of heavy metals, toxic effects of molds and mycotoxins, immune deregulation,

[1] The Romberg Test is a neurological test to detect poor balance. Specifically, it detects the inability to maintain a steady standing posture with the eyes closed. The test is named after the 19th century German Ear Specialist, Moritz Heinrich Romberg (1795-1873).

hypothyroid, malabsorption, amino acid deficiencies, multiple vitamin deficiencies, allergic rhinitis, food sensitivity, mold sensitivity, pollen sensitivity, chemical sensitivity, chronic fatigue, fibromyalgia, and autonomic nervous system dysfunction.

f) Respondent treated A.R. with environmental controls, expensive antigen injections, heat depuration therapy, intravenous therapies, and 18-day oxygen treatments.

g) No medical research or practice provides any basis for these kinds of therapies.

h) As more fully discussed in Subsection A, above, Respondent's testing methods and treatment were below the standard of care and non-therapeutic.

2. PATIENT E.F.:

a) Respondent first saw E.F. on March 26, 2003. E.F. complained of dizziness, nausea, headache, palpitations, labored breathing, and restless legs. Prior medical records showed that E.F. had been diagnosed with an autoimmune disease 13 years earlier. E.F. said she suffered problems with bladder pain and migraines. She also reported mold in her home, which was blown from a neighbor's house that was being remedied.

b) Based on the physical exam of E.F., Respondent noted that she had a "positive Romberg test" and swollen nasal mucosa. Petechiae were also noted on the abdomen, and her hands were "cold."

c) Respondent performed a variety of tests on E.F. There was skin tested for numerous allergens. Urine trichothecene level was measured twice. Pupillography, thermography, and various assays for heavy metals in her red blood cells were performed. E.F. also had single-nucleotide polymorphism (SNP) measured for the cytochrome P-450 system. Measuring single nucleotide polymorphism in clinical practice is not relevant to this patient.

d) Respondent noted in the medical records that E.F. had "abnormalities" of the red-blood-cell heavy metal levels. Specifically, Respondent documented that there were "slightly elevated" levels of cadmium, lead, and mercury. There were two separate tests on different dates and all results were *below* the reference range provided by the laboratory. Respondent documented that E.F. had "abnormal or elevated" CD4 count, but did not note the CD4 count. Respondent noted an abnormal cell mediated

immunity (CMI) test, strongly suggesting "immune system dysfunction," but the CMI test was *within* levels seen in patients with a normal immune system.

e) Respondent treated E.F. with antigen injections, saunas, IV therapy and environmental controls.

f) No medical research or practice provides any basis for these kinds of therapies.

g) As more fully discussed in Subsection A, above, Respondent's testing methods and treatment were below the standard of care and non-therapeutic.

3. PATIENT R.B.:

a) Respondent first saw R.B. on September 2, 2003. She complained of edema (swelling), stiff arms, constant urination, and a rash.

b) Respondent performed a variety of tests and concluded that R.B. had a "positive Romberg test" and "pedal edema." Respondent noted that hair analyses, performed on four separate occasions, showed various "abnormalities." Respondent tested R.B.'s urine for toxic metals on two occasions. A SPECT brain scan, Respondent noted, revealed salt and pepper "abnormalities." Pupillography, thermography and baseless skin testing were done. The thermography was interpreted by Respondent to indicate that the patient had "paradoxic-vasculitis."

c) Respondent's treatment of R.B. included a variety of treatments. These included environmental controls and heat depuration. He also ordered antigen injections and intravenous therapies, which included a large variety of neurotransmitters, histamine, serotonin, acetylcholine, dopamine, methacholine, norepinephrine, and epinephrine.

d) No medical research or practice provides any basis for this combination of therapies.

e) As more fully discussed below, Respondent's testing methods and treatment were below the standard of care.

f) As more fully discussed in Subsection A, above, Respondent's testing methods and treatment were below the standard of care and non-therapeutic.

4. PATIENT J.S.:

a) Respondent first saw J.S. on May 11, 2004, when she complained of chemical sensitivity and she stated she had problems with electromagnetic field sensitivity. She said she had lethargy, joint pain, and "brain fog," which began after exposure to fallout from the World Trade Center on September 11, 2001.

b) Respondent noted in the medical records that J.S. had a "positive Romberg test," swollen nasal passages, cyanosis of both the hands and the feet, and some petechiae and telangiectasis.

c) Respondent conducted a variety of tests on J.S, including pupillography, hair mineral analysis, SPECT brain scan, thermography, skin testing, and a many other lab studies, primarily at the Respondent's office in Dallas, Texas.

d) J.S. was treated with various therapies. Respondent recommended she avoid exposure to putative offending agents (environmental controls). He also gave her antigen injections, including histamine, serotonin, acetylcholine, various foods, salt and even aflatoxin. In addition, Respondent gave her heat depuration therapy, which essentially is sauna treatment.

e) No medical research or practice provides any basis for these kinds of therapies.

f) As more fully discussed in Subsection A, above, Respondent's testing methods and treatment were below the standard of care and non-therapeutic.

5. PATIENT E.L.:

a) Respondent first saw E.L. on November 22, 2004. E.L. complained of knee pain, right hand numbness, chronic fatigue, insomnia, and severe allergic state. E.L.'s medical history showed that he had pneumonia on four occasions, Epstein-Barr infection, E. coli urinary tract infections twice, and helicobacter pylori infection. After examination, Respondent noted that E.L. had swollen nasal mucosa and turbinates.

b) Respondent ordered a variety of tests for E.L. Among other tests, Respondent performed an amino acid profile, urine testing, skin testing, T and B lymphocyte count, hair mineral analysis, blood mineral analysis, and venous blood gas analysis.

c) The T and B lymphocyte counts were documented to be "abnormal;" however, the levels were actually *within* normal limits. The skin tests were "abnormal," but Respondent failed to follow up on them. The blood mineral analysis was documented as "abnormal," but the levels were found *within* the reference range for the laboratory.

d) E.L. had skin testing done for sensitivity to acetylcholine, dopamine, methacholine, norepinephrine, epinephrine, jet fuel, natural gas, titanium, lake algae and fusaric acid.

e) E.L. was treated with environmental controls, antigen injections, heat purification, intravenous therapy, and an 18-day oxygen therapy.

f) No medical research or practice provides any basis for these kinds of therapies.

g) As more fully discussed in Subsection A, above, Respondent's testing methods and treatment were below the standard of care and non-therapeutic.

C. THE STANDARD OF CARE FOR A REASONABLE AND PRUDENT PHYSICIAN:

1. **Experimental medical procedures.** The standard of care for using experimental medical procedures must meet three requirements:

   a) they must be based on scientific background;

   b) the patient must sign an informed consent to experimental treatment and therapy, and clearly understand that the therapies are experimental;

   c) the experimental treatment and/or diagnostics must be done in the context of a clearly delineated and Institutional Review Board (IRB) approved experimental protocol.

2. **Medical Evaluation and Therapy.** The standard of care for medical evaluation and therapy includes, but is not limited to:

   a) evaluation and therapy must be evidence-based;

   b) evaluation and therapy must be generally accepted as the standard of care by experts in the field and/or the community of physicians practicing in the field;

   c) the validity and/or efficacy of new evaluation and therapeutic regimens must be established through community consensus and/or evidence-based methods. For example, to treat appendicitis with surgery is not only appropriate but the clear

standard of care because it is a well-established and efficacious treatment. To treat appendicitis with a non-operative approach would be below the standard of care;

d) doing no harm is necessary, but not sufficient, to meet the standard of care. For example, there are several situations in which the standard of care may be breached: if a serious mistake is made, but no harm is done, that is still considered a breach of the standard of care; if a placebo is used to treat a patient who has not consented to an experimental protocol, it may not harm the patient, but it is still a breach of the standard of medical care; or if a medically inapplicable or nonsensical test is used to establish a diagnosis, then even if it does not hurt the patient, it is still a breach of the standard of care; or if a medically nonsensical, non-established or non-existent diagnosis is given to a patient, then even if it does not hurt the patient it is still a breach of the standard of care.

3. **Allergy Testing and Treatment.** The standard of care with regard to allergy testing and treatment includes, but is not limited to:

a) testing must be done in a standardized, generally accepted manner;

b) reporting and interpretation of results must be done in a standardized, generally accepted manner;

c) evaluation and therapy must be evidence-based;

d) evaluation and therapy must be generally accepted as the standard of care by experts in the field and/or the community of physicians practicing in the field;

e) the validity and/or efficacy of new evaluation and therapeutic regimens must be established through community consensus and/or evidence-based methods. For example, to treat appendicitis with surgery is not only appropriate but the clear standard of care because it is a well-established and efficacious treatment. To treat appendicitis with a non-operative approach would be below the standard of care;

f) doing no harm is necessary, but not sufficient, to meet the standard of care. For example, there are several situations in which the standard of care may be breached: if a serious mistake is made, but no harm is done, that is still considered a breach of the standard of care; if a placebo is used to treat a patient who has not consented to an experimental protocol, it may not harm the patient, but it is still a breach of the standard of medical care; or if a medically inapplicable or nonsensical test is used to establish a diagnosis, then even if it does not hurt the patient, it is still a breach of the standard of care; or if a medically nonsensical, non-established or non-existent diagnosis is given to a patient, then even if it does not hurt the patient it is still a breach of the standard of care.

V. APPLICABLE STATUTES, RULES, AND AGENCY POLICY

Respondent's conduct, as described above, constitutes grounds for the Board to revoke or suspend Respondent's Texas medical license or to impose any other authorized means of discipline upon the Respondent. The following statutes, rules, and agency policy are applicable to this matter:

A. Procedures for the Conduct of this Hearing:

1. Section 164.007(a) of the Act requires that the Board adopt procedures governing formal disposition of a contested case before the State Office of Administrative Hearings.
2. 22 TEX. ADMIN. CODE, Chapter 187 sets forth the procedures adopted by the Board under the requirement of Section 164.007(a) of the Act.
3. 1 TEX. ADMIN. CODE §155.3(c) provides that the procedural rules of the state agency on behalf of which the hearing is conducted govern procedural matters that relate to the hearing as required by law, to wit: Section 164.007(a) of the Act, as cited above.
4. 1 TEX. ADMIN. CODE, CHAPTER 155 sets forth the rules of procedure adopted by SOAH for contested case proceedings.

B. Violations Warranting Disciplinary Action:

1. 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. Board Rule §190.8(A), (B), (D), and (I) define failure to practice medicine in an acceptable professional manner as, but not limited to: failure to treat a patient according to the generally accepted standard of care; negligence in performing medical services; failure to safeguard against potential complications; failure to obtain informed consent from the patient or other person authorized by law to consent to treatment on the patient's behalf before performing tests, treatments or procedures.

2. Section 164.052(a)(5) and 164.053 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. Board Rule §190.8(2)(J) defines unprofessional or dishonorable conduct as, but not limited to, providing medically unnecessary services to a patient.

3. Sections 164.052(a)(5) and 164.053(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent prescribing or administering a drug or treatment that is nontherapeutic in nature or nontherapeutic in the manner the drug or treatment is administered or prescribed.

C. Sanctions that May Be Imposed:

1. 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.

2. Chapter 165, Subchapter A of the Act sets forth statutory requirements for the amount and basis of an administrative penalty.

3. 22 TEX. ADMIN. CODE Chapter 187.39 authorizes the Board to assess, in addition to any penalty imposed, costs of the investigation and administrative hearing in the case of a default judgment, or upon adjudication that Respondent is in violation of the Act after a trial on the merits.

4. 22 TEX. ADMIN. CODE Chapter 190 provides disciplinary guidelines intended to provide guidance and a framework of analysis for administrative law judges in the making of recommendations in contested licensure and disciplinary matters and to provide guidance as to the types of conduct that constitute violations of the Act or board rules.

5. 22 TEX. ADMIN. CODE Chapter 190.15 provides the authority for this Board to consider aggravating factors in this case.

