

98-096, 98-097 and 98-098

IN THE MATTER OF
GARY C PAYNE DPM

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BEFORE THE TEXAS STATE
BOARD OF PODIATRIC
MEDICAL EXAMINERS

SITTING IN AUSTIN

LICENSE NO. 0536

TRAVIS COUNTY, TEXAS

AGREED BOARD ORDER

BE IT REMEMBERED that on 2/10/1999, came on to be considered the allegations against Gary Payne D.P.M. By letter dated June 24, 1998, the Texas State Board of Podiatric Medical Examiners Board gave preliminary notice to Dr. Payne of its intent to investigate complaints, concerns, or reports filed against him. Dr. Payne was duly notified of the allegations against him. Dr. Payne has cooperated with the Board.

This order is executed under the authority of the Podiatric Medical Practice Act of Texas, Tex. Rev. Civ. Stat. Ann., Art. 4573d, which allows contested cases to be resolved informally. Dr. Payne, agrees to waive his rights to a formal hearing on this matter upon the signing of this order.

Dr. Payne agrees to the following order and agrees to the findings of fact, the conclusions of law and the order set out herein:

FINDING OF FACT

1. Dr. Payne is licensed as a podiatric physician in the State of Texas by the (License Number 0536) to practice podiatric medicine in the State of Texas and is therefore subject to the jurisdiction of the Board, the Podiatric Medical Practice Act and the rules of the Board.
2. A complaint was filed against Dr. Payne and he was provided with an opportunity to respond to the complaint and to show compliance with the law.
3. Dr. Payne, as a podiatrist licensed in the State of Texas, must comply with the provisions of the Texas Podiatric Medical Practice Act of Texas, the Board rules and Board orders.
4. After discussion of the matters outlined in this Order, and subsequent communications between Dr. Payne and Board staff, the Board and Dr. Payne, in order to avoid the expense, delay and uncertainty of a hearing, have agreed to the entry of an Agreed Order, dispensing with the need for further action in this matter. By his signature on the Order, Dr. Payne does hereby waive his right to a formal hearing before the State Office of Administrative Hearings, and judicial review of the Order.
5. Dr. Payne, kept and used medications which were out-of-date, improper disposal of contaminated/bio-hazardous materials, leaving instruments out after surgery without cleaning and protecting.

CONCLUSIONS OF LAW

1. Dr. Payne is required to follow the provisions of the Podiatric Medical Practice Act, Tex. Civ. Stat. Ann., Art. 4567, et. seq., and associated rules of the Board.
2. Art. 4573 (b) and Ch. 376, 22 Tex. Admin. Code provides for the disciplining of a licensee who violates this Board's statute and/or rules.
3. Dr. Payne failed to keep his medications up-to-date, clean and protect instruments after surgery, and his improper disposal of bio-hazardous material; therefore, he was is in violation of the Texas Podiatric Medical Practice Act, Tex. Civ. Stat. Ann., Art. 4570 (d) (16), and Section 375.2 (a) of Title 22 of the Texas Administrative Code.

ORDER

THEREFORE, PREMISES CONSIDERED, This orders and Dr. Payne agrees to the following:

1. Dr. Payne is to pay a fine of \$2,000.00 (two thousand dollars), by check made payable to the Texas State Board of Podiatric Medical Examiners.
2. The fine is due within four months of receipt of formal notice by the Board of this Order, at the rate of \$500.00 (five hundred dollars) per month, due on the first day of each month.
3. Dr. Payne is to complete 100 (one hundred) hours of community service within 12 month of receipt of formal notice by the Board of this Order.
4. Failure to complete this agreement within this time will result in a \$100.00 (one hundred dollars) per day fine.

This order does not prohibit the Texas State Board of Podiatric Medical Examiners from exercising its regulatory functions.

I, Gary Payne D.P.M., have read and understand the foregoing Agreed Order. I understand that by signing, I waive certain right to a formal hearing before the State Office of Administrative Hearings and judicial review of this order. I sign it voluntarily.

I understand this agreed order contains the entire agreement between the parties and there is no other agreement of any kind, verbal, written, or otherwise. **THIS ORDER IS A PUBLIC RECORD.**



Gary Payne D.P.M.

1-28-99
Date

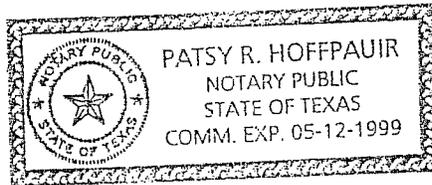
STATE OF TEXAS

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COUNTY OF Travis

BEFORE ME, on this day personally appeared Gary Payne D.P.M. known to be who first being duly sworn, signed the foregoing Agréed Order in my presence.

SIGNED on this the 28th day of January, 1999.

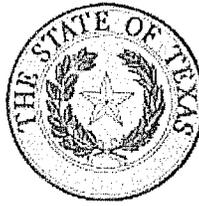


Patsy R. Hoffpauir
Printed Name of Notary Public

Patsy R. Hoffpauir
Notary Public, in and for the State of Texas

SIGNED AND ENTERED by the Presiding Officer of the Texas State Board of Podiatric Medical Examiners on this the 13th day of FEBRUARY, 1999.

