

SOAH DOCKET NO. 503-01-2134

LICENSE NO. E-7013

**IN THE MATTER OF
THE COMPLAINT AGAINST
DAVID LYMAN BRYSON, M.D.**

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**BEFORE THE
TEXAS STATE BOARD
OF MEDICAL EXAMINERS**

FINAL ORDER

During open meeting at Austin, Texas, the Texas State Board of Medical Examiners finds that after proper and timely notice was given, the above-styled case was heard by an Administrative Law Judge of the Texas State Office of Administrative Hearings ("SOAH") who made and filed a proposal for decision containing the Administrative Law Judge's proposed findings of fact and conclusions of law. The proposal for decision was properly served on all parties and all parties were given an opportunity to file exceptions and replies as part of the record herein.

The Texas State Board of Medical Examiners, after review and due consideration of the proposal for decision, and exceptions and replies filed, if any, adopts the following proposed findings of fact and conclusions of law of the Administrative Law Judge ("ALJ"). All proposed findings of fact and conclusions of law not specifically adopted herein are hereby denied.

FINDINGS OF FACT

1. David L. Bryson, M.D., holds Texas Medical License E-7013.
2. The Texas State Board of Medical Examiners (Board) issued License E-7013 to Dr. Bryson on December 8, 1976.
3. Dr. Bryson's license has been temporarily suspended by the Board since January 22, 2001. At all other times relevant to this case, Dr. Bryson's license was in full force and effect.
4. In January 1999, Dr. Bryson entered into a business and financial relationship with Mr. William Stallknecht and the Pill Box Pharmacy, of San Antonio, Texas. Mr. William Stallknecht is a licensed Texas pharmacist.

5. Dr. Bryson's business and financial relationship with Mr. Stallknecht and the Pill Box Pharmacy (Pill Box) continued until March 1, 2001.
6. During 1999, Dr. Bryson consulted with over 10,000 patients through either internet questionnaires or telephone conversations. As the year progressed, Dr. Bryson consulted with fewer patients by internet questionnaire and consulted with more patients by telephone. Dr. Bryson prescribed only unscheduled drugs based on the internet questionnaire. He also prescribed scheduled drugs and controlled substances based on the telephone conversations.
7. After December 24, 1999, Dr. Bryson ceased consulting with any patients solely through internet questionnaires. After that date, he conducted all of his consultations by telephone.
8. From January 2000 through March 1, 2001, Dr. Bryson consulted with over 10,000 patients through telephone conversations. Dr. Bryson prescribed scheduled drugs and controlled substances to these patients based on the telephone conversations.
9. Between January 1999 and March 1, 2001, more than 50% of the prescriptions written by Dr. Bryson were for the pain medication hydrocodone.
10. Between January 1999 and March 1, 2001, more than 25% of the prescriptions written by Dr. Bryson were for anti-anxiety drugs, such as Xanax and Valium.
11. Between January 1999 and March 1, 2001, Dr. Bryson had no medical office or other facilities to examine patients.
12. Between January 1999 and March 1, 2001, Dr. Bryson never saw his patients or performed physical examinations, nor did he order urinalyses, CBCs, blood chemistries, X-rays, CT scans, MRIs, or any other type of diagnostic testing for any of the more than 20,000 patients that he consulted with by telephone or internet questionnaire.
13. Between January 1999 and March 1, 2001, Dr. Bryson did not consult with the treating physicians for any of his 20,000 patients.

14. Between January 1999 and March 1, 2001, Dr. Bryson failed to establish a proper medical diagnosis on his patients by not obtaining complete medical histories, not performing mental status exams, not performing physical examinations, and not ordering appropriate diagnostic testing.
15. Between January 1999 and March 1, 2001, Dr. Bryson prescribed scheduled substances and dangerous drugs without establishing a proper physician / patient relationship.
16. Between January 1999 and March 1, 2001, Dr. Bryson ordered three refills for approximately 90% of the prescriptions he issued.
17. Between January 1999 and March 1, 2001, Dr. Bryson never requested or obtained any of his patients' relevant medical records directly from their prior or current treating physicians.
18. Between January 1999 and March 1, 2001, Dr. Bryson never provided a report or a medical or clinical record to any of his patients' then current or subsequent treating physicians.
19. Between January 1999 and March 1, 2001, Dr. Bryson prescribed dangerous drugs or controlled substances for pain without conducting any physical examinations of patients that included an assessment and consideration of the pain, physical and psychological function, history of substance abuse, coexisting diseases and conditions, or the presence of a recognized medical indication for the use of a dangerous drug or controlled substance.
20. Between January 1999 and March 1, 2001, Dr. Bryson failed to make any arrangements for clinical follow-up or assessment of treatment for any of his patients.
21. Between January 1999 and March 1, 2001, Dr. Bryson received two or three calls per month from patient family members stating that the patient was abusing drugs.
22. Between January 1999 and March 1, 2001, Dr. Bryson failed to exercise sound medical judgment in treating pain and related symptoms with scheduled drugs and controlled substances.
23. Between January 1999 and March 1, 2001, Dr. Bryson prescribed scheduled drugs and controlled substances in a manner that created a substantial risk of harm to his patients.