VI. NOTICE TO RESPONDENT

IF YOU DO NOT FILE A WRITTEN ANSWER TO THIS NOTICE WITH THE STATE OFFICE OF ADMINISTRATIVE HEARINGS WITHIN 20 DAYS OF THE DATE NOTICE OF SERVICE WAS MAILED, A DEFAULT JUDGMENT MAY BE ENTERED AGAINST YOU, WHICH MAY INCLUDE THE DENIAL OF LICENSURE OR ANY OR ALL OF THE REQUESTED SANCTIONS INCLUDING THE REVOCATION OF YOUR LICENSE. IF YOU FILE A WRITTEN ANSWER, BUT THEN FAIL TO ATTEND THE HEARING, A DEFAULT JUDGMENT MAY BE ENTERED AGAINST YOU, WHICH MAY INCLUDE THE DENIAL OF LICENSURE OR ANY OR ALL OF THE REQUESTED SANCTIONS INCLUDING THE REVOCATION OF YOUR LICENSE. A COPY OF ANY RESPONSE YOU FILE WITH THE STATE OFFICE OF ADMINISTRATIVE HEARINGS SHALL ALSO BE PROVIDED TO THE HEARINGS COORDINATOR OF THE TEXAS STATE BOARD OF MEDICAL EXAMINERS.

PURSUANT TO 22 TEX. ADMIN. CODE § 187.27(a)(2), A WRITTEN ANSWER SHALL SPECIFICALLY ADMIT OR DENY EACH FACTUAL ALLEGATION MADE AGAINST THE RESPONDENT.

WHEREFORE, PREMISES CONSIDERED, Board Staff requests that an administrative law judge employed by the State Office of Administrative Hearings conduct a contested case hearing on the merits of the Complaint, in accordance with Section 164.007(a) of the Act. Upon final hearing, Board Staff requests that the Honorable Administrative Law Judge issue a Proposal for Decision ("PFD") that reflects Respondent's violation of the Act as set forth in this Complaint. Following issuance of the PFD, Board Staff requests that the Board, pursuant to § 164.001 and § 165.003 of the Act and Board Rules 187.30, 187.39, 190.8, 190.14, 190.15 and 190.16, enter an Order imposing any and all sanctions or disciplinary measures necessary to protect health and public welfare, including the imposition on Respondent of SOAH hearing costs and an administrative penalty.

Respectfully submitted,

TEXAS MEDICAL BOARD

By: Mark Martyn

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Texas State Bar No. 24029708
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333 Guadalupe, Tower 3, Suite 610
Austin, Texas 78701

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

SUBSCRIBED AND SWORN to before me by the said Mark Martyn on August 24, 2007

Anna Carozza Ramirez
Notary Public, State of Texas

ANNA CAROZZA RAMIREZ
NOTARY PUBLIC
NOTARY WITHOUT BOND
STATE OF TEXAS
My Comm. Exp. 04-11-2009

Filed with the Texas Medical Board on August 24, 2007

Donald W. Patrick, M.D., J.D.
Executive Director
Texas Medical Board

COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO
CIVIL DIVISION

PECO
~~Mackey~~ Rea
Cross
3

WILLIAM JAMES REA, M.D.,	:	
Appellant,	:	CASE NO. 11CVF-09-11059
vs.	:	JUDGE SCHNEIDER
STATE MEDICAL BOARD OF OHIO,	:	
Appellee.	:	

DECISION AND ENTRY AFFIRMING THE
AUGUST 10, 2011 ORDER OF THE STATE MEDICAL BOARD OF OHIO

SCHNEIDER, JUDGE

This matter comes before this Court upon an appeal pursuant to R.C. 119.12 from an August 10, 2011 Order of the State Medical Board of Ohio (hereinafter the "Ohio Board"). The Ohio Board approved the Proposed Order of the Hearing Officer, as amended by the Ohio Board, restricting Appellant's certificate to practice allopathic medicine and surgery in the State of Ohio *See* August 10, 2011 Entry of Order; *see also* August 10, 2011 Ohio Board meeting minutes concerning the matter of William Rea, M.D. (R. 2). The record certified by the Ohio Board can be summarized as follows:

On November 10, 2010, the Ohio Board issued to appellant a *Notice of Opportunity for Hearing* proposing to take action against his Ohio medical license. The Ohio Board notified the appellant that it intended to determine whether to take disciplinary action against his certificate to practice medicine and surgery in Ohio or to reprimand him or place him on probation based on allegations that included:

(1) On or about August 27, 2010, you entered into a Mediated Agreed Order with the Texas Medical Board to resolve allegations that, in the case of five patients who you diagnosed with chemical sensitivity and/or environmental sensitivity, you provided treatment that was unsupported by medical research and was non-therapeutic. Pursuant to the

> Mediated Agreed Order, you agreed that you shall present an informed consent form, approved by the Texas Medical Board, to each and every patient who is undergoing and will undergo antigen injections for chemical/environmental sensitivity, and that such forms must be made available to the Texas Medical Board upon request. Further, you are prohibited from using any new therapies, antigens, or other formulations that contain any amounts of active ingredients of substances classified as hazardous substances and/or carcinogens by appropriate federal or state regulatory agencies. Moreover, you are not to make any changes, modifications, or alterations to your current antigen protocol, as previously disclosed to the Texas Medical Board.

November 10, 2010 *Notice of Opportunity for Hearing*, State's Exh. 1.

The Board further alleged that the Texas Board's Mediated Agreed Order constitutes "[a]ny of the following actions, taken by the agency responsible for regulating the practice of medicine and surgery . . . in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand," as that clause is used section 4731.22(B)(22) of the Ohio Revised Code. November 10, 2010 *Notice of Opportunity for Hearing*, State's Exh. 1. *See also* June 10, 2011 Report and Recommendation and R.C. 4731.22(B)(22).

The record establishes that

1. William James Rea, M.D., was born in Ohio in 1935. In 1962, he received his medical degree from the Ohio State University. In 1962, he also received his license to practice medicine in Ohio, certificate number 35.025922, which is currently active. (Ohio eLicense Center, at https://license.ohio.gov/lookup/default.asp? division=78>, query on 5/6/11).

2. In August 2007, the Texas Board filed a formal complaint in *The Matter of the License of William James Rea, M.D., License No. D-2294*. Following a mediation conference, the matter did not settle, so the parties engaged in discovery for a contested-case hearing. However, before the hearing was held, the parties reached a settlement. (St. Exs. 5-6).

3. On August 27, 2010, Dr. Rea and the Texas Board entered into a Mediated Agreed order (St. Exs. 5, 6), which states in part:

BOARD CHARGES

Board Staff filed a complaint * * * charging Respondent with violations related to five patients. The charges concerned Respondent's diagnosis and treatment of "chemical sensitivity." After completion of discovery, it appears that nothwithstanding the allegations of the complaint, the primary concern of the Board relates to and focuses on Respondent's use of chemical antigens and the informed consent for such treatment.

* * *

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

FINDINGS

The Board finds that:

* * *

2. Respondent currently holds Texas Medical License No. D-2294. Respondent was originally issued this license to practice medicine in Texas on June 22, 1965. Respondent is also licensed to practice in Ohio, Arkansas, and Illinois.

3. Respondent is primarily engaged in the practice of environmental medicine. Respondent is board certified by the American Boards of Cardiovascular Surgery and General Surgery, members of the American Board of Medical Specialties.

4. Respondent is a member of the American Academy of Environmental Medicine and the Pan American Allergy Society, and practices medicine pursuant to the guidelines of those professional associations and has certifications from those medical professional organizations.

5. Respondent is 75 years of age.

Specific Findings

1. The case involves five patients that were diagnosed with chemical sensitivity and/or environmental[] sensitivity.

2. Respondent made these determinations based on use of various tests, including but not limited [sic]: SPECT brain scan, pupilography, thermography, heart rate variability, and intradermal skin testing for sensitivity to such things as: jet and diesel fuels, natural gas, titanium, and lake algae. The intradermal testing was the primary concern of the Board related to testing because certain injections purported to be extracts of jet fuel and diesel fuel exhaust fumes and other chemicals.

Respondent denied that the injections contained any harmful substances.

3. Respondent's treatment of these patients included: environmental controls; heat depuration therapy; intravenous therapies; oxygen treatments, and antigen injections. The antigen injections were the primary concern of the Board because certain injections purported to be extracts of jet fuel and diesel fuel exhaust fumes and other chemicals. Respondent denied that the antigens contained any harmful substances.

2.[*sic*] Respondent during his deposition of May 21, 2010 stated that there are no active chemicals in any of the chemical antigens, only the "electromagnetic imprint" of the chemical. Respondent testified that he uses in his testing and treatment of patients antigens containing electromagnetic imprint of the following: natural gas; propane gas; ethanol; formaldehyde; phenol; unleaded gasoline and jet fuel. Respondent testified that the antigens are in fact homeopathic remedies rather than substances containing actual chemicals. Respondent testified that none of the antigens are extracts of the actual substances specified in this paragraph.

3.[*sic*] Board staff asserts Respondent's treatment is unsupported by medical research and is non-therapeutic. In addition, Board Staff asserts there was a lack of proper informed consent for these treatments.

4. Respondent asserts that his diagnosis, care, and treatment of the above patients was appropriate and in accordance with established principles of medicine and peer reviewed articles disclosed to the Board.

6.[*sic*] Respondent admitted his current Informed Consent documents did not disclose that his antigen injections were not FDA approved, and did not disclose that the chemical antigens mentioned in paragraph 2 above contained only the "electromagnetic imprint" of the chemical.

Mitigating Factors

1. a. In determining the appropriate sanctions in this matter, the Panel considered the following mitigating factors:

i. Respondent has cooperated in the investigation of the charges related to this Agreed Order. * * * 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.
ii. There were no claims of patient harm.
iii. Respondent's patients continue to support him.

CONCLUSIONS OF LAW

Based on the above Findings, the [Texas] 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, as defined by Board Rule § 190.8(I), failure to obtain informed consent from the patient or other person authorized by law to consent to treatment on the patient's behalf before performing tests, treatments or procedures.

3. 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.

ORDER

Based on the above Findings and Conclusions of Law, the [Texas] Board ORDERS that Respondent shall be subject to the following terms and conditions:

1. Respondent **shall present the approved Informed Consent Form** attached to this Order to each and every patient . . .. Respondent **shall include in the revised Informed Consent Form**, written disclosures that explicitly state the following information . . .:
   a. notice that the Therapy being offered is not FDA approved, and that this Therapy is considered non-traditional medicine (this notice shall be written in bold, oversized print);
   b. the effectiveness/therapeutic value of the Therapy is disputed;
   c. a disclaimer that formulations prescribed have never been tested by the FDA for determination of the actual contents or the medical effectiveness;
   d. a written disclaimer that the "therapeutic value" of the Therapy, if any, has not been established or proven and is subject of dispute.
   e. The following Disclaimers **shall be made** in all capital bold letters:
      i. **"THE TREATMENT/ANTIGEN THERAPIES BEING UTILIZED AND DESCRIBED BY RESPONDENT IN THIS DISCLOSURE STATEMENT DOES NOT CONTAIN ANY OF THE ACTUAL ACTIVE AGENT LISTED, AND CONTAINS ONLY "ELECTRO-MAGNETIC IMPRINT" OF THE AGENT. THE PATIENT IS NOT BEING INJECTED WITH ACTUAL ACTIVE AGENTS LISTED ON THE ANTIGEN."**
      ii. **"THE TREATMENT/ANTIGEN THERAPY BEING UTILIZED AND DESCRIBED BY RESPONDENT IN THIS DISCLOSURE STATEMENT IS NOT ENDORSED, SANTIONED, OR SUPPORTED BY THE TEXAS MEDICAL BOARD."**

2. Respondent **shall be required** to have each patient [receiving Therapy]

sign an acknowledgment. . . .

3. Respondent **must keep** the signed acknowledgment in the medical record of each patient and an **additional copy** of each Informed Consent and signed acknowledgment **in a separate file.** This separate **file shall be made available to the Compliance Division upon request to verify compliance with requirements** of Order Paragraphs Nos. 1 and 3 above [emphasis added].

4. In addition, Respondent **shall not start using any new Therapy, *antigens, or other formulations***, . . .

5. Respondent **shall not change, modify or alter his current antigen protocols** as provided to Board Staff and described during his deposition on May 21, 2010 . . ..

* * *

9. Any violation of the terms, conditions, or requirements of this Order by Respondent shall constitute unprofessional conduct likely to deceive or defraud the public, and to injure the public, and shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act. Respondent shall be provided 30-day notice of a **Probationer Show Compliance Proceeding to address any allegation of non-compliance** of this Agreed Order as required by the Medical Practice Act. . . .

* * *

(State Exhibit 5) (emphasis added).

