

IN THE MATTER OF
CARLTON E. NEWMAN, D.P.M.

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BEFORE THE TEXAS STATE
BOARD OF PODIATRIC
MEDICAL EXAMINERS

SITTING IN AUSTIN,

LICENSE No. 0509

TRAVIS COUNTY, TEXAS

AGREED ORDER

BE IT REMEMBERED that on the date approved and entered below came to be considered the allegations against Carlton E. Newman, DPM. By letter dated December 19, 2003 the staff of the Texas State Board of Podiatric Medical Examiners (the "Board") gave preliminary notice to Dr. Newman of its intent to investigate complaints, concerns or reports filed against him. Dr. Newman was duly notified of the allegations against him. Dr. Newman 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. Newman does hereby waive his right to an administrative hearing before the State Office of Administrative Hearings, and judicial review of this Order. Dr. Newman understands that he has the option, before signing this Agreed Order, to participate in a contested case hearing under the *Administrative Procedure Act*. Dr. Newman participated in an Informal Consent Hearing on January 12, 2004.

The Board and Dr. Newman, 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. Newman 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. Newman is licensed as a podiatric physician in the State of Texas (License Number 0509) 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. Complaints were filed against Dr. Newman alleging that he performed foot surgery in a manner that resulted in poor patient outcomes.
3. The Board provided Dr. Newman with notice of the complaints and with an opportunity to respond to the complaints and to show compliance with the law.

4. On two occasions, Dr. Newman performed surgical procedures that resulted in poor patient outcomes.

CONCLUSIONS OF LAW

1. Dr. Newman 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. The Findings Of Fact numbers 1 through 4 establish the need for Dr. Newman to complete additional Continuing Medical Education.
3. Texas Occupations Code, §202.305(b) provides that, “the board may assess the continuing education needs of a license holder and require the license holder to attend continuing education courses specified by the board.”
4. *22 Texas Administrative Code §375.2(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.”

ORDER

1. Within 180 days of the effective date of this Agreed Order, Dr. Newman shall attend a 5 day surgical mini-residency course sponsored by the University of Texas Health Science Center – San Antonio. Dr. Newman shall provide proof of the successful completion of the course to the Board.
2. Within 24 months of the effective date of this Agreed Order, Dr. Newman shall attend a “hands-on” postgraduate cadaver education program sponsored by the American College of Foot and Ankle Surgeons in Rosemont (Chicago), IL. Dr. Newman shall provide proof of the successful completion of the program to the Board.
3. If Dr. Newman fails to fully comply with the terms of this Agreed Order Dr. Newman will automatically or upon the request of the Executive Director or of the Board discontinue scheduling or performing any surgical procedures until such time as he has completed any and all training required by the Order, and adequate proof of such compliance is received and acknowledged by the Board.
4. The terms of this Agreed Order, if accepted by the Board, become effective upon approval of the Board.
5. If the Board finds that Dr. Newman fully complied with the terms of the Agreed Order, the Board agrees not to bring any further action regarding the facts that are the subject of this Order.

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. Venue. Venue of all litigation arising from or related to this Agreed Order shall be in the county of competent jurisdiction in Austin, Travis County, Texas.
5. Acknowledgment of Entire Agreement. Dr. Newman 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. Newman has executed this instrument freely and of his own accord.
6. 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:

Carlton E. Newman, DPM
1306 W. Anderson Lane
Austin, TX 78757

Texas State Board of Podiatric Medical Examiners
P.O. Box 12216
Austin, TX 78711-2216
7. 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, CARLTON E. NEWMAN, 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, VERBAL, WRITTEN OR OTHERWISE.

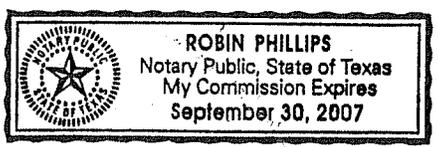
Carlton E. Newman
Carlton E. Newman, DPM

3-26-05
Date

IN THE STATE OF TEXAS §
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COUNTY OF TRAVIS §

BEFORE ME, on this day personally appeared Carlton E. Newman known to me, who first, being duly sworn, signed the foregoing Agreed Order in my presence.

SIGNED on this the 26th day of March, 2004.



Robin Phillips
(Printed Name of Notary Public)

Robin Phillips
Notary Public, in and for the State of Texas

APPROVED AND ENTERED by the Texas State Board of Podiatric Medical Examiners on this the 5th day of April, 2004, after a Board vote.

Bradford W. Glass
Bradford W. Glass, D.P.M.
Board President

Doris Couch
Doris Couch
Acting-Executive Director