State Medical Board of Ohio

77 S. High Street, 17th Floor • Columbus, Ohio 43266-0315 • 614/ 466-3934 • Website: www.state.oh.us/med/

September 9, 1998

Felix A. Costa, M.D.
15415 Pebble Bend Drive
Houston, TX 77068

Dear Doctor Costa:

Please find enclosed a certified copy of the Findings, Order and Journal Entry approved and confirmed by the State Medical Board meeting in regular session on September 9, 1998.

Section 119.12, Ohio Revised Code, may authorize an appeal from this Order. Such an appeal may be taken to the Franklin County Court of Common Pleas only.

Such an appeal setting forth the Order appealed from the grounds of the appeal must be commenced by the filing of a Notice of Appeal with the State Medical Board of Ohio and the Franklin County Court of Common Pleas within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

Very truly yours,

Anand G. Garg, M.D.
Secretary

AGG:jam
Enclosures

CERTIFIED MAIL RECEIPT NO. Z 233 840 107
RETURN RECEIPT REQUESTED

Mailed 9/10/98

CERTIFICATION

I hereby certify that the attached copy of the Findings, Order and Journal Entry, approved by the State Medical Board, meeting in regular session on September 9, 1998, constitute a true and complete copy of the Findings, Order and Journal Entry in the Matter of Felix A. Costa, M.D., as it appears in the Journal of the State Medical Board of Ohio.

This Certification is made by the authority of the State Medical Board of Ohio in its behalf.

(SEAL)

Anand G. Garg, M.D.
Secretary

September 9, 1998
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF *

*

FELIX A. COSTA, M.D. *

FINDINGS, ORDER AND JOURNAL ENTRY

By letter dated July 8, 1998, and mailed on July 9, 1998, notice was given to Felix A. Costa, M.D., that the State Medical Board intended to consider disciplinary action regarding his license to practice medicine and surgery in Ohio, and that he was entitled to a hearing if such hearing was requested within thirty (30) days of the mailing of said notice. In accordance with Section 119.07, Ohio Revised Code, said notice was sent via certified mail, return receipt requested, to the last known address of record of Felix A. Costa, M.D., that being 15415 Pebble Bend Drive, Houston, TX 77068.

No hearing request has been received from Felix A. Costa, M.D., and more than thirty (30) days have now elapsed since the mailing of the aforesaid notice.

WHEREFORE, for the reasons outlined in the July 8, 1998, letter of notice, which is attached hereto and incorporated herein, it is hereby ORDERED that the license of Felix A. Costa, M.D., to practice medicine and surgery in the State of Ohio be Revoked.

This Order shall become effective Immediately.

This Order is hereby entered upon the Journal of the State Medical Board of Ohio for the 9th day of September 1998, and the original thereof shall be kept with said Journal.

Anand G. Garg, M.D.
Secretary

(SEAL)

September 9, 1998
Date

AFFIDAVIT

I, Debra Jones, being duly cautioned and sworn, do hereby depose and say:

1) That I am employed by the State Medical Board of Ohio (hereinafter, "The Board")

2) That I serve the Board in the position of Chief, Continuing Medical Education, Records, and Renewal;

3) That in such position I am the responsible custodian of all public licensee records maintained by the Board pertaining to individuals who have received certificates issued pursuant to Chapter 4731., Ohio Revised Code;

4) That I have this day carefully examined the records of the Board pertaining to Felix A. Costa, M.D.

5) That based on such examination, I have found the last known address of record of Felix A. Costa, M.D., to be:

15415 Pebble Bend Drive
Houston, TX 77068

6) Further, Affiant Sayeth Naught.

Debra L. Jones

Debra L. Jones, Chief
Continuing Medical Education,
Records and Renewal

Sworn to and signed before me, Lauren Lubow, Notary Public, this 26th day of August, 1998.

Lauren Lubow

Notary Public

LAUREN LUBOW, Attorney At Law
NOTARY PUBLIC, STATE OF OHIO
My commission has no expiration date.
Section 147.03 R.C.

State Medical Board of Ohio

77 S. High Street, 17th Floor • Columbus, Ohio 43266-0315 • 614/ 466-3934 • Website: www.state.oh.us/med/

July 8, 1998

Felix A. Costa, M.D.
15415 Pebble Bend Drive
Houston, TX 77068

Dear Doctor Costa:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio intends to determine whether or not to limit, revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery, or to reprimand or place you on probation for one or more of the following reasons:

(1) On or about August 9, 1997, the Texas State Board of Medical Examiners (hereinafter the Texas Board), entered an Agreed Order which limited your Texas medical license for five (5) years. A copy of this Agreed Order is attached hereto and fully incorporated herein.