4. The Texas Board characterized its action regarding Dr. Rea's license in Texas as "Under Board Order" in terms of "Disciplinary Status" on its Public Verification website. Dr. Rea's "Disciplinary Date" is listed as August 27, 2010. The Texas Medical Board also notes that it has taken "board actions" with regard to Dr. Rea. (St. Exh. 6).

5. Dr. Rea's characterization of the matters set forth in the Texas Mediated Agreed Order was that the Mediated Agreed Order did not change the way in which he diagnosed or treated his patients in any way and his practice of medicine in Texas has not in any way been encumbered, limited or restricted by the Mediated Agreed Order. (Resp. Exh. A). Plus, there were no findings of patient harm and all of his patients have been very supportive of him. (Resp. Exh. B). Dr. Rea also asserted that he does not plan to practice medicine in Ohio or any other state other than Texas and that he has been licensed to practice medicine in the State of Texas for 45 years with no other investigations or complaints filed against him with the Texas Medical Board. He asked that the Ohio Board not impose any discipline on his Ohio license. (Resp. Exh. A).

In her June 10, 2011 Report and Recommendation, Patricia A. Davidson, Esq., State Medical Board Hearing Examiner, made the following FINDINGS OF FACT:

> On August 27, 2010, William James Rea, M.D., entered into a Mediated Agreed Order with the Texas Medical Board, which imposed requirements including the following:
>
> - Dr. Rea must present a revised Informed Consent Form, approved by the Texas Medical Board, to each and every patient who is undergoing or will undergo antigen injections for chemical/environmental sensitivity ("Therapy"). Further, Dr. Rea must obtain a written acknowledgment from these patients that they received the approved Consent Form.
> - Dr. Rea is required to keep a copy of the signed consent forms in a separate file available to the Texas Medical Board upon request.
> - Dr. Rea is prohibited from changing, modifying or altering his current antigen protocol as disclosed to the Texas Medical Board.
> - Dr. Rea is also prohibited from using any new Therapy, antigens, or other formulations that contain any amounts of the active ingredients of substances classified as hazardous substances and/or carcinogens by the EPA, Agency for Toxic Substance Registration & Disease Registry, OSHA, or any other federal or state regulatory agency.

In her June 10, 2011 Report and Recommendation, the hearing examiner set forth the following CONCLUSION OF LAW:

> The Mediated Agreed Order between William James Rea, M.D., and the Texas Medical Board as described above in the Finding of Fact constitutes "[a]ny of the following actions taken by the agency responsible for regulating the practice of medicine and surgery * * * in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation, or issuance of an order of censure or other reprimand," as that language is used in R.C. 4731.22(B)(22).

As the rationale for the proposed order, the hearing examiner stated that "[i]n his arguments Dr. Rea emphasized that he has practiced only in Texas for many years, is now 76 years old, and has no plan to resume the practice of medicine in Ohio. However, his active license in Ohio allows Dr. Rea to change his mind and start practicing in Ohio at any moment he chooses. Given the action by the Texas Board, the Hearing Examiner recommends that Dr. Rea have similar

requirements in Ohio." June 10, 2011 Report and Recommendation at p. 10. The hearing examiner also stated as rationale for the proposed order that it "includes no reprimand and no suspension. Further, there is no probationary period, monitoring activity, or reporting requirement until and unless Dr. Rea should request and receive approval to commence practice in Ohio." *Id.*

On August 10, 2011 the Ohio Board voted to approve and confirm the Findings of Fact and Conclusions of the hearing examiner as well as voted to approve and adopt an amended Order. The Ohio Board removed Sections A(1), A(2), A(3) and A(4) of the Proposed Order in its amended Order. Specifically, the amended Order restricted the certificate of William James Rea, M.D. to practice allopathic medicine and surgery in the State of Ohio as follows:

1. Dr. Rea shall not practice in Ohio without prior Ohio Board approval. The Ohio Board shall not grant approval for Dr. Rea to commence practice in Ohio unless all of the following requirements have been met:
   a. Before commencing practice in Ohio, Dr. Rea shall notify the Board in writing that he intends to commence practice in Ohio.
   b. Dr. Rea shall hold an active certificate to practice medicine and surgery in the State of Ohio.
   c. Dr. Rea shall submit evidence, acceptable to the Ohio Board, that he has maintained full compliance with the Mediated Agreed Order entered in August 2010 by the Texas Medical Board in the Matter of the License of William James Rea, M.D., License No. D-2294.
2. If Dr. Rea violates the terms of the amended Order, the Ohio Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.

August 10, 2011 Entry of Order.

As rationale for the amendment to the Order, the Ohio Board stated in its Entry of Order that "[a] long term problem is not foreseen, but patient safety requires that the doctor have approval before practicing in Ohio. Verification of doctor's compliance with the Texas agreed order will serve patient safety should he return to Ohio to practice." August 10, 2011 Entry of Order.

Thereafter, appellant filed a timely appeal. The appellant set forth three assignments of error in his notice of appeal and brief, which are as follows:

1. Whether the Appellee Ohio Medical Board's final order which affirmed the Hearing Examiner's report and recommendation was supported by reliable, probative and substantial evidence and whether the decision was in derogation of Ohio law.

2. Whether the Board has subject matter jurisdiction to take disciplinary action in the State of Ohio against the Appellant where none of the eight specific grounds recited in R.C. 4731.22(B)(22) exist.

3. Whether R.C. 4731.22(B)(22) is unconstitutional as applied by the Appellee to the Appellant.

Thus, this Court will review the record to determine if the Appellee's August 10, 2011 Order is supported by reliable, probative and substantial evidence and is in accordance with law, whether the Board had subject matter jurisdiction over Appellant, and whether R.C. 4731.22(B)(22) is constitutional as applied to this case. See R.C. 119.12.

STANDARD OF REVIEW

Under R.C. 119.12, a common pleas court, in reviewing an order of an administrative agency, must consider the entire record to determine whether reliable, probative, and substantial evidence supports the agency's order and the order is in accordance with law. *D'Souza v. State Med. Bd. of Ohio*, 2009-Ohio-6901, ¶ 13, Franklin App. No. 09AP-97 (10th Dist.), citing *Univ. of Cincinnati v. Conrad*, 63 Ohio St.2d 108, 110-11 (1980). In *Our Place* the Ohio Supreme Court provided the following definition of reliable, probative and substantial evidence as:

> (1) 'Reliable' evidence is dependable; that is, it can be confidently trusted. In order to be reliable, there must be a reasonable probability that the evidence is true. (2) 'Probative' evidence is evidence that tends to prove the issue in question; it must be relevant in determining the issue. (3) 'Substantial' evidence is evidence with some weight; it must have importance and value.

Our Place, Inc. v. Ohio Liquor Comm., 63 Ohio St.3d 570, 571 (1992).

Once the common pleas court has determined that the administrative agency's order is supported by reliable, probative and substantial evidence, the court must then determine whether the order is in accordance with law. See R.C. 119.12. The reviewing court cannot substitute its judgment for the agency's decision where there is some evidence supporting the decision. See *Harris v. Lewis*, 69 Ohio St.2d 577, 579 (1982); see also *University of Cincinnati v. Conrad*, supra. Moreover, the common pleas court has no authority to modify a penalty that the agency was authorized to, and did impose, on the ground that the agency abused its discretion. When reviewing a Medical Board's order, courts must accord due deference to the Board's interpretation of the technical and ethical requirements of its profession. See *Coniglio v. State Med. Bd. of Ohio*, 2007-Ohio-5018, ¶ 9 (10th Dist.).

The common pleas court's "review of the administrative record is neither *de novo* nor an appeal on questions of law only, but a hybrid review in which the court 'must appraise all the evidence as to the credibility of the witnesses, the probative character of the evidence, and the weight thereof.'" *D'Souza*, supra at ¶ 13, quoting *Lies v. Veterinary Med. Bd.*, 2 Ohio App.3d 204, 207 (1st Dist.1981). The common pleas court must give due deference to the administrative agency's resolution of evidentiary conflicts, but "the findings of the agency are by no means conclusive." *Conrad*, 63 Ohio St.2d at 111. The common pleas court conducts a de novo review of questions of law, exercising its independent judgment in determining whether the administrative order is "in accordance with law." *Ohio Historical Soc. v. State Emp. Relations Bd.*, 66 Ohio St.3d 466, 471, 1993-Ohio-182 (1993).

LAW AND ARGUMENT

1. **Whether The Appellee Ohio Medical Board's Final Order, Which Affirmed The Hearing Examiner's Report And Recommendation, Was Supported By Reliable, Probative And Substantial Evidence, And Whether The Decision Was In Derogation Of Ohio Law.**

When considering an appeal from an order of the Medical Board, a common pleas court must uphold the order if it is supported by reliable, probative, and substantial evidence, and is in accordance with law. R.C. 119.12. *Pons v. Ohio State Med. Bd.*, 66 Ohio St.3d 619, 621 (1993); *Landefeld v. State Med. Bd.*, Franklin County App. No. 99AP-612, 2000 Ohio App. LEXIS 2556 (10th Dist.2000).

The Ohio Supreme Court has recognized that the General Assembly granted the Medical Board a broad measure of discretion. *Arlen v. State*, 61 Ohio St.2d 168, 174 (1980). In *Farrand v. State Med. Bd.*, 151 Ohio St. 222, 224 (1949), the court stated:

> ... The purpose of the General Assembly in providing for administrative hearings in particular fields was to facilitate such matters by placing the decision on facts with boards or commissions composed of men equipped with the necessary knowledge and experience pertaining to a particular field. ...

"Accordingly, when courts review a medical board order, they are obligated to accord due deference to the board's interpretation of the technical and ethical requirements of the medical profession." *Landefeld*, supra at pg. 9.

In *Midwestern College of Massotherapy v. Ohio Medical Board*, 102 Ohio App.3d 17, 23 (10th Dist.1995), the Tenth District Court of Appeals held that rules are a proper exercise of administrative power provided that they are not unreasonable, discriminatory, or in conflict with law. The Court held that the Board's rules "enjoy a presumption of reasonableness" and the burden of proof is upon the party challenging the rules "to establish by a preponderance of substantial, probative, and reliable evidence upon the whole record that the disputed rule is unreasonable" and rebut the presumption. The Court added that "[w]hen considering the

reasonableness of a rule, deference is given to the agency's expertise in evaluating the reasonableness and lawfulness of the rule." *Id.* at p. 25.

In this appeal, it is uncontested that Appellant entered into a Mediated Agreed Order with the Texas Board on or about August 17, 2010 to resolve allegations that, in the case of five patients who Appellant diagnosed with chemical sensitivity and/or environmental sensitivity, Appellant provided treatment that was unsupported by medical research and was non-therapeutic. It is also uncontroverted that pursuant to the Mediated Agreed Order, the Appellant agreed to present an informed consent form, approved by the Texas Board, to each and every patient who underwent or would undergo antigen injections for chemical/environmental sensitivity, and that such forms had to be made available to the Texas Board upon request. Additionally, Appellant agreed that he is prohibited from using any new therapies, antigens, or other formulations that contain any amounts of active ingredients of substances classified as hazardous substances and/or carcinogens by appropriate federal or state regulatory agencies. Moreover, he agreed not to make any changes, modifications, or alterations to his current antigen protocol. Further, the evidence shows that the Texas Board characterized its action regarding Dr. Rea's license in Texas as "Under Board Order" in terms of "Disciplinary Status" on its Public Verification website. Dr. Rea's "Disciplinary Date" is listed as August 27, 2010. The Texas Medical Board noted that it has taken "board actions" with regard to Dr. Rea. (State Exhibit 6).

The case of *Coniglio v. State Medical Board of Ohio*, 2007-Ohio-5018 (10th Dist.), discretionary appeal not allowed *Coniglio v. State Medical Board of Ohio,* 117 Ohio St.3d 1407, 2008-Ohio-565, constrains this Court to uphold the Board's Amended Order under R.C. 4731.22(B)(22), even where the motivation for another state medical board's actions were not known. As the Tenth District remarked, "[t]he fact that action was taken is all that the State

Medical Board of Ohio needs in order to take action of its own." *Id. at* ¶ 10. Regardless of Appellant's arguments, there is no doubt that Texas Board brought allegations against Dr. Rea and that restrictions were placed on Rea's license via the Mediated Agreed Order, which the Texas Board characterized as a board action. The fact that the Texas Board took the action that it did and the Mediated Agreed Order exists is all that the Ohio Board needed in order to take action of its own.

