

HEARING CONDUCTED BY THE
TEXAS STATE OFFICE OF ADMINISTRATIVE HEARINGS
SOAH DOCKET NO. 503-17-5759.MD
TEXAS MEDICAL LICENSE NO. F-6384

IN THE MATTER OF THE

COMPLAINT AGAINST

GEORGE WILLIAM ALLIBONE, M.D.

BEFORE THE

TEXAS MEDICAL BOARD

COMPLAINT

TO THE HONORABLE TEXAS MEDICAL BOARD AND THE HONORABLE
ADMINISTRATIVE LAW JUDGE TO BE ASSIGNED:

The Staff of the Texas Medical Board (the Board) files this First Amended Complaint against George William Allibone, M.D, (Respondent), for alleged violations of the Medical Practice Act (the Act), Title 3, Subtitle B, Texas Occupations Code, and would show the following:

I. SUMMARY OF FACTUAL ALLEGATIONS

Respondent violated the standard of care with regard to medical care provided to three patients, hereinafter referred to as Patient(s) 1, 2 and 3.¹ Respondent also failed to meet the standard of care in that he did not maintain adequate medical records for each of the three patients. In addition, Respondent failed to obtain appropriate consents for treatment, including consents for alternative/complimentary treatments.

Furthermore, Respondent engaged in unprofessional conduct by breaching patient-physician confidentiality of Patients 1 and 2, both of whom Respondent treated for extensive lengths of time despite having intertwining close personal relationships.

¹ To protect their identities, a Patient Identification List will be filed separately, *Confidential and Under Seal*.

II. LEGAL AUTHORITY AND JURISDICTION

1. Respondent is a Texas physician and holds Texas Medical License No. F-6384, which was originally issued by the Board on August 24, 1980. Respondent's license was in full force and effect at all times material and relevant to this Complaint.

2. Respondent received notice of one or more Informal Settlement Conferences (ISC). The Board complied with all procedural rules, including but not limited to, Board Rules 182 and 187, as applicable.

3. No agreement to settle this matter has been reached by the parties.

4. All jurisdictional requirements have been satisfied.

5. The filing of this Complaint and the relief requested are necessary to protect the health and public interest of the citizens of the State of Texas, as provided in Section 151.003 of the Act.

III. APPLICABLE STATUTES AND STATUTORY VIOLATIONS

The following Statutes, Rules, and Agency Policy are applicable to the procedures for conduct of the hearing this matter:

A. General Statutes and Rules:

1. Section 164.007(a) of the Act requires that the Board adopt procedures governing formal disposition of a contested case before the State Office of Administrative Hearings.

2. 22 TEX. ADMIN. CODE, CH.187 sets forth the procedures adopted by the Board under the requirement of Section 164.007(a) of the Act.

3. 22 TEX. ADMIN. CODE, CH. 190 sets forth aggravating factors that warrant more severe or restrictive action by the Board.

4. 1 TEX. ADMIN. CODE, CH. 155 sets forth the rules of procedure adopted by SOAH for contested case proceeding.

5. 1 TEX. ADMIN. CODE, §155.507, requires the issuance of a Proposal for Decision ("PFD") containing Findings of Fact and Conclusions of Law.

6. Section 164.007(a) of the Act, Board Rule 187 et. seq. and Board Rule 190 et. seq., provide the Board with the sole and exclusive authority to determine the charges on the merits, to impose sanctions for violation of the Act or a Board rule, and to issue a Final Order.

B. Specific Violations Cited:

Respondent has violated one or more of the following provisions of the Act:

1. Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based upon unprofessional or dishonorable conduct that is likely to deceive or defraud the public, as provided by Section 164.053, or injure the public, and further defined by Board Rule 190.8(2)(G) becoming financially or personally involved with a patient in an inappropriate manner.

2. Section 164.051(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's commission of an act prohibited under Section 164.052 of the Act.

3. 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, specifically, Board Rules 165.1(a), which requires the maintenance of adequate medical records; and 200 failure to adhere to those established standards for physicians practicing complementary and alternative medicine.

4. Section 164.051(a)(6) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's failure to practice medicine in an acceptable professional manner consistent with public health and welfare, as further defined by Board Rules: 190.8(1)(A), failure to treat a patient according to the generally accepted standard of care; 190.8(1)(B), negligence in performing medical services; 190.8(1)(C), failure to use proper diligence in one's professional practice; 190.8(1)(D), failure to safeguard against potential complications; 190.8(1)(I), failure to obtain informed consent from the patient or other person authorized by law to consent to treatment on the patient's behalf before performing tests, treatments, or procedures; and 190.8(1)(M), inappropriate prescription of dangerous drugs or controlled substances to oneself, family members, or others in which there is a close personal relationship.

5. Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's unprofessional or dishonorable conduct that is likely to deceive or defraud the public, provided by Section 164.053, or injure the public.

6. Section 164.053(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's commission of an act that violates any state or

federal law if the act is connected with the physician's practice of medicine; specifically, violation of HIPAA Title II 45 C.F.R. Parts 160-164.

7. Section 164.053(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's prescribing and/or administering a drug or treatment that is non-therapeutic.

8. Section 164.053(a)(6) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's prescribing, administering, or dispensing in a manner inconsistent with public health and welfare dangerous drugs as defined by Chapter 483, Health and Safety Code; or controlled substances scheduled in Chapter 481, Health and Safety Code, or the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. Section 801 et seq.)

IV. FACTUAL ALLEGATIONS

Based on information and belief, Board Staff alleges:

A. Violation of the Standard of Care

1. Patient 1 – Patient 1 is a high-risk oncology patient who underwent resection of a large liver tumor by a physician who recommended follow up with chemotherapy. Patient 1 elected not to undergo chemotherapy, instead seeking integrative medical care with Respondent. In his treatment of Patient 1, Respondent failed to treat Patient 1 in a manner that met the standard of care in that he failed to appropriately manage Patient's post-surgical care by:

- a. failing to monitor vital signs;
- b. failing to address abnormalities in vital signs or lab work;
- c. failing to provide treatment necessary when abnormalities occurred; and
- d. administering nontherapeutic treatments.

Respondent's actions and omissions set out above as they pertain to Patient 1 are in violation of the Act and Board Rules as follows:

Section 164.051(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent based upon Respondent's violation of an act prohibited under §164.052;

Section 164.051(a)(3) of the Act authorizes the Board to take disciplinary action against Respondent based upon Respondent's violation of the following Board Rules:

- 165.1(a), failure to maintain an adequate medical record; and
- 200, failure to adhere to those established standards for physicians practicing complementary and alternative medicine.

Section 164.051(a)(6) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's failure to practice medicine in an acceptable professional manner consistent with public health and welfare, as further defined by Board Rules:

- 190.8(1)(A), failure to treat a patient according to the generally accepted standard of care;
- 190.8(1)(C), failure to use proper diligence in one's professional practice;
- 190.8(1)(D), failure to safeguard against potential complications; and
- 190.8(1)(G), failure to disclose reasonably foreseeable side effects of a procedure or treatment.

Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's unprofessional or dishonorable conduct that is likely to deceive or defraud the public, provided by Section 164.053, or injure the public.

Section 164.053(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's prescribing and/or administering a drug or treatment that is non-therapeutic.

Section 164.053(a)(6) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's prescribing, administering, or dispensing in a manner inconsistent with public health and welfare dangerous drugs as defined by Chapter 483, Health and Safety Code; or controlled substances scheduled in Chapter 481, Health and Safety Code, or the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. Section 801 et seq.)

2. Patient 2 – Patient 2 is a California resident for whom Respondent treated for multiple conditions over the course of several months. Respondent treated Patient 2 with alternative/complimentary medicine. Respondent did not obtain adequate informed consent for treatment, including treatment with alternative/complimentary medicine, from Patient 2. Patient 2 had a series of complicated medical problems and complaints, including but not limited to thyroid disease, fatigue, menopause, adrenal insufficiency and Lyme disease and cytomegalovirus infection. Respondent violated the standard of care in his treatment of Patient 2 as follows:

- a. Respondent provided treatment to Patient 2 on a long distance basis for approximately six (6) months without having performed a complete physical examination;
- b. Despite a complicated medical history, diagnoses and multiple comorbidities, Respondent failed to provide face-to-face continuity of care;
- c. Respondent never attempted to perform an exam despite serious diagnostic issues and comorbidities;
- d. Respondent failed to verify or corroborate Patient 2's stated medical history;
- e. Respondent improperly diagnosed and provided treatment for a combination of serious illnesses;
- f. Respondent diagnosed a series of serious medical conditions and recommended medical treatment based upon extensive and expensive series testing that were unreliable, involved invalid lab criteria, and/or that Respondent misinterpreted and/or inaccurately interpreted. Such missteps include, but are not limited to:
 - i. misinterpreting the results of the viral screening tests;
 - ii. over-interpreting results of sex hormone tests;
 - iii. misdiagnosing hypothyroidism;
 - iv. recommending severely high doses of hormone replacement therapy; and
 - v. attempting to manage menopause with hormone therapy without examining the patient;
- g. Respondent recommended nontherapeutic treatment;
- h. Respondent recommended and provided Patient 2 with Oxytocin, a highly dangerous hormone that requires concurrent physician monitoring; and

- i. Respondent mailed Patient 2 several boxes of expired Oxytocin for her personal use at his recommendation.