The Texas Board found, inter alia, that, while employed as a crisis psychiatrist, you were placed on probation by the Mental Health Mental Retardation Authority of Houston, Texas (hereinafter MHMR), following allegations of improper referrals, improper diagnosese of patients and inappropriate prescribing and/or administration of medications. You were placed under monitoring by a supervising physician by the MHMR and required to complete relevant Continuing Medical Education (hereinafter CME) courses.

Among the five (5) year limitations placed upon your license, you agreed with the Texas Board that your practice would be restricted to to an institutional setting or group practice approved in advance by the board, that you would complete 50 hours of CME for each year of the five-year period and that you complete a course in pharmacology.

The Texas Board Agreed Order as alleged in paragraph (1) above, individually and/or collectively, constitutes "[t]he limitation, revocation, or suspension by another state of a license or certificate to practice issued by the proper licensing authority of that state, the refusal to license, register, or reinstate an applicant by that authority, the imposition of probation by that authority, or the issuance of an order of censure or other reprimand by

Mailed 7/9/98

that authority for any reason, other than nonpayment of fees," as that clause is used in Section 4731.22(B)(22), Ohio Revised Code.

Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty (30) days of the time of mailing of this notice.

You are further advised that you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

In the event that there is no request for such hearing received within thirty (30) days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand or place you on probation.

Copies of the applicable sections are enclosed for your information.

Very truly yours,

Anand G. Garg, M.D.
Secretary

AGG/jag
Enclosures

CERTIFIED MAIL # Z 233 839 145
RETURN RECEIPT REQUESTED

D-9972

IN THE MATTER OF	§	BEFORE THE
	§	
THE LICENSE OF	§	TEXAS STATE BOARD
	§	
FELIX A. COSTA, M.D.	§	OF MEDICAL EXAMINERS

AGREED ORDER

On this the 9th day of August, 1997, came on to be heard before the Texas State Board of Medical Examiners ("the Board" or "the Texas Board"), duly in session the matter of the license of Felix A. Costa, M.D. ("Respondent"). On June 24, 1997, Respondent appeared in person with counsel, Brian S. Clary, at an Informal Settlement Conference/Show Compliance Proceeding in response to a letter of invitation from the staff of the Board.

The Board was represented at the Informal Settlement Conference/Show Compliance Proceeding by Connie Navar-Clark, a member of the Board, and Buddy R. Siebenlist, M.D., a district review committee member. Upon recommendation of the Board's representatives, and with the consent of Respondent, the Board makes the following findings of fact and conclusions of law and enters this Order as set forth herein:

FINDINGS OF FACT

1. Respondent, Felix A. Costa, M.D., holds Texas Medical license D-9972.

2. The Board has jurisdiction over the subject matter and Respondent. Respondent received all notice which may be required by law and by the rules of the Board. All jurisdictional requirements have been satisfied.

3. In 1995, Respondent was employed as a crisis psychiatrist by the Mental Health Mental Retardation Authority of Houston, Texas ("MHMR").

4. In October or November of 1995, MHMR commenced a conversion to a managed care philosophy. This included a push for streamlining and cost savings. In December of 1995, MHMR conducted an investigation into Respondent's practice of psychiatry.

5. Following MHMR's investigation, Respondent was placed on probation by MHMR

for what it felt to be (1) improperly referring priority population patients to other agencies without clear documentation as to the reason for the referral; (2) improperly diagnosing patients; and (3) inappropriately prescribing and/or administering medications, including controlled substances, which were contraindicated and/or nontherapeutic. The probation required that Respondent's psychiatric practice be monitored by a supervising physician and that Respondent complete continuing medical education on topics relevant to his work.

6. Respondent failed to adequately document the medical care Respondent rendered to patients.

7. The Board finds that the terms of this probation were being followed by Dr. Costa during the probationary period.

8. Respondent asserted and presented information that the criticisms of his practice by MHMR were motivated, in whole or in part, by financial concerns.

9. Respondent reports that he has completed 118 hours of credit in Category I Continuing Medical Education for the last two years.

10. Respondent has cooperated with Board staff in the investigation of the allegations related to this Agreed Order.

11. Respondent's cooperation, through consent to this Agreed Order, will save money and resources for himself and for the State of Texas.

12. Respondent has entered into this Agreed Order pursuant to the provisions of Sections 4.02(h) and (l) of the Medical Practice Act ("the Act"), V.A.C.S., article 4495b.

13. So as to avoid the expense and inconvenience of litigating the allegations, in lieu of further investigation or a hearing, Respondent agrees to the entry of this Agreed Order, and further agrees to comply with the terms and conditions set forth herein.