Reliable, substantial and probative evidence demonstrates the fact of adverse action by the Texas Board. It is the action of the Texas Board through the Mediated Agreed Order that prompted the Ohio Board to act, not the substance upon which the other state's action was based or the specific statute upon which the action was taken. Whether based on something or nothing, whether Tex. Occ. Code sections 164.002(b) or (c) were mentioned in the Texas Order or not, R.C. 4731.22 permits the State Medical Board of Ohio to discipline Appellant. *Id.* at ¶ 10.

Further, the type and amount of restriction imposed by the Ohio Board is subject to even greater latitude. As the Tenth District noted in *Coniglio*, this Court is not permitted to question the penalties assessed by the State Medical Board of Ohio given the mandate of *Henry's Cafe, Inc. v. Bd. of Liquor Control*, 170 Ohio St. 233 (1959), which denies the Court discretion to modify a lawfully imposed penalty. *Coniglio*, 2007-Ohio-5018 at ¶ 11. See also *Pons*, supra at 621.

Accordingly, upon full review of the record and evidence offered, the Court finds that there is reliable, probative and substantial evidence that demonstrates that adverse action was taken by the Texas Board and limitations imposed on Appellant's medical license in the state of Texas. Given that adverse action and the agreed upon limitations, R.C. 4731.22(B)(22) authorized the Ohio Board to take action against Dr. Rea. The penalties and restrictions

assessed by the Ohio Board cannot be reviewed by this Court, so are in accord under law. *Coniglio*, 2007-Ohio-5018 at ¶ 12.

2. **Whether The Board Has Subject Matter Jurisdiction To Take Disciplinary Action In The State Of Ohio Against The Appellant Where None Of The Eight Specific Grounds Recited In R.C. 4731.22(B)(22) Exist.**

In his second assignment of error, Appellant contends that the Board does not have subject matter jurisdiction to take disciplinary against him within State of Ohio because none of the eight specific grounds of R.C. 4731.22(B)(22) exist. It is Appellant's contention that the relevant statutory provision, Texas Occ. Code section 164.002(c), which makes an agreed disposition of a contested case "discipline" for reporting purposes and proceedings, is omitted from the Texas Order. Appellant's claim is unconvincing.

R.C. 4731.22 provides in pertinent part:

> (B) The board, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend an individual's certificate to practice, refuse to register an individual, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate for one or more of the following reasons:
>
> . . .
>
> (22) Any of the following actions taken by an agency responsible for authorizing, certifying, or regulating an individual to practice a health care occupation or provide health care services in this state or another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand[.] (emphasis added).

Accordingly, this Court must determine whether the Texas Board's action and the Mediated Agreed Order constitute a "limitation" of Dr. Rea's license to practice in Texas for any reason. See *Gross v. State Med. Bd. of Ohio*, 10th Dist. No. 08AP-437, 2008-Ohio-6826, ¶ 12. As noted

above, this Court finds R.C. 4731.22(B)(22) allows the Ohio Board to take disciplinary action against Dr. Rea because the Texas Board placed a "limitation" on Dr. Rea's license.

Here, on August 27, 2010, the Texas Board and Dr. Rea agreed to and issued an "Agreed Mediated Order" as to Dr. Rea's license to practice medicine in Texas. The Texas Order results from the settlement of a complaint filed against Dr. Rea by the Texas Board based upon Dr. Rea's diagnosis and treatment of five patients with "chemical sensitivity." In this stipulated and final order, wherein the Texas Board and Dr. Rea mutually negotiated and determined the terms of the order, the Texas Board stated, among other things, that:

1. The Texas Board staff determined that Dr. Rea's treatment is unsupported by medical research and is non-therapeutic, and that there was a lack of proper informed consent for these treatments. Dr. Rea admitted that his Informed Consent documents did not disclose that his antigen injections were not FDA approved and that the chemical antigens contained only the "electromagnetic imprint" of the chemical. State Exhibit 5, p. 3.
2. "In determining the appropriate sanctions in this matter, the Panel considered" mitigating factors, including Dr. Rea's cooperation in the investigation of the charges related to the Agreed Order as well as his agreement "to the entry of this Agreed Order and to comply with its terms and conditions." *Id* at p.3-4 (emphasis added).
3. "Conclusions of Law: Based on the above Findings, the Board concludes: . . . (3) Section 164.001 of the [Texas] Act authorizes the Board to impose a range of disciplinary actions against a person for violation of the Act or a Board rule." *Id.* p. 3 (emphasis added)

4. "This Order resolves in their entirety" the board matters concerning Dr. Rea and the "Board shall take no further action against the respondent" with respect to the three matters, and Dr. Rea agrees that it is a "FINAL APPEALABLE ORDER." *Id.* at p. 7 (emphasis added).

By its order and based upon its Findings of Facts and Conclusions of Law, the Texas Board ordered that Dr. Rea be "subject to the following terms and conditions" and then listed eleven different terms and conditions that Dr. Rea was required to follow, including that he had to revise his Informed Consent form and have every patient sign an acknowledgement. The Texas Board's order also provided that Dr. Rea was prohibited ("shall not") from "using any new Therapy, antigens or other formulations that contain any amounts of the active ingredient of substances that are classified as hazardous substances" by the EPA or any other federal or state agency. *Id.* at p. 6, 7.

The Tenth District Court of Appeals has considered the meaning of the term "limitation" and held that while the term is not specifically defined in the Medical Practice Act, the term should be accorded its common, everyday meaning. *Gross*, 2008-Ohio-6826 at ¶ 35. In *Gross*, the Tenth District held that the term "limitation" in R.C. 4731.22(B)(2) is to be construed as "referencing an action taken by a medical licensing agency in another jurisdiction that imposed an enforceable restriction upon the scope or exercise of a person's medical license. *Id.* In the present appeal, the Mediated Agreed Order from Texas clearly imposes enforceable restrictions on the exercise of Dr. Rea's medical license by placing eleven (11) different terms and conditions on Dr. Rea's medical license, including prohibiting Dr. Rea from using any new Therapy, antigens or other formulations that contain any amounts of the active ingredient of substances that are classified as hazardous substances. *Id.* at ¶ 37. Prior to the Agreed Mediated

Order, Dr. Rea was not required to use a particular consent form approved by the Texas Board. After the order, he was required to do so. Prior to the order he was not required to produce forms to the Texas Board upon request. After the order he was required to do so. Prior to the order, Dr. Rea was not barred from implementing new therapies with hazardous substances. After the order, he is so barred. Prior to the order, Dr. Rea was not prohibited from making modifications to his antigen protocol, now he is prohibited from doing so. Further, these restrictions are enforceable because the Agreed Mediated Order expressly states that a violation of any requirements in the Texas Order "shall constitute a basis for disciplinary action by the Board. State Exhibit 5, p. 6. Thus, the requirements in the order are enforceable by the Texas Board.

Consequently, the Court finds that actions of the Ohio Board were within the scope of the power and authority granted it by statute and that, pursuant to R.C. 4731.22(B)(22), the Ohio Board had subject matter jurisdiction to discipline Dr. Rea. The Ohio Board reasonably found that the Agreed Mediated Order from Texas and the Texas Board's actions with regard to Dr. Rea constitute an "enforceable restriction upon the scope or exercise" of Dr. Rea's medical license, as provided in *Gross*, and thus, are a "limitation" ground for disciplinary pursuant to R.C. 4731.22(B)(22). 2008-Ohio-6826 at ¶ 35.

3. Whether R.C. 4731.22(B)(22) Is Unconstitutional As Applied By The Appellee To The Appellant.

In his Reply Brief, Appellant clarifies that he is constitutionally challenging the application of R.C. 4731.22(B)(22) to his particular set of facts pursuant to *Derakshan v. State Medical Bd.*, 2007-Ohio-5802 (10th Dist.). (Reply Br. P. 5). Appellant contends that the application of R.C. 4731.22(B)(22) by the Board, coupled with the Board's determination that the Texas Order states grounds for discipline under R.C. 4731.22(B)(22), is arbitrary and amounts to a constitutional deprivation of due process. *Id.* p. 6. Appellee responds that the

action of the Ohio Board in finding that the Texas Board had limited Dr. Rea's medical license is not unconstitutional as applied to the Appellant. Appellee's Br. p. 12. Having determined that the grounds for discipline in R.C. 4731.22(B)(22) apply to this case, the Court agrees with Appellee.

R.C. Chapter 4731, The Medical Practices Act, has been held to be a valid exercise of the state's police power to regulate the public health and welfare. *Williams v. Scudder*, 102 Ohio St. 305 (1921). The General Assembly has bestowed upon the Ohio Board the duty to safeguard the public's interest in having competent, trained, and experienced doctors. *State ex rel. Copeland v. State Med. Bd.*, 107 Ohio St. 20 (1923). R.C. 4731.05 provides that the Ohio Board shall adopt rules to carry out the purposes of R.C. Chapter 4731. As a result, Ohio courts have found that R.C. 4731.22(B) is not facially unconstitutional and does not amount to a constitutional deprivation of due process. See, e.g., *Williams v. Ohio State Med. Bd.*, 78 Ohio App.3d 743 (1992).

With regard to Appellant's assertion that the application of R.C. 4731.22(B)(22) to his particular set of facts was unconstitutional, the burden is on Appellant to present clear and convincing evidence of existing facts that make the statute unconstitutional and void when applied. See *Cleveland Gear Co. v. Limbach*, 35 Ohio St.3d 229, 231 (1988). Yet, Dr. Rea's evidence before the Ohio Board was directly solely to his argument that the action at issue here does not constitute a limitation and/or discipline under Texas law.

Under Section 164.001(b)(3)(A), the Texas Board may limit a person's license to practice medicine, including limiting the practice of the person or excluding one or more specified activities. Contrary to Dr. Rea's assertion, the Texas Order clearly limits Dr. Rea's practice of medicine by excluding "one or more specified activities of medicine." As noted, under the

Texas Order, Dr. Rea may not provide antigen injection to patients unless the Texas Board approved consent form is provided to patients in advance. Additionally, he may not start using any new therapy, antigens or other formulations, and may not change, modify or alter his current antigen protocol. See State Exhibit 5 at p. 5, 6. Again, this clearly falls within the *Gross* definition of "limitation" in R.C. 4731.22(B)(22).

Further, Dr. Rea's argument that the Texas Order was not "discipline" because it failed to reference Tex. Occ. Code section 164.002(c), and thus, it was unconstitutional for the Ohio Board to rely on the Texas Order in disciplining Appellant, is unavailing. Texas Occ. Code section 164.002(b) states that [t]he board shall dispose of a complaint, contested case, or other matter in writing." Texas Occ. Code section 164.002(c) states that "[a]n agreed disposition is a disciplinary order for purposes of reporting under this subtitle . . . regarding the practice of medicine." There is nothing in the Texas Code that requires the Texas Board to include a reference to Texas Occ. Code section 164.002(c) in any agreed disposition. Instead, the unequivocal language of section 164.002(c) makes it clear any agreed disposition regarding the practice of medicine is a disciplinary order under Texas law. Moreover, as noted above, the Conclusions of Law section of the Mediated Agreed Order does reference Texas Occ. Code section 164.001 insofar as that section "authorizes the [Texas] Board to impose a range of disciplinary actions against a person for violation of the Act or a Board rule." State Exhibit 5, p. 4. As a result, the Court finds that the Texas Order was "discipline" and it was not unconstitutional for the Ohio Board to take action with regard to Dr. Rea's license as a result of the Mediated Agreed Order.

Simply put, the evidence in this case does not equate to a showing that R.C. 4731.22(B)(22) is unconstitutional as applied to Appellant. Appellant has not carried his burden

of proving that it was arbitrary or unconstitutional for the Ohio Board to take disciplinary action against him, even if the sanction issued by the Ohio Board was more onerous than that imposed by the Texas Board.

DECISION

Based on the foregoing, and upon a review of the record, the Court finds no substantive factual or legal support for the assignments of error raised by Appellant. Appellant's arguments are not well-taken and his assignments of error one, two and three are hereby **OVERRULED.** The Court finds that the August 11, 2011 Order of the State Medical Board of Ohio is supported by reliable, probative and substantial evidence and is in accordance with law. The Ohio Board's August 11, 2011 Order is **AFFIRMED.**

THE COURT FINDS THAT THERE IS NO JUST REASON FOR DELAY. THIS IS A FINAL APPEALABLE ORDER. Costs to Appellant.