Respondent's actions and omissions set out above as they pertain to Patient 2 are in violation of the Act and Board Rules as follows:

Section 164.051(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent based upon Respondent's violation of an act prohibited under §164.052;

Section 164.051(a)(3) of the Act authorizes the Board to take disciplinary action against Respondent based upon Respondent's violation of the following Board Rules:

- 165.1(a), failure to maintain an adequate medical record; and
- 200, failure to adhere to those established standards for physicians practicing complementary and alternative medicine.

Section 164.051(a)(6) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's failure to practice medicine in an acceptable professional manner consistent with public health and welfare, as further defined by Board Rules:

- 190.8(1)(A), failure to treat a patient according to the generally accepted standard of care;
- 190.8(1)(C), failure to use proper diligence in one's professional practice; and
- 190.8(1)(D), failure to safeguard against potential complications;
- 190.8(1)(G), failure to disclose reasonably foreseeable side effects of a procedure or treatment; and
- 190.8(1)(I), failure to obtain informed consent from the patient or other person authorized by law to consent to treatment on the patient's behalf before performing tests, treatments, or procedures.

Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's unprofessional or dishonorable conduct that is likely to deceive or defraud the public, provided by Section 164.053, or injure the public.

Section 164.053(a)(6) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's

prescribing, administering, or dispensing in a manner inconsistent with public health and welfare dangerous drugs as defined by Chapter 483, Health and Safety Code; or controlled substances scheduled in Chapter 481, Health and Safety Code, or the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. Section 801 et seq.)

3. Patient 3 – Patient 3 is a 51 year old female patient with an inoperable brain tumor. Respondent offered alternative medicine treatment primarily consisting of intravenous infusion of multiple pharmacologic agents. Respondent violated the standard of care in his treatment of Patient 3 as follows:
 - a. Respondent failed to monitor Patient 3's treatment;
 - b. Respondent failed to properly assess the patient when she began experiencing side effects to his treatment, including but not limited to nausea, weakness, instability, headache, nausea and vomiting; and
 - c. Respondent failed to address recurring abnormalities that occurred during or following treatment.

Respondent's actions and omissions set out above as they pertain to Patient 3 are in violation of the Act and Board Rules as follows:

Section 164.051(a)(6) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's failure to practice medicine in an acceptable professional manner consistent with public health and welfare, as further defined by Board Rules:

- 190.8(1)(A), failure to treat a patient according to the generally accepted standard of care;
- 190.8(1)(B), negligence in performing medical services;
- 190.8(1)(C), failure to use proper diligence in one's professional practice;
- 190.8(1)(D), failure to safeguard against potential complications;
- 190.8(1)(G), failure to disclose reasonably foreseeable side effects of a procedure or treatment;
- 190.8(1)(H), failure to disclose reasonable alternative treatments to a proposed procedure or treatment; and
- 190.8(1)(I), failure to obtain informed consent from the patient or other person authorized by law to consent to

treatment on the patient's behalf before performing tests, treatments, or procedures.

Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's unprofessional or dishonorable conduct that is likely to deceive or defraud the public, provided by Section 164.053, or injure the public.

Section 164.053(a)(6) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's prescribing, administering, or dispensing in a manner inconsistent with public health and welfare dangerous drugs as defined by Chapter 483, Health and Safety Code; or controlled substances scheduled in Chapter 481, Health and Safety Code, or the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. Section 801 et seq.)

B. Inadequate Medical Records

1. Patient 1 – Respondent failed to maintain adequate medical records for Patient 1 because the documentation lacks the following:
 - i. Informed consent for treatment and informed consent for complimentary/alternative treatment;
 - ii. patient vital signs;
 - iii. documentation of patient history;
 - iv. documentation of physical examination or findings;
 - v. diagnostic assessment;
 - vi. discussion regarding risks and benefits of treatment;
 - vii. intravenous administration records, including but not limited to time of onset/conclusion of treatment, volume of IV given, type of needle kit used, patient clinical status before and after infusion, and/or notation of any adverse effects.

Additionally, the medical records contain the following errors and/or omissions:

- viii. undated and unsigned laboratory findings;
- ix. no notation or follow-through with abnormal laboratory findings;
- x. undated and unsigned patient education documents; and

- xi. the patient education documents are in English, while Patient 1 is a Spanish speaker who does not read English.
2. Patient 2 – Respondent failed to maintain adequate medical records for Patient 2 because the documentation did not include:
 - i. verified or corroborated patient medical history;
 - ii. information regarding patient physical examination or findings;
 - iii. signed patient consent, including consent for complimentary/alternative treatments;
 - iv. periodic reassessment of progress or complications; and
 - v. discussion regarding risks and benefits of recommended treatment.
3. Patient 3 – Respondent failed to maintain adequate medical records for Patient 3 because the documentation did not include:
 - i. Informed consents?
 - ii. information regarding patient physical examination or findings;
 - iii. physician diagnosis of Stage 4 brain cancer, which is only mentioned in the patient's intake form;
 - iv. verified or corroborated patient medical history;
 - v. diagnostic assessment;
 - vi. periodic reassessment of progress; and
 - vii. discussion regarding risks and benefits of treatment.

