

TSBPME Case No. 07-166

IN THE MATTER OF
BRIAN J. HALTON, D.P.M.

BEFORE THE TEXAS STATE
BOARD OF PODIATRIC
MEDICAL EXAMINERS

AGREED ORDER of

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VOLUNTARY

SITTING IN AUSTIN,

LICENSE SURRENDER No. 0941

TRAVIS COUNTY, TEXAS

AGREED ORDER

BE IT REMEMBERED that on the date approved and entered below came to be considered the allegations against Brian J. Halton, DPM. By letter dated August 9, 2007 the staff of the Texas State Board of Podiatric Medical Examiners (the "Board") gave preliminary notice to Dr. Halton of its intent to investigate complaints, concerns or reports filed against him. Dr. Halton was duly notified of the allegations against him. Dr. Halton has cooperated with the staff of the Board and was given the opportunity to present information in rebuttal.

By his signature on this Order, and upon acceptance and entry of this Order by the Board, Dr. Halton does hereby waive his right to an administrative hearing before the State Office of Administrative Hearings, and judicial review of this Order. Dr. Halton understands that he has the option, before signing this Agreed Order, to participate in a contested case hearing under the *Administrative Procedure Act*.

The Board and Dr. Halton, in order to avoid the expense, delay and uncertainty of a hearing, have agreed to the entry of an Order dispensing with the need for further action in this matter. Dr. Halton agrees to this Order for the purpose of resolving this proceeding only and without admitting or denying the Findings of Fact and Conclusions of Law set out in this Order. The Board makes the following Findings of Fact and Conclusions of Law and enters this Order:

FINDINGS OF FACT

1. Dr. Halton is licensed as a podiatric physician in the State of Texas (License Number 0941) to practice podiatric medicine and is therefore subject to the jurisdiction of the Board, the Podiatric Medical Practice Act of Texas and the Rules of the Board.
2. A complaint was filed against Dr. Halton, and he was provided with notice of the complaint and with an opportunity to respond to the complaint and to show compliance with the law. The complaint alleges Dr. Halton committed actions involving Drug Diversion in the State of Pennsylvania with reference to his June 19, 2007 arrest for Controlled Substances violations.
3. Dr. Halton, as a podiatrist licensed in the State of Texas, must comply with the provisions of the Podiatric Medical Practice Act of Texas, the Board Rules and Board Orders.

CONCLUSIONS OF LAW

1. Dr. Halton is required to follow the provisions of the Podiatric Medical Practice Act, Texas Occupations Code, §202.001, et. seq., and the associated Rules of the Board, 22 Tex. Administrative Code § 371.1, et. seq..
2. Texas Occupations Code, §202.253(a)(5) provides that, “the Board may refuse to issue a license to practice podiatry to a person, for directly or indirectly violating or attempting to violate this chapter or a rule adopted under this chapter as a principal, accessory, or accomplice.”
3. Texas Occupations Code, §202.501(a) provides that, “the Board shall revoke or suspend a license; place on probation a person whose license has been suspended, or reprimand a license holder for violating the law regulating the practice of podiatry or a rule adopted by the Board.”
4. Texas Occupations Code, §202.5015 provides that a license holder who engages in conduct described by Section 202.253 violates this chapter.
5. 22 Texas Administrative Code, §376.3 provides that, “any podiatric physician who violates any provision of these rules, or any provision of the Act shall be at the discretion of the Board subject to the following penalties: cancellation, suspension, revocation, or probated cancellation, revocation, or suspension of the license to practice podiatric medicine.”
6. The Findings Of Fact numbers 1 through 3 establish that Dr. Halton violated:
Texas Occupations Code, §202.253(a)(3) in that he: engaged in habits of intemperance or drug addiction that in the Board's opinion would endanger the health, well-being, or welfare of patients.
Texas Occupations Code, §202.253(a)(15) in that he is: unable to practice podiatry with reasonable skill and safety to a patient because of excessive use of drugs, narcotics, chemicals, or other substances.
22 Texas Administrative Code §375.3(a) provides: “The health and safety of patients shall be the first consideration of the podiatric physician. The principal objective of the podiatric medical profession is to render service to humanity. A podiatric physician shall continually strive to improve his medical knowledge and skill for the benefit of his patients and colleagues. The podiatric physician shall administer to patients in a professional manner and to the best of his ability. Secrets and personal information entrusted to him shall be held inviolate unless disclosure is necessary to protect the welfare of the individual or the community. A podiatric physician shall be temperate in all things in recognition that his knowledge and skill are essential to public health, welfare, and human life.”
7. The Findings Of Fact numbers 1 through 3 establish that Dr. Halton violated:
Texas Occupations Code, §202.253(a)(5) in that he: directly or indirectly violated or attempted to violate this chapter or a rule adopted under this chapter as a principal, accessory, or accomplice.