Rule 58(B) of the Ohio Rules of Civil Procedure provides the following:

> **(B) Notice of filing.** When the court signs a judgment, the court shall endorse thereon a direction to the clerk to serve upon all parties not in default for failure to appear notice of the judgment and its date of entry upon the journal. Within three days of entering the judgment on the journal, the clerk shall serve the parties in a manner prescribed by Civ. R. 5(B) and note the service in the appearance docket. Upon serving the notice and notation of the service in the appearance docket, the service is complete. The failure of the clerk to serve notice does not affect the validity of the judgment or the running of the time for appeal except as provided in App. R. 4(A).

Pursuant to Civil Rule 58, the Clerk of Court shall serve upon all parties notice of this judgment and its date of entry.

IT IS SO ORDERED.

COPIES TO:

Todd Newkirk, Esq.
Counsel for Appellant

Jacques G. Simon, Esq.
Counsel for Appellant

Michelle T. Sutter, Esq.
Assistant Attorney General
Counsel for Appellee
Ohio State Medical Board

Franklin County Court of Common Pleas

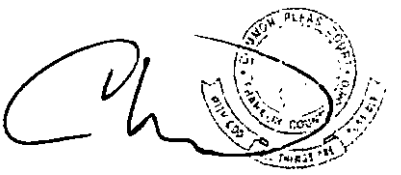
Date: 03-26-2013

Case Title: WILLIAM JAMES REA MD -VS- OHIO STATE MEDICAL BOARD

Case Number: 11CV011059

Type: ENTRY

It Is So Ordered.



/s/ Judge Charles A. Schneider

Court Disposition

Case Number: 11CV011059

Case Style: WILLIAM JAMES REA MD -VS- OHIO STATE MEDICAL BOARD

Case Terminated: 10 - Magistrate

Final Appealable Order: Yes

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY OHIO

	:	Ohio Medical Board Case No.:
	:	10-CRF-135
William James Rea, M.D.	:	
	:	Court of Common Pleas Case No:
Appellant,	:	
	:	
v.	:	Judge
	:	
State Medical Board of Ohio	:	
	:	
Appellee.	:	

11CVF 09 11059

NOTICE OF APPEAL FROM FINAL ORDER OF ADMINISTRATIVE AGENCY PURSUANT TO OHIO REVISED CODE SECTION 119.12

The Appellant, William James Rea M.D., through the undersigned counsel, hereby appeals to the Ohio Court of Common Pleas for Franklin County, pursuant to R.C. § 119.12 et.seq., the Final Order of the Ohio Medical Board dated August 10, 2011 and mailed on August 19, 2011, (a copy of which is attached hereto as Exhibit "A"). This appeal is based upon the fact that the Order of the agency is not supported by reliable, probative, and substantial evidence and is not in accordance with Ohio law.

Dated: September 2, 2011

Respectfully Submitted,

Todd Newkirk (0076774)
Counsel for Appellant
Frank Recker & Associates, LPA
85 East Gay Street, Suite 910
Columbus, Ohio 43215
TEL: 800-224-3529
FAX: 888-469-0151

CERTIFICATE OF SERVICE

The undersigned certifies that a true and accurate copy of this Notice of Appeal was filed with the State Medical Board of Ohio by hand delivery at 30 East Broad Street. 3rd Floor, Columbus, Ohio 43215 and served upon counsel for the State Medical Board of Ohio, Assistant Attorney General Katherine Bockbrader, Esq. at 30 East Broad Street, 26th Floor, Columbus, Ohio 432154, via regular mail this 2nd day of September, 2011.

Todd W. Newkirk

State Medical Board of Ohio

30 E. Broad Street, 3rd Floor, Columbus, OH 43215-6127

Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
med.ohio.gov

August 10, 2011

William James Rea, M.D.
8345 Walnut Hill Lane, Suite 220
Dallas, TX 75231

RE: Case No. 10-CRF-135

Dear Doctor Rea:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Patricia A. Davidson, Esq., Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on August 10, 2011, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order.

Section 119.12, Ohio Revised Code, may authorize an appeal from this Order. Such an appeal must be taken to the Franklin County Court of Common Pleas.

Such an appeal must be commenced by the filing of a Notice of Appeal with the State Medical Board and the Franklin County Court of Common Pleas. The Notice of Appeal must set forth the Order appealed from and state that the State Medical Board's Order is not supported by reliable, probative, and substantive evidence and is not in accordance with law. The Notice of Appeal may, but is not required to, set forth the specific grounds of the appeal. Any such appeal must be filed within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12, Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO

Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

CERTIFIED MAIL NO. 91 7199 9991 7030 3311 5153
RETURN RECEIPT REQUESTED

Cc: Eric J. Plinke, Esq.
CERTIFIED MAIL NO. 91 7199 9991 7030 3311 5160
RETURN RECEIPT REQUESTED

Mailed 8-19-11

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Patricia A. Davidson, Esq., State Medical Board Attorney Hearing Examiner; and excerpt of the Minutes of the State Medical Board, meeting in regular session on August 10, 2011, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order; constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of William James Rea, M.D., Case No. 10-CRF-135, as it appears in the Journal of the State Medical Board of Ohio.

This certification is made by authority of the State Medical Board of Ohio and in its behalf.

Lance A. Talmage, M.D.
Secretary

(SEAL)

August 10, 2011
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF *

* CASE NO. 10-CRF-135

WILLIAM JAMES REA, M.D. *

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on August 10, 2011.

Upon the Report and Recommendation of Patricia A. Davidson, Esq., State Medical Board Hearing Examiner, designated in this Matter pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated within, and upon the modification, approval and confirmation by vote of the Board on the above date, the following Order is hereby entered on the Journal of the State Medical Board of Ohio for the above date.

Rationale for Amendment: A long term problem is not foreseen, but patient safety requires that the doctor have approval before practicing in Ohio. Verification of doctor's compliance with the Texas agreed order will serve patient safety should he return to Ohio to practice.

It is hereby ORDERED that:

A. **RESTRICTION OF CERTIFICATE:** The certificate of William James Rea, M.D., to practice allopathic medicine and surgery in the State of Ohio is limited as follows:

1. **Terms and Conditions for Practice in Ohio**: Dr. Rea shall not practice in Ohio without prior Board approval. The Board shall not grant approval for Dr. Rea to commence practice in Ohio unless all of the following requirements have been met:

   a. **Notify Board in Writing**: Before commencing practice in Ohio, Dr. Rea shall notify the Board in writing that he intends to commence practice in Ohio.

   b. **Active Certificate to Practice in Ohio**: Dr. Rea shall hold an active certificate to practice medicine and surgery in the State of Ohio.

c. **Certification of Compliance with the August 2010 Order of the Texas Medical Board**: Dr. Rea shall submit evidence, acceptable to the Board, that he has maintained full compliance with the Mediated Agreed Order entered in August 2010 by the Texas Medical Board in the Matter of the License of William James Rea, M.D., License No. D-2294.

B. **VIOLATION OF THE TERMS OF THIS ORDER**: If Dr. Rea violates the terms of this Order in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.

EFFECTIVE DATE OF ORDER: This Order shall become effective immediately upon the mailing of the notification of approval by the Board.

Lance A. Talmage, M.D.
Secretary

(SEAL)

August 10, 2011
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

In the Matter of	*	
		Case No. 10-CRF-135
William James Rea, M.D.,	*	
		Hearing Examiner Davidson
Respondent.	*	

REPORT AND RECOMMENDATION

Basis for Hearing

In a notice of opportunity for hearing dated November 10, 2010, the State Medical Board of Ohio [Board] notified William James Rea, M.D., that it intended to determine whether to take disciplinary action against his certificate to practice medicine and surgery in Ohio. The Board alleged that, in August 2010, the Texas Medical Board [Texas Board] issued an agreed order setting forth terms and conditions for Dr. Rea's practice of medicine in Texas, including a prohibition from using certain therapies, treatments and/or protocols as part of his medical practice. (St. Ex. 1)

The Board charged that the Texas Board's agreed order constitutes "[a]ny of the following actions taken by the agency responsible for regulating the practice of medicine and surgery * * * in another jurisdiction, for any reason other than the nonpayment of fees; the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to reinstate or renew a license; imposition of probation; or issuance of an order of censure or other reprimand," as that language is used in Ohio Revised Code Section [R.C.] 4731.22(B)(22). (St. Ex. 1)

On December 2, 2010, the Board received a letter from Dr. Rea in which (a) he requested that the Board terminate its administrative action without a hearing due to asserted legal defects in the Board's action; or, in the alternative, (b) he requested a hearing. (St. Ex. 1)

Appearances

Mike DeWine, Attorney General, and Michelle Sutter, Assistant Attorney General, for the State.
Eric J. Plinke, Esq., for the Respondent.

Hearing Date: May 6, 2011

SUMMARY OF THE EVIDENCE

All exhibits and testimony, even if not specifically mentioned, were thoroughly reviewed and considered by the Hearing Examiner prior to preparing this Report and Recommendation.

Background

1. William James Rea, M.D., was born in Ohio in 1935. In 1962, he received his medical degree from the Ohio State University. In 1962, he also received his license to practice medicine in Ohio, certificate number 35.025922, which is currently active. (Ohio eLicense Center, at <https:// license.ohio.gov/lookup/default.asp? division=78>, query on 5/6/11).

August 2010: Agreed Order Entered by the Texas Board

2. In August 2007, the Texas Board filed a formal complaint in *The Matter of the License of William James Rea, M.D., License No. D-2294.* Following a mediation conference, the matter did not settle, so the parties engaged in discovery for a contested-case hearing. However, before the hearing was held, the parties reached a settlement. (St. Exs. 5-6)

3. On August 27, 2010, Dr. Rea and the Texas Board entered into a Mediated Agreed Order (St. Exs. 5, 6), which states in part:

> BOARD CHARGES
>
> Board Staff filed a complaint * * * charging Respondent with violations related to five patients. The charges concerned Respondent's diagnosis and treatment of "chemical sensitivity." After the completion of discovery, it appears that notwithstanding the allegations of the complaint, the primary concern of the Board relates to and focuses on Respondent's use of chemical antigens and the informed consent for such treatment.
>
> * * *
>
> Upon the recommendation of the Board's representatives and with the consent of Respondent, the Board makes the following Findings and Conclusions of Law and enters this Agreed Order.
>
> FINDINGS
>
> The Board finds that:
>
> * * *
>
> 2. Respondent currently holds Texas Medical License No. D-2294. Respondent was originally issued this license to practice medicine in Texas on June 22, 1965. Respondent is also licensed to practice in Ohio, Arkansas, and Illinois.
>
> 3. Respondent is primarily engaged in the practice of environmental medicine. Respondent is board certified by the American Boards of Cardiovascular Surgery and General Surgery, members of the American Board of Medical Specialties.

4. Respondent is a member of the American Academy of Environmental Medicine and the Pan American Allergy Society, and practices medicine pursuant to the guidelines of those professional associations and has certifications from those medical professional organizations.

5. Respondent is 75 years of age.

Specific Findings:

1. The case involves five patients that were diagnosed with chemical sensitivity and/or environmental[] sensitivity.

2. Respondent made these determinations based on use of various tests, including but not limited: SPECT brain scan, pupillography, thermography, heart rate variability, and intradermal skin testing for sensitivity to such things as: jet and diesel fuel, natural gas, titanium, and lake algae. The intradermal testing was the primary concern of the Board related to testing because certain injections purported to be extracts of jet fuel and diesel fuel exhaust fumes and other chemicals. Respondent denied that the injections contained any harmful substances.

3. Respondent's treatment of these patients included: environmental controls; heat depuration therapy; intravenous therapies; oxygen treatments, and antigen injections. The antigen injections were the primary concern of the Board because certain injections purported to be extracts of jet fuel and diesel fuel exhaust fumes and other chemicals. Respondent denied that the antigens contained any harmful substances.

2.[*sic*] Respondent during his deposition of May 21, 2010 stated that there are no active chemicals in any of the chemical antigens, only the "electromagnetic imprint" of the chemical. Respondent testified that he uses in his testing and treatment of patients antigens containing electromagnetic imprint of the following: natural gas; propane gas; ethanol; formaldehyde; phenol; unleaded gasoline and jet fuel. Respondent testified that the antigens are in fact homeopathic remedies rather than substances containing actual chemicals. Respondent testified that none of the antigens are extracts of the actual substances specified in this paragraph.

