

LICENSE NO. E-7515

IN THE MATTER OF  
THE LICENSE OF  
RICARDO BARRERA TAN, M.D.

BEFORE THE  
TEXAS MEDICAL BOARD

AGREED ORDER

On the 31 day of August, 2012, came on to be heard before the Texas Medical Board (the Board), duly in session, the matter of the license of Ricardo Barrera Tan, M.D. (Respondent).

On July 16, 2012, Respondent appeared in person, without counsel at an Informal Show Compliance Proceeding and Settlement Conference in response to a letter of invitation from the staff of the Board. The Board's representatives were Michael Arambula, M.D., a member of the Board, and Noe Fernandez, a member of a District Review Committee (Panel). Christopher Palazola represented Board staff.

BOARD CHARGES

Board staff charged that Respondent injected alpha lipoic acid intravenously into three patients. These injections contributed to the death of one patient, and extended hospitalization in another. There were concerns regarding supervision and training of the person providing medications were administered by an unlicensed person without proper supervision and/or proper protocols; and the concerns over the purity of the alpha lipoic acid supply utilized by Respondent.

BOARD HISTORY

Respondent has received a disciplinary order from the Board in 1986.

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 the following:

1. General Findings:

- a. 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.
- b. Respondent currently holds Texas Medical License No. E-7515. Respondent was originally issued this license to practice medicine in Texas on August 27, 1977.
- c. Respondent is primarily engaged in the practice of family medicine. Respondent is not board certified.
- d. Respondent is 64 years of age.

2. Specific Panel Findings:

- a. The medical records were of poor quality.
- b. The procedures and protocols were properly in place in the office. The individual administering the alpha lipoic acid was a trained phlebotomist who had been working for Respondent for 15 years.
- c. Respondent had used alpha lipoic acid on these patients previously without complications.
- d. Respondent failed to do proper work-ups and evaluations on these patients prior to their IV infusions.

3. Mitigating Factor:

In determining the appropriate sanctions in this matter, the Panel considered, as mitigating:

- a. Respondent responded to the complication of these patients promptly, including that he transported them to the ER because it was faster than calling EMS.
- b. Respondent was not responsible for the one patient's death. The patient was suffering from cirrhosis of the liver, and the autopsy was "undetermined."
- c. The materials used by Respondent were tested and no contamination/toxic agent was found.

d. Respondent has cooperated in the investigation of the allegations 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.

### 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)(3) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's violation of a board rule; to wit, Board Rule 165 and Board Rule 170, related to medical records and pain management guidelines.

3. Section 164.051(a)(6) of the Act, as further defined by Board Rule 190.8(1)(c) authorizes the Board to take disciplinary action against Respondent based on Respondent's failure to use proper diligence.

4. 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.

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

6. 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. Within one year following the date of the entry of this Order, Respondent shall take and pass with a score of 75 or above the Medical Jurisprudence Examination ("JP Exam") given by the Texas Medical Board. Respondent is allowed three attempts to successfully pass this examination.

Respondent's failure to take and pass the JP Exam within three attempts within one year following the date of the entry of this Order shall constitute a violation of this Agreed Order. After a committee of the Board or a panel of Board representatives (Board Representatives), has considered the information related to Respondent's violation of this provision and has determined that Respondent has not fulfilled the requirements of this provision, Respondent's medical license shall be **IMMEDIATELY SUSPENDED** pursuant to correspondence to Respondent from the Executive Director or Secretary-Treasurer of the Board indicating that Board Representatives have considered the information related to Respondent's violation of this provision and have determined that Respondent has not fulfilled the requirements of this provision. Although Respondent shall be invited to provide information or testimony to the Board Representatives, Respondent specifically waives any administrative due process under the Medical Practice Act, or the Administrative Procedure Act, for the Board Representatives to consider this information. **THIS SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING AT THE STATE OFFICE OF ADMINISTRATIVE HEARINGS OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE MEDICAL PRACTICE ACT OR THE ADMINISTRATIVE PROCEDURE ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS AND ALL RIGHTS OF APPEAL.** Respondent shall be notified of any suspension by certified mail, return receipt requested to Respondent's last known address on file with the Board. If Respondent's license is suspended on such a basis, the suspension shall remain in effect until such time as Respondent takes and passes the JP Exam and subsequently appears before the Board in person and provides sufficient evidence which, in the discretion of the Board, is adequate to show that Respondent possesses the skills and knowledge to safely practice in Texas and is otherwise physically and mentally competent to resume the practice in this state.

2. Within one year from the date of the entry of this Order, Respondent shall obtain continuing medical education ("CME") approved for Category I credits by the American Medical Association, as follows: four hours in the topic of medical record keeping; eight hours in the topic of ethic; and sixteen hours in the topic of complementary and alternative medicine. The courses must be attended in person and shall be approved in writing in advance by the Compliance Division of the Board. To obtain approval for the courses, Respondent shall submit in writing to the Compliance Division of the Board information on the course, to include at least

a reasonably detailed description of the course content and faculty, as well as the course location and dates of instruction. Respondent shall submit documentation of attendance and successful completion of this requirement to the Compliance Division of the Board on or before the expiration of the time limit set forth for completion of the course. These requirements are in addition to the minimum CME requirements for licensure renewal.

3. Respondent shall comply with all the provisions of the Act and other statutes regulating the Respondent's practice.

4. 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.

5. Respondent shall inform the Board in writing of any change of Respondent's office or mailing address within 10 days of the address change. This information shall be submitted to the Registration Department and the Compliance Department of 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. Respondent agrees that 10 days notice of a Probationer Show Compliance Proceeding to address any allegation of non-compliance of this Agreed Order is adequate and reasonable notice prior to the initiation of formal disciplinary action. Respondent waives the 30-day notice requirement provided by §164.003(b)(2) of the Medical Practice Act and agrees to 10 days notice, as provided in 22 Texas Administrative Code §187.44(4).

6. Any violation of the terms, conditions, or requirements of this Order by Respondent shall constitute unprofessional conduct likely to deceive or defraud the public, or to injure the public, and shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act.

7. Respondent shall be permitted to supervise and delegate prescriptive authority to physician assistants and advanced practice nurses and to supervise surgical assistants.

8. This Order shall automatically terminate upon Respondent's submission to the Board of evidence deemed to be sufficient by the Compliance Division of the Board that Respondent successfully completed the requirements set forth in the Ordering Paragraph Nos. 1 and 2 above.

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.

**[SIGNATURE PAGES FOLLOW]**

I, RICARDO BARRERA TAN, 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.

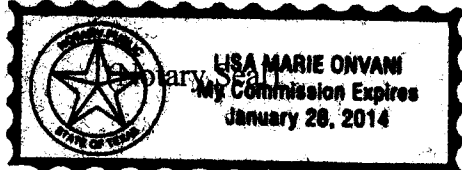
DATED: 8th, August, 2012.

*Ricardo Barrera Tan*  
RICARDO BARRERA TAN, M.D.  
Respondent

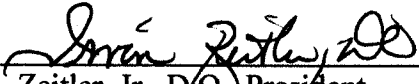
STATE OF Texas §  
COUNTY OF Tarrant §

SWORN TO AND ACKNOWLEDGED BEFORE ME, the undersigned Notary Public, on this 8th day of August, 2012.

*Lisa Onwani*  
Signature of Notary Public



SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this  
31 day of August, 2012.

  
\_\_\_\_\_  
Irvin E. Zeitler, Jr., D.O., President  
Texas Medical Board