

MAY 05 2003

SOUTH DAKOTA STATE BOARD OF MEDICAL AND OSTEOPATHIC
EXAMINERS

IN THE MATTER OF

JAMES MELVIN ANDERSON, M.D.

CONSENT ORDER

James Melvin Anderson, M.D. ("Dr. Anderson"), a physician who at all times pertinent has been licensed to practice medicine by the South Dakota State Board of Medical Examiners (the "Board") and engaged in the practice of psychiatry in and around Lake Charles, Louisiana, currently suffers, and for some time has suffered, from the use and abuse of substances which have the capacity to impair his ability to practice medicine with reasonable skill and safety to patients. Dr. Anderson's condition first came to light after he was arrested and charged with possession of marijuana and possession of drug paraphernalia. Dr. Anderson later pleaded guilty to a misdemeanor charge of possession of marijuana and was sentenced to one year of unsupervised probation conditioned on his compliance with certain conditions that included a \$200 fine and compliance with his current regimen of medical treatment. All felony charges were dismissed.

After Dr. Anderson was arrested and charged, he underwent an eight (8) week evaluation at Rush Behavioral Health Center in Chicago and for one week at Palmetto. He has executed a PHP contract in Louisiana and is participating in Caduceus. The evaluators at Rush concluded that Dr. Anderson suffers from cannabis and recommended participation in the Louisiana PHP, a work week not exceeding 40 hours per week, random urine screening, participation in three or more NA or AA meetings per week, and be followed by a primary care physician and psychotherapist according to his Caduceus contract. As a result thereof, on or about October 16, 2002, Dr. Anderson was disciplined by the Louisiana Board of Medical Examiners

As evidenced by his subscription hereto but without admitting any violation of the Act, intentional or otherwise, Dr. Anderson acknowledges that proof of the foregoing facts upon administrative evidentiary hearing would provide the Board herein with probable cause to pursue formal administrative proceedings against him for violation of the South Dakota Medical Practice Act, SDCL 36-4-30(7), (24), constituting sufficient cause for the suspension or revocation of his license to practice medicine in the state of South Dakota.

On the basis of apparently reliable information, however, the Board is persuaded that the conditions from which Dr. Anderson suffers may be susceptible to effective medical treatment, resulting in the physician's capacity to re-enter the practice of medicine with reasonable skill and safety to patients provided that Dr. Anderson strictly observes and complies with appropriate restrictions and conditions on his practice and maintenance of his medical license.

In consideration of this finding, accordingly, and on the recommendation of the Investigative Committee respecting the pending investigation, the Board has concluded that its responsibility to

ensure the health, safety and welfare of the citizens of this state against the unprofessional, unqualified and unsafe practice of medicine will be effectively served by entry of the Order set forth hereinafter by consent.

Recognizing his right to have administrative adjudication of the charges which have been asserted, at which time he would be entitled to be represented by legal counsel, to call witnesses and to present evidence on his own behalf in defense or in mitigation of the charges made, and to a decision thereon by the Board based upon written findings of fact and conclusions of law pursuant to SDCL 1-26, Dr. Anderson, nonetheless, hereby waives his right to formal adjudication and pursuant to SDCL 1-26-20, consents to entry of the Order set forth hereinafter. By his subscription hereto Dr. Anderson also acknowledges that he waives any right to which he may be entitled pursuant to the South Dakota Administrative Procedure Act, SDCL 1-26, or which otherwise may be afforded to him by law to contest his agreement to or the force and effect of this document in any court or other forum relating to the matters referred to herein. By his subscription hereto Dr. Anderson also hereby authorizes the Investigating Committee designated by the Board with respect hereto, as well as his legal counsel assisting him in connection herewith, to present this Consent Order to the Board for its consideration and to fully disclose to and discuss with the Board the nature and results of the investigation and he waives any objection to such disclosures. Dr. Anderson expressly acknowledges that the disclosure of information to the Board by the Investigating Committee or his legal counsel shall be without prejudice to the Investigating Committee's authority to pursue formal administrative charges against him or to the Board's capacity to adjudicate such charges should the Board decline to approve this Consent Order.

Accordingly, in consideration of the foregoing and pursuant to the authority vested in the Board by SDCL 1-26 and SDCL 36-4;

IT IS ORDERED that the license of James Melvin Anderson, M.D., to engage in the practice of medicine in the state of South Dakota, as evidenced by Certificate No. 4965, be and the same is hereby, given an **OFFICIAL REPRIMAND**, and placed on probation for a period of five (5) years, provided, however, that Dr. Anderson's continuing exercise of the rights and privileges thereunder shall be conditioned upon his acceptance of and strict compliance with the following terms, conditions and restrictions:

(1) Outpatient Treatment and Aftercare. If he has not already done so, Dr. Anderson shall enter into and execute a treatment contract providing for such outpatient treatment and aftercare monitoring as may be prescribed or recommended by the Rush Health Center. Dr. Anderson shall in addition, if he has not done so, enter into and execute a Substance Abuse Treatment Contract and such other treatment contracts as may be recommended by the Louisiana PHP. Within five (5) days of the execution or amendment of any such treatment contract, be it with Rush or the PHP, Dr. Anderson shall furnish a true copy of such contract to the Board. Dr. Anderson shall, further, within five (5) days of his execution of a Treatment Contract with the PHP, notify the Board in writing of the name and address of his treating and monitoring physicians. Dr. Anderson shall comply with all recommendations contained in the Rush discharge summary dated July 5, 2002.