3.[*sic*] Board staff asserts Respondent's treatment is unsupported by medical research and is non-therapeutic. In addition, Board Staff asserts there was a lack of proper informed consent for these treatments.

4. Respondent asserts that his diagnosis, care, and treatment of the above patients was appropriate and in accordance with established principles of medicine and peer reviewed articles disclosed to the Board.

6.[*sic*] Respondent admitted his current Informed Consent documents did not disclose that his antigen injections were not FDA approved, and did not disclose that the chemical antigens mentioned in paragraph 2 above contained only the "electromagnetic imprint" of the chemical.

Mitigating Factors

1. a. In determining the appropriate sanctions in this matter, the Panel considered the following mitigating factors:

i. Respondent has cooperated in the investigation of the charges related to this Agreed Order. * * * 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.

ii. There were no claims of patient harm.

iii. Respondent's patients continue to support him.

CONCLUSIONS OF LAW

Based on the above Findings, the Board concludes that.

1. The Board has jurisdiction over the subject matter and Respondent pursuant to the Act.[1]

2. Section 164.051(a)(6) of the Act, as defined by Board Rule § 190.8(I), failure to obtain informed consent from the patient or other person authorized by law to consent to treatment on the patient's behalf before performing tests, treatments or procedures.

3. 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.

* * *

---

[1] Section 164.051(a) of the Texas Medical Practice Act is captioned "Grounds for Denial or Disciplinary Action," and it provides that the Texas Board "may take disciplinary action against a person if the person * * * (6) fails to practice medicine in an acceptable professional manner consistent with public health and welfare."

In addition, Rule or Section 190.8 of the Texas Administrative Code, Title 22, Pt. 9, Ch. 190, Sub. B, provides in part:

> When substantiated by credible evidence, the following acts, practices, and conduct are considered to be violations of the Act. The following shall not be considered an exhaustive or exclusive listing.
> (1) Practice Inconsistent with Public Health and Welfare. Failure to practice in an acceptable professional manner consistent with public health and welfare within the meaning of the Act includes, but is not limited to:
>
> * * *
>
> (I) failure to obtain informed consent from the patient or other person authorized by law to consent to treatment on the patient's behalf before performing tests, treatments, or procedures; * * *.

ORDER

Based on the above Findings and Conclusions of Law, the [Texas] Board ORDERS that Respondent shall be subject to the following terms and conditions:

1. Respondent **shall present the approved Informed Consent Form** attached to this Order to each and every patient who is undergoing or will undergo antigen injections for chemical/environmental sensitivity ("Therapy"). Respondent **shall include in the revised Informed Consent Form,** written disclosures that explicitly state the following information [emphasis added]:

   a. notice that the Therapy being offered is not FDA approved, and that this Therapy is considered non-traditional medicine (this notice shall be written in bold, oversized print);

   b. the effectiveness/therapeutic value of Therapy is disputed;

   c. a disclaimer that formulations prescribed have never been tested by the FDA for determination of the actual contents or the medical effectiveness;

   d. a written disclaimer that the "therapeutic value" of the Therapy, if any, has not been established or proven and is subject of dispute.

   e. The following Disclaimers **shall be made** in all capital bold type [emphasis added]:

      i. **"THE TREATMENT/ANTIGEN THERAPIES BEING UTILIZED AND DESCRIBED BY RESPONDENT IN THIS DISCLOSURE STATEMENT DOES NOT CONTAIN ANY OF THE ACTUAL ACTIVE AGENT LISTED, AND CONTAINS ONLY "ELECTRO-MAGNETIC IMPRINT" OF THE AGENT. THE PATEINT IS NOT BEING INJECTED WITH ACTUAL ACTIVE AGENTS LISTED ON THE ANTIGEN."** [Emphasis in original]

      ii. **"THE TREATMENT/ANTIGEN THERAPY BEING UTILIZED AND DESCRIBED BY RESPONDENT IN THIS DISCLOSURE STATEMENT IS NOT ENDORSED, SANCTIONED, OR SUPPORTED BY THE TEXAS MEDICAL BOARD."** [Emphasis in original]

2. Respondent **shall be required** to have each patient sign an acknowledgement. This acknowledgement is specifically applicable only to those patients receiving Therapy from Respondent and/or employees of his practice. The acknowledgement **shall state** that: on the initial and/or first visit, after the effective date of this Order, the patient received a written copy of the Informed Consent described in Ordering [*sic*] Paragraph No. 1 [emphasis added].

3. Respondent **must keep** the signed acknowledgement in the medical record of each patient and an **additional copy** of each Informed Consent and signed acknowledgement ***in a separate file.*** *This separate* **file shall be made available to the Compliance Division upon request to verify compliance with requirements** of Order Paragraphs Nos. 1 and 3 above [emphasis added].

4. In addition, Respondent **shall not start using any new Therapy, antigens, or other formulations** that contain any amounts of the active ingredient of substances that are classified as hazardous substances and/or carcinogens by EPA, Agency for Toxic Substance Registration & Disease Registry (ATSDR), OSHA, or any other federal or state regulatory agency [emphasis added].

5. Respondent **shall not change, modify, or alter his current antigen protocol** as provided to Board Staff and described during his deposition on May 21, 2010 [emphasis added].

* * *

7. Respondent **shall fully cooperate with the Board and the Board staff * * * 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. **Cooperation within the meaning of this agreement shall include providing Board staff or designees with samples of the antigens to be tested** [Emphasis added].

8. Respondent shall inform the Board in writing of any change or Respondent's mailing or practice address * * *.

9. Any violation of the terms, conditions, or requirements of this Order by Respondent shall constitute unprofessional conduct likely to deceive or defraud the public, and to injure the public, and shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act. Respondent shall be provided 30-day notice of a **Probationer Show Compliance Proceeding to address any allegation of non-compliance** of this Agreed Order as required by the Medical Practice Act [emphasis added].

10. The above-referenced conditions shall continue in full force and effect without opportunity for amendment * * *. If, after the passage of the 12-month period, Respondent wishes to seek amendment or termination of these conditions, Respondent may petition the Board in writing. * * *

11. This Order resolves in their entirety the following board matters concerning Respondent: SOAH Docket No. 503-07-4032, and Investigative Log or Case Nos. 10-4857 and 08-1434. The Board shall take no further action with respect

to the three matters referenced above and the Board's files regarding these matters shall be closed.

(St. Ex. 5)

The Texas Board's Characterization of its Action Regarding Dr. Rea's License in Texas

4. The Texas Board maintains a Public Verification website that provides information regarding the status of physicians licensed by the Texas Board. (See Texas Medical Board at < http://reg.tmb.state.tx.us/OnLineVerif/Phys_NoticeVerif.asp?>) With respect to Dr. Rea, the Texas Medical Board provides information including the following:

   - Dr. Rea's "Disciplinary Status" is identified as "Under Board Order" as of August 27, 2010.
   - Dr. Rea's "Disciplinary Date" is listed as August 27, 2010.
   - The Texas Medical Board has taken "board actions" with regard to Dr. Rea, including the following:

     Action Date: 08/27/2010
     Description: On August 27, 2010, the Board and William James Rea, M.D., entered into a Mediated Agreed Order requiring Dr. Rea to present a revised informed consent form to patients undergoing injections for chemical/environmental sensitivity that states that the injections contain only the "electromagnetic imprint" of the agents in question, the therapy is "not FDA approved," and the therapeutic value of the therapy is disputed. In addition, Dr. Rea shall not start using any formulations that contain any amounts of substances classified as hazardous or carcinogenic by the EPA. The order was based upon Dr. Rea's failure to obtain informed consent from five patients diagnosed with chemical sensitivity and/or environmental sensitivity before performing tests, treatments or procedures.

   (St. Ex. 6, emphasis in original)

Dr. Rea's Characterization of the Matters Set Forth in the Texas Agreed Order

5. Dr. Rea provided an affidavit stating in part:

   3. My medical practice focuses on the evaluation, diagnosis, and treatment of patients who have experienced chemical exposures and environmental illnesses. I am the founder and current director of the Environmental Health Center in Dallas, Texas. * * *

   4. I understand through the letter from the Board dated November 10, 2010 that you are considering taking action regarding my Ohio medical

license because of the Mediated Agreed Order ("Agreed Order") I entered into on August 27, 2010 with the Texas Medical Board ("Texas Board"). This Agreed Order, however, did not change the way in which I diagnose or treat my patients in any way and my practice of medicine in Texas has in no way been encumbered limited or restricted by the Agreed Order. As I describe in this document, I practice the same kind of medicine in the same manner in which I was practicing before the issuance of the Agreed Order.

5. Specifically, as set forth in the bottom paragraph of the first page of the Agreed Order, the main concern of the Texas Board was that the chemical antigens specified at paragraph 2 of page 3 of the Agreed Order which were used by me in the diagnosis and treatment of patients contained active ingredients and extracts of the hazardous chemicals specified in paragraph 2.

6. In order to alleviate the Texas Board's concerns, my Texas Counsel Jacques G. Simon requested Board Counsel to conduct a deposition of me under oath and to specifically ask me whether or not the Board's concerns were founded and what was used in the formulation of the chemical antigens. That deposition was held on May 21, 2010 in Dallas, Texas. As can be seen from paragraph 2 page 3 of the Agreed Order, during the deposition I testified that the chemical antigens used in the testing and treatment of my patients contained electromagnetic imprints of the following chemicals: natural gas, propane gas, ethanol, formaldehyde, phenol, unleaded gasoline and jet fuel and that the antigens are homeopathic remedies. I further testified as stated in paragraph 2 that none of the antigens were actual extracts of the chemicals specified in paragraph 2. In fact, the formulations of the antigens, as I testified during my deposition, have been the same manner in which I have been practicing environmental medicine in Texas for some thirty years prior to the date of the Agreed Order.

7. Based upon this testimony and representations, the Texas Board agreed to allow me to continue to practice medicine in Texas in an unfettered and unabated manner and identical to the manner in which I practiced medicine with respect to the chemical antigens prior to the date of the Agreed Order.

* * *

[continued description of contents of Texas Order]

10. The informed consent forms do not restrict in any way, manner, shape or form my ability and my practice of medicine in Texas with respect to the use of the chemical antigens in the form specified in the "Specific Findings" of the Agreed Order for treatment and testing of patients. Prior

to the Agreed Order, I provided all of my patients with a detailed consent form to ensure that my patients understood the testing and treatments they would be receiving. I agreed to provide a similar consent form to the one I previously provided with even more information to ensure that my patients understand the testing and treatments they will be receiving. Every one of my patients is provided with this consent form before treatment and each patient also signs an acknowledgement that they received this consent form. This consent form is attached to the Agreed Order.

11. The record-keeping requirements regarding the specific informed consent forms at paragraph 3 of page 5 does [sic] not in any manner shape or form restrict my ability to use the antigen therapy in the manner specified in the "Specific Findings" of the Agreed Order.

* * *

[continued description of contents of Texas Order]

16. The Texas Board has not conducted any other investigation of me, and no complaints (anonymous or otherwise) have been filed against me after the 2006-2010 investigation was resolved. I will be requesting that the Texas Board terminate the Agreed Order in the coming months.[2]

(Resp. Ex. A)

6. Dr. Rea also stated in his affidavit that he has been licensed to practice medicine in the State of Texas for 45 years. In addition, Dr. Rea stated: "Though I maintain a medical license in Ohio and three other states, the only state in which I currently practice medicine is Texas. I do not plan on ever practicing medicine in Ohio, nor in any other state other than Texas for the remainder of the time I will be practicing medicine." He asked that the Ohio Board impose no discipline on his Ohio license. (Resp. Ex. A at 1, 4)

7. In his affidavit, Dr. Rea authenticated a copy of his curriculum vitae, which was admitted into the hearing record for consideration. (Resp. Ex. B)

8. Dr. Rea emphasized, among other things, that the Texas Order did not impose a practice monitor or requirement of chart reviews, that there were no findings of patient harm, and that his patients have been very supportive of him.[3] (Resp. Ex. B)

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[2] The Hearing Examiner notes that the extensive written statement by Dr. Rea was not subject to cross-examination.