CONCLUSIONS OF LAW

Based on the above Findings of Fact the Board concludes the following:

1. Respondent has violated Section 3.08(19) of the Medical Practice Act ("the Act"), V.A.C.S., article 4495b, which authorizes the Board to take disciplinary action against Respondent based on Respondent's being removed, suspended, or having disciplinary action taken by his peers

in any professional medical association or society, whether the association or society is local, regional, state, or national in scope, or being disciplined by a licensed hospital or medical staff of a hospital, including removal, suspension, limitation of hospital privileges, or other disciplinary action.

2. Section 4.02(h) of the Act authorizes the Board to resolve and make a disposition of this matter through an Agreed Order.

3. Section 4.02(I) of the Act provides that this Agreed Order is a settlement agreement under the Texas Rules of Civil Evidence for purposes of civil litigation.

4. Section 4.12 of the Act authorizes the Board to take action in regard to Respondent and Respondent's medical license as set forth below.

ORDER

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that Respondent's Texas medical license will have the following restrictions placed upon it for five (5) years from the date of the signing of this Agreed Order by the presiding officer of the Board:

1. Respondent shall limit Respondent's medical practice to an institutional setting, such as a hospital or clinic, or to a group practice with other licensed Texas physicians. Respondent shall not practice crisis psychiatry in a situation where crises are handled. Respondent shall obtain written approval in advance from the Executive Director of the Board as to Respondent's practice setting.

2. Respondent shall maintain adequate medical records on all patient office visits, consultations, surgeries performed, drugs provided, and treatment rendered by Respondent. These records will include at a minimum, the patient's name and address, vital signs and statistics, chief complaints, history and physical findings, diagnosis and basis for diagnosis, treatment plan for each patient visit or operative procedure, a notation of all medications prescribed or otherwise provided to the patient including the quantity, dosage, and rationale for providing the medications, and detailed records of all follow-up visits. Each visit shall be noted in the patient record and dated accordingly. Respondent shall make all patient medical records available for inspection and copying upon the oral or written request of Board consultants, investigators, compliance officers, attorneys, or the Executive Director of the Board.

3. Respondent shall obtain at least fifty (50) hours per year of Continuing Medical Education (CME) approved for Category I credits by the American Medical Association or by the American Osteopathic Association. Each year Respondent shall submit to the Board proof of the prior year's CME attendance by the Order's anniversary date. Respondent shall submit proof to the Board of CME hours attended in the current year even though such may not meet the 50 hour requirement. A copy of the attendance certificate issued or a detailed report which can be readily verified by the Board shall satisfy this requirement.

4. Within one (1) year from the signing of this Agreed Order by the presiding officer of the Board, Respondent shall enroll in and successfully complete a course in the area of pharmacology approved in writing in advance by the Executive Director of the Board. To obtain approval for the course, Respondent shall submit in writing to the Director of Compliance for the Board information on the course, to include a reasonably detailed description of the course content and faculty, as well as the course location and dates of instruction. Documentation of attendance and successful completion to this requirement shall be delivered to the Director of Compliance for the Board on or before the expiration of the time limit set forth for completion of the course.

5. Respondent shall refrain from the prescription or administration of any drug for any patient unless the drug is medically indicated and is prescribed in therapeutic doses. Respondent shall not prescribe, administer, or dispense any drug with a potential for abuse to any person unless there is a legitimate medical and therapeutic need after the Respondent has taken an appropriate medical history and conducted an examination which is clinically adequate to determine a proper diagnosis and course of treatment. Respondent shall conduct adequate follow-up examinations on all patients to determine whether the course of treatment, including the prescribing of drugs, is appropriate for the medical condition of the patient and to determine if the drug regimen being prescribed or administered should be modified in any way.

6. Respondent may prescribe, administer, or dispense dangerous drugs, which do not have addictive potential or potential for abuse, to his immediate family, i.e. his wife and daughter, and in doing so, shall comply with the terms of paragraph 5 above.

7. For purposes of this Agreed Order, dangerous drugs with addictive potential or potential for abuse shall include, but shall not be limited to, Dalgan, Stadol, Nubain, Soma,

Phenergan, Talwin, Propofol, Butalbital, and their trademark or generic equivalents in any form, as well as any chemical or chemical combination substantially similar or equivalent to such drugs.

8. Respondent shall personally appear before the Board, a committee of the Board, or a panel of Board representatives, at least one (1) time each year that Respondent is under the terms and conditions of this Agreed Order. Such appearances shall be for the purpose of reporting on and addressing issues related to Respondent's compliance with the terms and conditions of this Agreed Order.

9. Respondent shall personally appear before the Board, a committee of the Board, or panel of Board representatives, upon written request mailed to Respondent's last known address on file with the Board at least ten (10) calendar days before the requested appearance date. Such appearances shall be for the purpose of reporting on and addressing issues related to Respondent's compliance with the terms and conditions of this Agreed Order.