(2) Continuing Treatment. Reports to Board. Dr. Anderson shall continue under treatment, consistent with the prescription and recommendations of his treating physicians at Rush, his current treating and monitoring physician(s) and those set forth in his PHP Treatment Contract. Dr. Anderson shall authorize and cause such treating and monitoring physicians and/or the PHP to submit to the Board, not less frequently than quarterly throughout the probationary

period, written reports on his then-current treatment program diagnosis, prognosis and his compliance with the terms, conditions and restrictions of this Order.

(3) Board Access to Treatment Records and Reports. Dr. Anderson shall and does by his subscription hereto authorize any physician or any institution at which he undergoes treatment for any psychiatric or substance abuse condition, as well as any physician under whose care he may come at such institution who has or may hereafter evaluate, diagnose, treat or monitor him, to provide the Board with copies of all medical reports relating to his history, examination, evaluation, diagnosis, treatment and prognosis and to provide the Board with written and verbal reports relative thereto. Dr. Anderson expressly waives any privilege that may otherwise be afforded the disclosure of such records pursuant to state or federal law and shall immediately execute any necessary written authorization presented to him that permits the Board access to such records.

(4) Drug Screens. Dr. Anderson shall submit to periodic, unannounced blood, urine, saliva and/or hair collection to detect the presence of alcohol, controlled or other mood-altering substances by a PHP physician or his or her designee. Dr. Anderson shall authorize and cause such physician and/or the PHP to report the results of such drug screens to the Board not less frequently than quarterly throughout the probationary period.

(5) Maintenance of Complete Abstinence. Dr. Anderson shall, for the duration of his life, maintain complete and total abstinence from the use of alcohol and any controlled or mood-altering substance except as may be prescribed by a treating physician other than himself for a bona fide medical condition. Dr. Anderson shall personally inform his treating and monitoring physicians and the PHP in writing within forty-eight (48) hours of the prescription or administration of any controlled or mood-altering substance received by him from another physician for treatment of a bona fide medical condition.

(6) Continuing Medical Education. Dr. Anderson shall obtain not less than fifty (50) credit hours per year for each year of the probationary term set forth herein through attendance at and participation in continuing medical education programs ("CME") accredited by and qualifying for the Physician's Recognition Award of the American Medical Association and he shall obtain such award within three (3) years from the date hereof. On or before the anniversary date of each year for the five (5) years following the effective date of this Consent Order, Dr. Anderson shall cause to be submitted to the Board written certification of the CME programs and credits completed by him during the preceding 12 months.

(7) Absence from State. Effect on Probation. Should Dr. Anderson at any time during the period of probation ordered herein be absent from the state of South Dakota or relocate to and/or take up residency in another state or country for a period of thirty (30) days or more, he will advise the Board in writing. In such instance the probationary period and all terms and conditions specified in this Order shall be deemed interrupted and extended and shall not commence to run until Dr. Anderson notifies the Board in writing that he has returned to, relocated in and/or taken up residency in the state of South Dakota. Dr. Anderson shall not receive credit toward the probationary period for the time during which he was absent from the state of South Dakota.

(8) Fees and Costs of Supervision/Treatment/Reports. Any and all fees, costs or expenses incurred by Dr. Anderson in connection with the requirements of this Order shall be borne by him.

(9) Cooperation with Board's Medical Consultant/Probation and Investigative Committee. Dr. Anderson shall immediately notify the Board's Investigative Committee of any

change in his current home and professional addresses and telephone numbers, and he shall direct all matters required pursuant to this Consent Order to the attention of the Investigative Committee, with whom he shall cooperate on all matters and inquiries pertaining to his compliance with the terms, conditions and restrictions hereof. Dr. Anderson shall also make himself available upon reasonable notice for personal interviews with the Medical Consultant or Probation Officer of the Board or their designated representatives for the purpose of discussing his then current compliance with the terms of this Order.

(10) Effect of Violation/Sanction. By his subscription hereto Dr. Anderson acknowledges that his receipt of written notification from the Board that it has received a written report providing apparently reliable information which indicates his failure to comply with the requirements set forth by this Order in any respect shall, without the need for formal hearing or for providing him with any right to which he may otherwise be entitled pursuant to the South Dakota Administrative Procedure Act, SDCL 1-26, or which otherwise may be afforded to him by any law, constitute his consent to the immediate suspension of his license to practice medicine in this state of South Dakota.

(11) Practice and Renewals. Dr. Anderson further agrees that for the remainder of 2003, he shall not be permitted to practice medicine in South Dakota, and Dr. Anderson agrees not to attempt to renew his South Dakota license for two (2) years (2004 and 2005).

IT IS FURTHER ORDERED that any violation or failure of strict compliance with any of the terms, conditions or restrictions set forth by this Order by Dr. Anderson shall be deemed adequate and sufficient cause, upon proof of such violation or failure, for the revocation and cancellation of Dr. Anderson's license to practice medicine in the state of South Dakota or for such other action as the Board may deem appropriate as if such violations were enumerated among the causes provided in SDCL 36-4.

IT IS FURTHER ORDERED that this Consent Order shall be and shall be deemed to be a public record.

Sioux Falls, South Dakota, this 3rd day of June, 2003.

SOUTH DAKOTA STATE BOARD
OF MEDICAL AND
OSTEOPATHIC EXAMINERS

By: 

L. Paul Jensen
Executive Secretary
South Dakota Board of Medical and
Osteopathic Examiners

**ACKNOWLEDGMENT
AND CONSENT**

I, JAMES MELVIN ANDERSON, M.D., hereby acknowledge, approve, accept and consent to entry of the above and foregoing Order, this 29th day of April, 2003.


JAMES MELVIN ANDERSON, M.D.