[3] In addition, Dr. Rea provided a detailed statement of his legal position, in which he argues, among other things, that the action taken by the Texas Board does not constitute any of the listed actions in R.C. 4731.22(B)(22). (Resp. Ex. C)

FINDINGS OF FACT

On August 27, 2010, William James Rea, M.D., entered into a Mediated Agreed Order with the Texas Medical Board, which imposed requirements including the following:

- Dr. Rea must present a revised Informed Consent Form, approved by the Texas Medical Board, to each and every patient who is undergoing or will undergo antigen injections for chemical/environmental sensitivity ("Therapy"). Further, Dr. Rea must obtain a written acknowledgement from these patients that they received the approved Informed Consent Form.
- Dr. Rea is required to keep a copy of the signed consent forms in a separate file available to the Texas Medical Board upon request.
- Dr. Rea is prohibited from changing, modifying, or altering his current antigen protocol as disclosed to the Texas Medical Board.
- Dr. Rea is also prohibited from using any new Therapy, antigens, or other formulations that contain any amounts of the active ingredients of substances classified as hazardous substances and/or carcinogens by the EPA, Agency for Toxic Substance Registration & Disease Registry, OSHA, or any other federal or state regulatory agency.

CONCLUSION OF LAW

The Mediated Agreed Order between William James Rea, M.D., and the Texas Medical Board as described above in the Finding of Fact constitutes "[a]ny of the following actions taken by the agency responsible for regulating the practice of medicine and surgery * * * in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand," as that language is used in R.C. 4731.22(B)(22).

RATIONALE FOR PROPOSED ORDER

In his arguments, Dr. Rea emphasized that he has practiced only in Texas for many years, is now 76 years old, and has no plan to resume the practice of medicine in Ohio. However, his active license in Ohio allows Dr. Rea to change his mind and start practicing in Ohio at any moment he chooses. Given the action by the Texas Board, the Hearing Examiner recommends that Dr. Rea have similar requirements in Ohio.

The Proposed Order includes no reprimand and no suspension. Further, there is no probationary period, monitoring activity, or reporting requirement until and unless Dr. Rea should request and receive approval to commence practice in Ohio.

PROPOSED ORDER

It is hereby ORDERED that:

A. **RESTRICTION OF CERTIFICATE:** The certificate of William James Rea, M.D., to practice allopathic medicine and surgery in the State of Ohio is limited as follows:

1. **Terms and Conditions for Practice in Ohio**: Dr. Rea shall not practice in Ohio without prior Board approval. The Board shall not grant approval for Dr. Rea to commence practice in Ohio unless all of the following requirements have been met:

   a. **Notify Board in Writing**: Before commencing practice in Ohio, Dr. Rea shall notify the Board in writing that he intends to commence practice in Ohio.

   b. **Active Certificate to Practice in Ohio**: Dr. Rea shall hold an active certificate to practice medicine and surgery in the State of Ohio.

   c. **Certification of Compliance with the August 2010 Order of the Texas Medical Board**: Dr. Rea shall submit evidence, acceptable to the Board, that he has maintained full compliance with the Mediated Agreed Order entered in August 2010 by the Texas Medical Board in the Matter of the License of William James Rea, M.D., License No. D-2294.

   d. **Approval of Practice Plan**: Dr. Rea shall submit to the Board a practice plan for the Board's approval, and shall receive formal written approval before commencing practice in Ohio. The Board may require, among other things, limitations on the modalities of diagnosis and treatment.

2. **Compliance with Approved Practice Plan**: *In the event that* Dr. Rea receives approval to commence practice in Ohio, he shall practice in conformance with the practice plan approved by the Board as set forth above. Further, Dr. Rea shall obtain the Board's prior approval for any alteration of the practice plan.

3. **Probation**: *In the event that* Dr. Rea receives approval to commence practice in Ohio, he shall be subject to the following probationary terms, conditions, and limitations for a period of at least two years, beginning on the date on which Dr. Rea's practice plan is approved by the Board:

   a. **Obey Laws in Ohio**: Dr. Rea shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.

   b. **Declarations of Compliance**: Dr. Rea shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the terms and conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month following the month in which Dr. Rea's practice plan is

approved. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

c. **Personal Appearances**: Dr. Rea shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which Dr. Rea commences practice in Ohio, or as otherwise directed by the Board. Subsequent personal appearances must occur every six months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

d. **Evidence of Compliance with the Agreed Order of the Texas Medical Board**: At the time he submits his declarations of compliance, Dr. Rea shall also submit declarations under penalty of Board disciplinary action and/or criminal prosecution stating whether he has complied with the Mediated Agreed Order entered by the Texas Medical Board in August 2010 in the *Matter of the License of William James Rea, M.D., License No. D-2294.* Moreover, Dr. Rea shall cause to be submitted to the Board copies of any reports that he submits to the Texas Medical Board whenever and at the same time the Texas Medical Board requires such submission.

e. **Required Notice of Change of Address**: Dr. Rea shall notify the Board in writing of any change of residence address and/or principal practice address within 30 days of the change.

f. **Modification of Terms**: Dr. Rea shall not request modification of the terms, conditions, or limitations of probation for at least one year after probation commences.

g. **Tolling of Probationary Period While Out of Compliance**: In the event Dr. Rea is found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Order.

4. **Reporting Requirements During Probationary Period**: *In the event that* Dr. Rea receives approval to commence practice in Ohio, he shall be subject to the following reporting requirements.

a. **Reporting to Employers and Others:** Within 30 days of Board approval to commence practice in Ohio, Dr. Rea shall provide a copy of this Order to all employers or entities with which he is under contract to provide healthcare services (including but not limited to third-party payors), or is receiving training, and the Chief of Staff at each hospital or healthcare center where he has privileges or appointments. Further, Dr. Rea shall promptly provide a copy of this Order to all employers or entities with which he subsequently contracts to provide healthcare services (including but not limited to third-party payors), or applies for or receives training, and the Chief of Staff at each hospital or healthcare center where he applies for or obtains privileges or

appointments. This requirement shall continue until Dr. Rea receives from the Board written notification of the successful completion of his probation.

b. **Required Reporting to Other State Licensing Authorities:** Within 30 days of Board approval to commence practice in Ohio, Dr. Rea shall provide a copy of this Order to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which he currently holds any professional license or certificate. This requirement shall continue until Dr. Rea receives from the Board written notification of the successful completion of his probation.

c. **Emergency Medical Services:** If Dr. Rea should provide any healthcare services or healthcare direction or medical oversight to any emergency medical services organization or emergency medical services provider in Ohio, he shall provide a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services within 30 days of the commencement of such services, direction or oversight.

d. **Required Documentation of the Reporting Required by Paragraph 4:** Dr. Rea shall provide this Board with **one** of the following documents as proof of each required notification within 30 days of the date of each such notification: (a) the return receipt of certified mail within 30 days of receiving that return receipt, (b) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Order was hand delivered, (c) the original facsimile-generated report confirming successful transmission of a copy of the Order to the person or entity to whom a copy of the Order was faxed, or (d) an original computer-generated printout of electronic mail communication documenting the e-mail transmission of a copy of the Order to the person or entity to whom a copy of the Order was e-mailed.

B. **VIOLATION OF THE TERMS OF THIS ORDER**: If Dr. Rea violates the terms of this Order in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.

EFFECTIVE DATE OF ORDER: This Order shall become effective immediately upon the mailing of the notification of approval by the Board.

P A Davidson

Patricia A. Davidson
Hearing Examiner

State Medical Board of Ohio

30 E. Broad Street, 3rd Floor, Columbus, OH 43215-6127

Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
med.ohio.gov

EXCERPT FROM THE DRAFT MINUTES OF AUGUST 10, 2011

REPORTS AND RECOMMENDATIONS AND PROPOSED FINDINGS AND PROPOSED ORDERS

Dr. Suppan announced that the Board would now consider the Reports and Recommendations, and the Proposed Findings and Proposed Order appearing on its agenda.

Dr. Suppan asked whether each member of the Board had received, read and considered the hearing records; the Findings of Fact, Conclusions of Law, Proposed Orders, and any objections filed in the matters of: Franklin Hobart Baker, P.A.; Molly Kalejs, P.A.; William James Rea, M.D.; Stephen J. Rolfe, M.D.; and Stacey Yvette Royal, M.D. A roll call was taken:

ROLL CALL:	Dr. Strafford	- aye
	Mr. Hairston	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Amato	- aye
	Dr. Suppan	- aye
	Dr. Madia	- aye
	Dr. Talmage	- aye
	Ms. Elsass	- aye
	Dr. Ramprasad	- aye

Dr. Suppan asked whether each member of the Board understands that the disciplinary guidelines do not limit any sanction to be imposed, and that the range of sanctions available in each matter runs from dismissal to permanent revocation. A roll call was taken:

ROLL CALL:	Dr. Strafford	- aye
	Mr. Hairston	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Amato	- aye
	Dr. Suppan	- aye
	Dr. Madia	- aye
	Dr. Talmage	- aye
	Ms. Elsass	- aye
	Dr. Ramprasad	- aye

Dr. Suppan noted that, in accordance with the provision in section 4731.22(F)(2), Ohio Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of these matters. In the matters before the Board today, Dr. Talmage

served as Secretary and Mr. Albert and Dr. Amato served as Supervising Members.

Dr. Suppan reminded all parties that no oral motions may be made during these proceedings.

The original Reports and Recommendations shall be maintained in the exhibits section of this Journal.

.....

WILLIAM JAMES REA, M.D., Case No. 10-CRF-135

.....

Dr. Madia moved to approve and confirm Ms. Davidson's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of William James Rea, M.D. Dr. Mahajan seconded the motion.

.....

Dr. Ramprasad moved to amend the Proposed Order to remove Sections A(1)(d), A(2), A(3), and A(4). Dr. Strafford seconded the motion. A vote was taken:

ROLL CALL:	Dr. Strafford	- aye
	Mr. Hairston	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Amato	- abstain
	Dr. Suppan	- aye
	Dr. Madia	- aye
	Ms. Elsass	- aye
	Dr. Ramprasad	- aye

The motion to amend carried.

Dr. Strafford moved to approve and confirm Ms. Davidson's Findings of Fact, Conclusions of Law, and Proposed Order, as amended, in the matter of William James Rea, M.D. Mr. Hairston seconded the motion. A vote was taken:

ROLL CALL:	Dr. Strafford	- aye
	Mr. Hairston	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Amato	- abstain
	Dr. Suppan	- aye

Dr. Madia	- aye
Ms. Elsass	- aye
Dr. Ramprasad	- aye

The motion to approve carried.

State Medical Board of Ohio

30 E. Broad Street, 3rd Floor, Columbus, OH 43215-6127

Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
med.ohio.gov

November 10, 2010

Case number: 10-CRF- 135

William James Rea, M.D.
8345 Walnut Hill Lane, Suite 220
Dallas, TX 75229

Dear Doctor Rea:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio [Board] intends to determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery, or to reprimand you or place you on probation for one or more of the following reasons:

(1) On or about August 27, 2010, you entered into a Mediated Agreed Order with the Texas Medical Board to resolve allegations that, in the case of five patients who you diagnosed with chemical sensitivity and/or environmental sensitivity, you provided treatment that was unsupported by medical research and was non-therapeutic. Pursuant to the Mediated Agreed Order, you agreed that you shall present an informed consent form, approved by the Texas Medical Board, to each and every patient who is undergoing or will undergo antigen injections for chemical / environmental sensitivity, and that such forms must be made available to the Texas Medical Board upon request. Further, you are prohibited from using any new therapies, antigens, or other formulations that contain any amounts of active ingredients of substances classified as hazardous substances and/or carcinogens by appropriate federal or state regulatory agencies. Moreover, you are not to make any changes, modifications, or alterations to your current antigen protocol, as previously disclosed to the Texas Medical Board.

A copy of the Mediated Agreed Order is attached hereto and incorporated herein.

The Mediated Agreed Order as alleged in paragraph (1) above constitutes "[a]ny of the following actions taken by the agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or the limited branches of medicine in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand," as that clause is used in Section 4731.22(B)(22), Ohio Revised Code.

Mailed 11-12-10

Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty days of the time of mailing of this notice.

You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

In the event that there is no request for such hearing received within thirty days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand you or place you on probation.

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, provides that "[w]hen the board refuses to grant a certificate to an applicant, revokes an individual's certificate to practice, refuses to register an applicant, or refuses to reinstate an individual's certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate."

Copies of the applicable sections are enclosed for your information.