W. Preston Goforth
W. Preston Goforth, D.P.M.,
President, Texas State Board of
Podiatric Medical Examiners



TEXAS STATE BOARD OF PODIATRIC MEDICAL EXAMINERS

Physical Address: 333 Guadalupe; Suite 2-320; Austin, Texas 78701
National Toll Free Complaint Hotline: 1-800-821-3205

Mailing Address: P.O. Box 12216; Austin, Texas 78711-2216
Voice: 512-305-7005 Fax: 512-305-7003

<http://www.foot.state.tx.us>

"Assuring Quality Podiatric Medicine For The Citizens Of Texas"

INVESTIGATIONS DIVISION

December 07, 2000

Dr. Gary Payne, D.P.M.
12833-B Research Blvd.
Austin, TX 78750

COPY

RE: Board Order Compliance

Dear Dr. Payne,

This letter is with regard to the current Board Order on file against your license (# 0536). On February 18, 1999, the Texas State Board of Podiatric Medical Examiners considered allegations of statutory/rules violations against you. Subsequent to an investigation and consideration by the Board, it was ordered and agreed:

1. **Dr. Payne is to pay a fine of \$2,000.00 (two thousand dollars), by check made payable to the Texas State Board of Podiatric Medical Examiners.**
2. **The fine is due within four months of receipt of formal notice by the Board of this Order, at the rate of \$500.00 (five hundred dollars) per month, due on the first day of each month.**
3. **Dr. Payne is to complete 100 (one hundred) hours of community service within 12 months of receipt of formal notice by the Board of this Order.**
4. **Failure to complete this agreement within this time will result in a \$100.00 (one hundred dollars) per day fine.**

With regard to **Orders/Agreements 1,2 and 4**, compliance has been fulfilled. The following checks were received and deposited by the Board:

- April 7, 1999 #1954 \$500.00 (five hundred dollars)
 - April 8, 1999 #1952 \$500.00 (five hundred dollars)
 - April 30, 1999 #1970 \$500.00 (five hundred dollars)
 - May 24, 1999 #2038 \$3,500.00 (three thousand, five hundred dollars)
- Final Payment and Late Penalties

PAGE 1 OF 2



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With regard to Order/Agreement 3, compliance has been fulfilled. A total of the required 100 (one hundred) hours of community service within 12 months of receipt of formal notice by the Board of the Order has been completed and verified as follows:

<u>Volunteer Location</u>	<u>Dates</u>	<u># of Hours</u>	<u>As Verified By</u>	<u>Total Hours Verified</u>
Kairos Prison Ministry team #26 @Ferguson Unit in Huntsville	10/99 – 01/00	82	Hank Todd Smith; Director, Team #26	82
Seton East Community Clinic & St. Lukes Program of Surgery @ Brackenridge Hospital	03/99 – 02/00	62.5	Richard Parsells; Operations Manager Seton East Health Center	62.5

VERIFIED TOTAL: 144.5

To continue, you have submitted an additional 98 (ninety-eight) hours of various services performed at the Peoples Clinic in East Austin. Those hours have not been verified, although noted as been received in your Board Order file. To sum, compliance for the 100 (one hundred) hours of Ordered community service has been fulfilled. Please note, this letter of compliance will be attached to your Board Order, on file, and submitted along with any Open Records request for the Order. The Order remains a permanent record on file, even after compliance has been fulfilled.

If you require any more assistance from the Board, please feel free to contact me at (512) 305-7005. My office hours are M-F, 8:00am – 5:00pm.

Sincerely,

Hemant Makan
Investigator
Hemant.Makan@foot.state.tx.us

VIA CERTIFIED RETURN RECEIPT: Z 191 872 717

CC: Tonia Parker, CMSC, CPHQ, CPCS; Clinical Operations Manager; SETON



TEXAS STATE BOARD OF PODIATRIC MEDICAL EXAMINERS

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"Assuring Quality Podiatric Medicine For The Citizens Of Texas"

INVESTIGATIONS DIVISION

December 07, 2000

COPY

Gary C. Payne; D.P.M.
12833-B Research Boulevard
Austin, TX 78750

RE: License Verification

NAME: Payne, Gary C.; D.P.M.
LICENSE NUMBER: 0536
ISSUED: 06/1975
EXPIRES: 11/01/2001
DISCIPLINARY ACTION: Yes; 1 Board Order on file
(All terms/requirements of Order have been met;
compliance has been fulfilled; Board Order is no longer
in effect/active.)

If you require any more assistance from the Board, please feel free to contact me at (512) 305-7005. My office hours are M-F, 8:00am – 5:00pm.

Sincerely,

A handwritten signature in black ink, appearing to read "Hemant Makan".

Hemant Makan
Investigator

Hemant.Makan@foot.state.tx.us

CC: Tonia Parker, CMSC, CPHQ, CPCS; Clinical Operations Manager; SETON