VOLUNTARY ORDER

1. Dr. Halton’s license to practice Podiatric Medicine is hereby Voluntarily Surrendered.
2. Dr. Halton shall return to the Board any certificate or other document evidencing

licensure, expired or current. Failure to return such documentation may result in the Board seeking injunctive relief against Dr. Halton to prevent him from practicing podiatric medicine as it is defined in *Tex. Occup. Code Ann., §202.001 et seq.*

3. Dr. Halton's podiatric practice is to remain closed for the purposes of receiving, diagnosing, treating, or consulting with patients, and Dr. Halton may not participate for income in any professional activity that is directly related to the diagnosis or treatment of a patient. Dr. Halton may refer his patients to another practitioner for treatment or consultation during the time that Dr. Halton is not licensed, but Dr. Halton shall not derive any income from such referrals.
4. Dr. Halton may keep his office open for the purposes of arranging referrals, handling mail, processing accounts, billing, and insurance matters, and other similar matters if not directly related to the diagnosis and treatment of patients. Dr. Halton shall not represent himself to be a licensed podiatrist and shall not offer and shall not accept to consult with, diagnose or treat a patient.
5. If Dr. Halton shares office space with a podiatrist, the other podiatrist shall be allowed to continue his/her practice normally, but Dr. Halton shall not consult regarding the diagnosis or treatment of patients and shall not share income with the other practitioner, including any income derived in any way from the diagnosis or treatment of patients.
6. Dr. Halton shall permit a Board representative or staff member to periodically enter his place of business and/ or the facility at which she previously maintained an office, announced or unannounced, during the hours of 8:00 a.m. to 5:00 p.m. on any weekday that is not a federal holiday to ensure compliance with this Order.
7. Entry of this Order does not finally resolve any and all pending matters or investigations before the Board. The investigation into this matter remains ongoing until such time a notice is given by the Board affirming closure. The Board is not prohibited from continuing to investigate this matter nor is the Board prohibited from issuing further disciplinary action that is the subject of this investigation.
8. If Dr. Halton fully complies with the terms of the **Agreed Order**, the Board agrees to consider his compliance with regard to bringing any further possible disciplinary action regarding the facts that are the subject of this Order, should the investigation warrant further Board action.
9. The terms of this **Agreed Order**, if accepted by the Board, become effective upon approval of the Board.

GENERAL PROVISIONS

1. Effective Date. This **Agreed Order** shall take effect and become binding upon the approval by the Board.
2. No Waiver. No waiver of any of the terms of this **Agreed Order** shall be valid unless in writing. No waiver of default of any terms of the **Agreed Order** shall be deemed a waiver of any subsequent breach or default of the same or similar nature.

3. Governing Law. This Agreed Order is entered into pursuant to and shall be construed to be in accordance with the laws of the State of Texas including:

Tex. Occup. Code Ann., §202.001 et seq., the Podiatric Medical Practice Act. and the Tex. Gov't Code Ann., §2001.001 et seq., the Administrative Procedure Act.

4. Acknowledgment of Entire Agreement. Dr. Halton acknowledges that he has carefully read this instrument, including all documents or exhibits, if any, that are referred to, that this instrument expresses the entire agreement between the parties concerning the subjects it purports to cover, and Dr. Halton has executed this instrument freely and of his own accord.

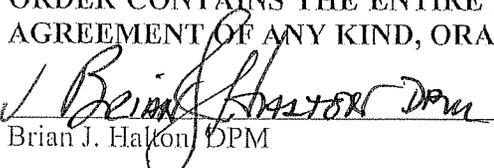
5. Notice. Any notice to be given under the terms of this **Agreed Order** by either party to this order shall be in writing and shall be delivered by personal delivery or certified mail, return receipt requested, to the following addresses:

Brian J. Halton, DPM
1179 Pennsylvania Ave.
Sayre, PA 18840

Texas State Board of Podiatric Medical Examiners
Investigations Division
P.O. Box 12216
Austin, TX 78711-2216

6. Upon approval of this Agreed Order by the Board, the Presiding Officer and the Executive Director are authorized to sign the Order on the Board's behalf.

I, BRIAN J. HALTON, DPM, HAVE READ AND UNDERSTAND THE FOREGOING ORDER. I UNDERSTAND THAT BY SIGNING, I WAIVE THE RIGHT TO A HEARING BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS AND TO JUDICIAL REVIEW OF THE AGREED ORDER. I SIGN IT VOLUNTARILY. I UNDERSTAND THE AGREED ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, ORAL, WRITTEN OR OTHERWISE.


Brian J. Halton, DPM

8-16-07
Date

IN THE STATE OF PENNSYLVANIA §

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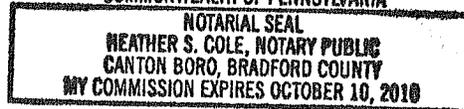
COUNTY OF Bradford §

BEFORE ME, on this day personally appeared Brian J. Halton known to me, who first, being duly sworn, signed the foregoing **Agreed Order** in my presence.

SIGNED on this the 16th day of August, 2007.

Heather S. Cole
(Printed Name of Notary Public)

Heather S. Cole
Notary Public, in and for the State of Pennsylvania



APPROVED AND ENTERED by the Texas State Board of Podiatric Medical Examiners on this the 8TH day of September, 2007, after a Board vote. In enforcing this Voluntary License Surrender, the Board effectively Revokes license Number 0941.

Ms. Doris Couch
Ms. Doris Couch
Board President

Hemant Makan
Hemant Makan
Executive Director