Very truly yours,

Lance A. Talmage, M.D.
Secretary

LAT/ DSZ/flb
Enclosures

CERTIFIED MAIL #91 7108 2133 3938 3018 0404
RETURN RECEIPT REQUESTED

cc: Jacques G. Simon, Esq.
2174 Hewlett Ave., Suite 201
Merrick, NY 11566

CERTIFIED MAIL #91 7108 2133 3938 3018 0398
RETURN RECEIPT REQUESTED

LICENSE NO. D-2294

IN THE MATTER OF	
THE LICENSE OF	BEFORE THE
WILLIAM JAMES REA, M.D.	TEXAS MEDICAL BOARD

MEDIATED AGREED ORDER

On the 27 day of August, 2010, came on to be heard before the Texas Medical Board (the "Board"), duly in session, the matter of the license of William James Rea, M.D. ("Respondent").

On November 16, 2006, Respondent appeared in person, with counsel Stephen A. Coke, at an Informal Show Compliance Proceeding and Settlement Conference ("ISC") in response to a letter of invitation from the staff of the Board. The Board's representatives were Keith Miller, M.D. and Paulette Southard, members of the Board. Mark Martyn represented Board staff.

Following the ISC a formal complaint was filed at the State Office of Administrative Hearings ("SOAH"). Subsequent to the filing at SOAH a mediation conference was held on August 21, 2008. Respondent appeared with counsel, Algis Augustine. The Board was represented Scott Freshour.

The matter did not settle at mediation. Respondent then retained Jacques Simon as lead counsel. Discovery was undertaken in this matter. After discovery was completed but prior to convening the contested case hearing the parties reached settlement.

BOARD CHARGES

Board Staff filed a complaint at the State Office of Administrative Hearings ("SOAH") charging Respondent with violations related to five patients. The charges concerned Respondent's diagnosis and treatment of "chemical sensitivity." After the completion of discovery, it appears that notwithstanding the allegations of the complaint, the primary concern of the Board relates to and focuses on Respondent's use of chemical antigens and the informed consent for such treatment.

BOARD HISTORY

Respondent has not previously received a disciplinary order from the Board.

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

FINDINGS

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. D-2294. Respondent was originally issued this license to practice medicine in Texas on June 22, 1965. Respondent is also licensed to practice in Ohio, Arkansas, and Illinois.
3. Respondent is primarily engaged in the practice of environmental medicine. Respondent is board certified by the American Boards of Cardiovascular Surgery and General Surgery, members of the American Board of Medical Specialties.
4. Respondent is a member of the American Academy of Environmental Medicine and the Pan American Allergy Society, and practices medicine pursuant to the guidelines of those professional associations and has certifications from those medical professional organizations.
5. Respondent is 75 years of age.

Specific Findings:

1. The case involves five patients that were diagnosed with chemical sensitivity and/or environmentally sensitivity.
2. Respondent made these determinations based on use of various tests, including but not limited: SPECT brain scan, pupillography, thermography, heart rate variability, and intradermal skin testing for sensitivity to such things as: jet and diesel fuel, natural

gas, titanium, and lake algae. The intradermal testing was the primary concern of the Board related to testing because certain injections purported to be extracts of jet fuel and diesel fuel exhaust fumes and other chemicals. Respondent denied that the injections contained any harmful substances.

3. Respondent's treatment of these patients included: environmental controls; heat depuration therapy; intravenous therapies; oxygen treatments, and antigen injections.

The antigen injections were the primary concern of the Board because certain injections purported to be extracts of jet fuel and diesel fuel exhaust fumes and other chemicals. Respondent denied that the antigens contained any harmful substances.

2. Respondent during his deposition of May 21, 2010 stated that there are no active chemicals in any of the chemical antigens, only the "electromagnetic imprint" of the chemical. Respondent testified that he uses in his testing and treatment of patients antigens containing electromagnetic imprint of the following: natural gas; propane gas; ethanol; formaldehyde; phenol; unleaded gasoline and jet fuel. Respondent testified that the antigens are in fact homeopathic remedies rather than substances containing actual chemicals. Respondent testified that none of the antigens are extracts of the actual substances specified in this paragraph.

3. Board staff asserts Respondent's treatment is unsupported by medical research and is non-therapeutic. In addition, Board Staff asserts there was a lack of proper informed consent for these treatments

4. Respondent asserts that his diagnosis, care, and treatment of the above patients was appropriate and in accordance with established principles of medicine and peer reviewed articles disclosed to the Board.

6. Respondent admitted his current Informed Consent documents did not disclose that his antigen injections, were not FDA approved, and did not disclose that the chemical antigens mentioned in paragraph "2" above contained only the "electromagnetic imprint" of the chemical.

1. <u>Mitigating Factors</u>

   a. In determining the appropriate sanctions in this matter, the Panel considered the following mitigating factors:

i. Respondent has cooperated in the investigation of the charges 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.

ii. There were no claims of patient harm.

iii. Respondent's patients continue to support him.

CONCLUSIONS OF LAW

Based on the above Findings, 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, as defined by Board Rule §190.8(1), failure to obtain informed consent from the patient or other person authorized by law to consent to treatment on the patient's behalf before performing tests, treatments or procedures.

3. 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.

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

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

1. Respondent shall present the approved revised Informed Consent Form attached to this Order, to each and every patient who is undergoing or will undergo antigen

injections for chemical/environmental sensitivity ("Therapy"). Respondent shall include in the revised Informed Consent Form, written disclosures that explicitly state the following information:

a. notice that the Therapy being offered is not FDA approved, and that this Therapy is considered non-traditional medicine (this notice shall be written in bold, oversized print);
b. the effectiveness/therapeutic value of Therapy is disputed;
c. a disclaimer that formulations prescribed have never been tested by the FDA for determination of the actual contents or the medical effectiveness;
d. a written disclaimer that the "therapeutic value" of the Therapy, if any, has not been established or proven and is subject of dispute.
e. The following Disclaimers shall be made all capital bold type:
   i. **"THE TREATMENT/ANTIGEN THERAPIES BEING UTILIZED AND DESCRIBED BY RESPONDENT IN THIS DISCLOSURE STATEMENT DOES NOT CONTAIN ANY OF THE ACTUAL ACTIVE AGENT LISTED, AND CONTAINS ONLY "ELECTROMAGNETIC IMPRINT" OF THE AGENT. THE PATIENT IS NOT BEING INJECTED WITH ACTUAL ACTIVE AGENTS LISTED ON THE ANTIGEN"**

   ii. **"THE TREATMENT/ANTIGEN THERAPY BEING UTILIZED AND DESCRIBED BY RESPONDENT IN THIS DISCLOSURE STATEMENT IS NOT ENDORSED, SANCTIONED, OR SUPPORTED BY THE TEXAS MEDICAL BOARD."**

2. Respondent shall be required to have each patient sign an acknowledgment. This acknowledgment is specifically applicable only to those patients receiving Therapy from Respondent and/or employees of his practice. The acknowledgement shall state that: on the initial and/or first visit, after the effective date of this Order, the patient received a written copy of the Informed Consent described in Ordering Paragraph No. 1.

3. Respondent must keep the signed acknowledgement in the medical record of each patient and an additional copy of each Informed Consent and signed acknowledgement in a separate file. This separate file shall be made available to the Compliance Division upon request to verify compliance with requirements of Ordering Paragraphs Nos. 1 and 3 above.

4. In addition, Respondent shall not start using any new Therapy, antigens, or other formulations that contain any amounts of the active ingredient of substances that are classified as hazardous substances and/or carcinogens by EPA, Agency for Toxic

Substance Registration & Disease Registry (ATSDR), OSHA, or any other federal or state regulatory agency.

5. Respondent shall not change, modify, or alter his current antigen protocol as provided to Board Staff and described during his deposition on May 21, 2010.

6. Respondent shall comply with all the provisions of the Texas Medical Practice Act and all other state and federal statutes regulating the Respondent's practice.

7. 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. Cooperation within the meaning of this agreement shall include providing Board staff or designees with samples of the antigens to be tested.

8. Respondent shall inform the Board in writing of any change of Respondent's mailing or practice address within ten days of the address change. This information shall be submitted to the Permits Department and the Director of Compliance 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.

9. Any violation of the terms, conditions, or requirements of this Order by Respondent shall constitute unprofessional conduct likely to deceive or defraud the public, and to injure the public, and shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act. Respondent shall be provided 30-day notice of a Probationer Show Compliance Proceeding to address any allegation of non-compliance of this Agreed Order as required by the Medical Practice Act

10. The above-referenced conditions shall continue in full force and effect without opportunity for amendment, except for clear error in drafting. If, after the passage of the 12-month period, Respondent wishes to seek amendment or termination of these conditions, Respondent may petition the Board in writing. The Board may inquire into the request and may, in its sole discretion, grant or deny the petition without further appeal or review. Petitions for modifying or terminating may be filed only once a year thereafter.

11. This Order resolves in their entirety the following board matters concerning Respondent: SOAH Docket No. 503-07-4032, and Investigative Log or case Nos. 10-4857 and 08-1434. The Board shall take no further action against the respondent with respect to the three matters referenced above and the Board's files regarding these matters shall be closed.

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.

I, WILLIAM JAMES REA, M.D., HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT BY SIGNING, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY. I UNDERSTAND THIS AGREED ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: 6-29, 2010.

William J Rea MD

WILLIAM JAMES REA, M.D.
Respondent

SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this 27 day of August, 2010.

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

STATE OF TEXAS
COUNTY OF TRAVIS

I, Bruce Kadlecka, certify that I am an officia 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 20 day of Sept, 20 10

Bruce Kadlecka
Assistant Custodian of Records

EHC-D DALLAS INFORMED CONSENT REGARDING
CHEMICAL ANTIGEN TESTING AND THERAPY.

TO: THE PATIENTS OF EHC-D and WILLIAM REA MD
FROM: WILLIAM REA MD

This document is an informed consent form disclosing the nature of intra dermal testing and therapy with chemical antigens. By signing this form you, the patient, acknowledge that all of the aspects of chemical antigen testing and therapy has been discussed with you by Dr. Rea or a qualified member of the EHC-D Dallas and that the benefits, nature and risks of the treatment and testing have been explained and disclosed to you and that all your questions regarding the same have been answered by Dr. William Rea and/or the staff of EHCD.

Your doctor has recommended and offered among other treatment, therapy and testing utilizing chemical antigens. With respect to such specific treatment and testing the following disclosures apply for your information:

- THE CHEMICAL ANTIGEN THERAPY OFFERED IS NOT FDA APPROVED. THE CHEMICAL ANTIGEN FORMULATIONS PRESCRIBED AND USED IN YOUR CARE HAVE NEVER BEEN TESTED BY THE FDA FOR THE DETERMINATION OF THE ACTUAL CONTENTS AND OF THE MEDICAL EFFECTIVENESS OF THE ANTIGENS.

- THE CHEMICAL THERAPY OF CHEMICAL ANTIGENS IS CONSIDERED NON TRADITIONAL MEDICINE.

- DR. REA AND EHC-D DO NOT NECESSARILY AGREE THAT THIS THERAPY IS NON-TRADITIONAL MEDICINE.

- THE EFFECTIVENESS AND THERAPEUTIC VALUE OF CHEMICAL ANTIGEN THERAPY IS DISPUTED.

- DR. REA AND EHC-D BELIEVE THAT THIS THERAPY IS EFFECTIVE AND HAS THERAPEUTIC VALUE AND ENDORSE ITS USE.

- **THE TREATMENT WITH AND USE OF CHEMICAL ANTIGEN THERAPIES BEING UTILIZED AND DESCRIBED BY,WILLIAM REA, M.D., OR OTHER HEALTHCARE PROVIDERS OF EHCD, IN THIS DISCLOSURE STATEMENT DOES NOT CONTAIN ANY OF THE ACTUAL ACTIVE AGENT LISTED, AND CONTAINS ONLY "ELECTROMAGNETIC IMPRINT" OF THE AGENT. THE PATIENT IS NOT BEING INJECTED WITH ACTUAL ACTIVE AGENTS LISTED ON THE ANTIGEN**

- **THE TREATMENT/ANTIGEN THERAPY BEING UTILIZED AND DESCRIBED BY RESPONDENT IN THIS DISCLOSURE STATEMENT IS NOT ENDORSED, SANCTIONED, OR SUPPORTED BY THE TEXAS MEDICAL BOARD.**

By signing and affixing your name to this document you acknowledge that you have read and understood the same and that all of your questions were answered satisfactorily to you by Dr. Rea and his staff

Dated:

EHC-D

BY:_____

Patient:_____