24. Between January 1999 and March 1, 2001, Dr. Bryson prescribed scheduled drugs and controlled substances in a manner inconsistent with public health and welfare.
25. Dr. Bryson's prescription of Tussionex (with hydrocodone) to patient JA on November 4, 1999, caused harm to JA in that it supported JA's addiction to pain medications.
26. During 1999, an \$85.00 physician consultation fee was charged to each patient who received a prescription from Dr. Bryson. For internet-questionnaire patients, Dr. Bryson received \$25.00 of the consultation fee and the Pill Box Pharmacy received \$60.00 of the fee. For telephone consultation patients, Dr. Bryson received \$35.00 and the Pill Box Pharmacy received \$50.00.
27. Between January 2000 and March 1, 2001, a \$100.00 physician consultation fee was charged to each telephone-consultation patient who received a prescription from Dr. Bryson. Dr. Bryson received \$50.00 of the consultation fee and the Pill Box Pharmacy received \$50.00 of the fee. After January 1, 2000, Dr. Bryson consulted with all patients by telephone.
28. All patients paid their fees by credit card to the Pill Box Pharmacy, which then paid Dr. Bryson his share.
29. If Dr. Bryson did not write a prescription for a patient, the patient did not pay the consultation fee and Dr. Bryson received no compensation.
30. Dr. Bryson's patient records lacked adequate information to document a diagnosis or to formulate a treatment plan for the following patients: JB, LB, VB, RC, DF, EH, PH, WH, CK, and DL.
31. Dr. Bryson's medical practice between January 1999 and March 1, 2001, was unprofessional and likely deceived, defrauded, and injured the public.
32. Dr. Bryson's continuation in the practice of medicine creates a danger or threat to the general public.

CONCLUSIONS OF LAW

1. The Board of Medical Examiners (Board) has jurisdiction over this matter pursuant to TEX. OCC. CODE ANN. §164.151.
2. The State Office of Administrative Hearings has jurisdiction to conduct the administrative hearing in this matter and to issue a proposal for decision pursuant to TEX. OCC. CODE ANN. § 164.007 and TEX. GOV'T CODE ANN., Ch. 2003.
3. Notice of hearing was provided as required by the Administrative Procedure Act, TEX. GOV'T CODE ANN. § 2001.051 and 2001.052.
4. The hearing was conducted according to the requirements of the Administrative Procedure Act, the Rules of the State Office of Administrative Hearings, and the rules of the Texas State Board of Medical Examiners.
5. Based on Findings of Fact No. 30, Dr. Bryson violated 22 TEX. ADMIN. CODE (TAC) § 165.1 by failing to maintain adequate medical records.
6. Based on Findings of Fact Nos. 6-24, Dr. Bryson violated TEX. OCC. CODE § 164.051(a)(6) by failing to practice medicine in an acceptable manner consistent with the public health and welfare.
7. Based on Findings of Fact Nos. 6-24, Dr. Bryson violated TEX. OCC. CODE § 164.051(a)(1) and 164.052(a)(5) by engaging in unprofessional conduct that is likely to deceive or defraud the public or injure the public.
8. Based on Findings of Fact Nos. 6-24, Dr. Bryson violated TEX. OCC. CODE § 164.053(a)(6) by prescribing dangerous drugs and controlled substances in a manner inconsistent with the public health and welfare.
9. Based on Findings of Fact Nos. 6-24, Dr. Bryson violated the BME Internet Prescribing Policy by prescribing dangerous drugs and controlled substances without establishing a proper physician-patient relationship.

10. Based on Findings of Fact Nos. 6-24, Dr. Bryson violated 22 TAC § 170.3 by failing to follow Board guidelines for treatment of intractable pain.

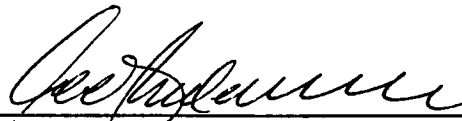
11. Based on Conclusions of Law Nos. 5-10, the Texas State Board of Medical Examiners should revoke Dr. Bryson's medical license No. E-7013.

ORDER

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that Respondent's Texas license is hereby REVOKED. Respondent shall immediately cease the practice of medicine in the state of Texas.

In accordance with TEX. OCC. CODE ANN § 2001.177 and 22 TEX. ADMIN. CODE § 187.39(C), should Respondent appeal this Final Order, the Respondent shall be responsible for payment of all costs of preparation of the original or certified copy of the record of the agency proceedings.

SIGNED AND ENTERED by the presiding officer of the Texas State Board of Medical Examiners on this 16 day of August, 2002.



Lee S. Anderson, M.D., President
Texas State Board of Medical Examiners