10. To verify that Respondent has complied with and is in compliance with the terms and conditions of this Agreed Order, Respondent shall fully cooperate with the Board and the Board staff, including but not limited to, Board attorneys, investigators, compliance officers, consultants, and other such employees or agents of the Board in any way involved in investigation, review, or monitoring associated with Respondent's compliance with this Agreed Order. Failure to cooperate as required by this paragraph and the terms of this Agreed Order shall constitute a basis for disciplinary action against Respondent pursuant to Sections 3.08, 4.01, and 4.11 of the Act.

11. Upon request by the Board or a member of the Board staff, Respondent shall immediately execute, and provide as needed, any and all releases as may be requested by the Board or Board staff to obtain copies of peer review records pertaining to Respondent. Failure to execute and provide such releases shall constitute a basis for disciplinary action against Respondent pursuant to Sections 3.08, 4.01, and 4.11 of the Act.

12. The time period of this Order shall be extended for any period of time in which Respondent subsequently resides or practices medicine outside the State of Texas, is in official retired status with the Board, or for any period during which Respondent's license is subsequently canceled for nonpayment of licensure fees. If Respondent leaves Texas to live or practice medicine elsewhere, Respondent shall immediately notify the Board in writing of the dates of Respondent's

departure from and subsequent return to Texas. Upon Respondent's return to practice in Texas or Respondent's relicensure, Respondent shall be required to comply with the terms of this Order for the period of time remaining on the Order when Respondent left the practice of medicine in Texas, retired, or had his or her license canceled for nonpayment of licensure fees.

13. Respondent shall comply with all the provisions of the Medical Practice Act ("the Act"), V.A.C.S., article 4495b, and other statutes regulating the practice of medicine, as is required by law for physicians licensed by the Board.

14. Respondent shall inform the Board in writing of any change of Respondent's office or mailing address within ten (10) days of the address change. This information shall be submitted to the Verification Department and the Director of Compliance for 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 Sections 3.08, 4.01, and 4.11 of the Act.

15. Any violation of the terms, conditions, or requirements of this Order by Respondent shall constitute a basis for disciplinary action by the Board against Respondent pursuant to Sections 3.08, 4.01, and 4.11 of the Act. Any violation of the terms, conditions, or requirements of this Order by Respondent shall constitute evidence of unprofessional or dishonorable conduct likely to deceive or defraud the public or injure the public.

16. The above-referenced conditions shall continue in full force and effect without opportunity for amendment, except for clear error in drafting, for 12 months following entry of this Order. If, after the passage of the 12 month period, Respondent wishes to seek amendment or termination of these conditions, Respondent may petition the Board in writing. The Board may inquire into the request and may, in its sole discretion, grant or deny the petition. Petitions for modifying or terminating may be filed only once a year thereafter.

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. NOTHING IN THIS ORDER SHALL BE DEEMED A WAIVER OF RESPONDENT'S RIGHTS UNDER STATUTE OR THE UNITED STATES OR TEXAS CONSTITUTIONS TO APPEAL AN ORDER OR ACTION OF THE BOARD SUBSEQUENT TO THIS AGREED ORDER EXCEPT

AS RESPONDENT MAY HAVE OTHERWISE AGREED TO HEREIN. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.

THIS ORDER IS A PUBLIC RECORD.

I, FELIX A. COSTA, 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: August 5th, 1997

Felix Costa MD

FELIX A. COSTA, M.D.
RESPONDENT

STATE OF TEXAS §
§
COUNTY OF HARRIS §

BEFORE ME, the undersigned Notary Public, on this day personally appeared FELIX A. COSTA, M.D., known to me to be the person whose name is subscribed to this instrument, an Agreed Order, and who after being by me duly sworn, on oath, stated that he executed the same for all purposes expressed therein.

Given under my hand and official seal and office this 5TH day of AUGUST, 1997.

Loretta J. Overton
Signature of Notary Public

(Notary Seal)

LORETTA J. OVERTON
Printed or typed name of Notary Public

My commission expires: 9/1/97

SIGNED AND ENTERED by the presiding officer of the Texas State Board of Medical Examiners on this 9th day of August, 1997.

William H. Fleming, III, M.D.
President, Texas State Board of
Medical Examiners

STATE OF TEXAS
COUNTY OF TRAVIS:

I, Bonnie Kaderka, Director of Hearings Administration and Reporting, Texas State Board of Medical Examiners, certify that I am an official assistant custodian of records and that this is a true and correct copy of the original, as it appears on file in this office.

Witness my official hand and seal of the Board, this 13th day of May, 1998

Bonnie Kaderka

BONNIE KADERKA, DIRECTOR
HEARINGS ADMINISTRATION AND REPORTING