Respondent's aforementioned actions and omissions with regard to Patients 1, 2 and 3, are in violation of the Act and Board Rules as follows:

164.051(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's commission of an act prohibited under §164.052; and

Section 164.051(a)(3) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's violation of Board Rule 165.1(a) - Failure to maintain an adequate medical record.

C. Unprofessional Conduct – Breach of Confidentiality: Patients 1 and 2

1. Patient 1 – Respondent breached physician-patient confidentiality for Patient 1 by disclosing privileged health information to unauthorized third parties without the consent of Patient 1, including but not limited to:
 - i. Patient 1's diagnosis, course of treatment and prognosis;
 - ii. Respondent's personal, disparaging opinions of Patient 1, related to his medical care; and
 - iii. Respondent told persons in his and Patient 1's social circle that Patient 1 intended to file a lawsuit involving medical treatment Respondent provided to Patient 1.

2. Patient 2 – Respondent engaged in unprofessional conduct in the manner in which he handled Patient 2's confidential medical information as follows:
 - i. Respondent breached patient-physician confidentiality by disclosing personal information regarding his treatment with unauthorized third persons in he and Patient 2's social circle; and
 - ii. Respondent's records and patient communications were kept on internet emails, which are unsecured and at risk for confidentiality compromise.

Respondent's aforementioned actions and omissions set out above with regard to Patient 1 and Patient 2 constitute violations of the Act and Board Rules as follows:

Section 159.002(a) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's disclosure of confidential and privileged physician-patient communication relative to or in connection with any professional services as a physician to the patient;

Section 164.051(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's failure commission of an act prohibited under §164.052;

Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's engaging in unprofessional or dishonorable conduct that is

likely to deceive or defraud the public, as provided by §164.053, or injure the public, and further defined by Board Rule: 190.8(2)(N), failure to maintain the confidentiality of a patient; and

Section 164.053(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's commission of an act that violates any state or federal law if the act is connected with the physician's practice of medicine; specifically, violation of HIPAA Title II 45 C.F.R. Parts 160-164.

D. Violations of Physician-Patient Boundaries

a. Patients 1 and 2 –

- i. Respondent engaged in unprofessional conduct with regard to Patients 1 and 2, both of whom he treated for extensive lengths of time despite having close personal and intertwining social relationships;
- ii. Respondent's inappropriate lack of boundaries was extensive, even going so far as treating Patient 1 out of Respondent's home while Patient 1 resided there for several months; and
- iii. Respondent's inappropriate lack of boundaries with Patients 1 and 2 directly contributed to Respondent's breach of confidentiality for both patients in that Respondent circulated the private medical information of each to their combined social circle.

Respondent's aforementioned actions and omissions set out above with regard to Patients 1 and 2 constitute violations of the Act and Board Rules as follows:

Section 164.051(a)(6) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's 190.8(1)(M), inappropriate prescription of dangerous drugs or controlled substances to oneself, family members, or others in which there is a close personal relationship.

Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based upon unprofessional or dishonorable conduct that is likely to deceive or defraud the public, as provided by Section 164.053, or injure the public, and

further defined by Board Rule 190.8(2)(G) becoming financially or personally involved with a patient in an inappropriate manner.

V. AGGRAVATING AND MITIGATING FACTORS

Board Rule 190.14 provides that the Board may impose more restrictive sanctions when there are multiple violations of the act. This case includes the following aggravating factors:

- 1) One or more violations that involve more than one patient;
- 2) Increased potential for harm to the public;
- 3) Intentional, premeditated, knowing, or grossly negligent act constituting a violation;
and
- 4) Other relevant circumstances increasing the seriousness of the misconduct.

Board staff is aware of no mitigating factors that apply and demand that Respondent submit proof to substantiate any alleged mitigating factors.

VI. NOTICE TO RESPONDENT

IF YOU DO NOT FILE A WRITTEN ANSWER TO THIS COMPLAINT WITH THE STATE OFFICE OF ADMINISTRATIVE HEARINGS WITHIN 20 DAYS AFTER THE DATE OF RECEIPT, A DEFAULT ORDER MAY BE ENTERED AGAINST YOU, WHICH MAY INCLUDE THE DENIAL OF LICENSURE OR ANY OR ALL OF THE REQUESTED SANCTIONS, INCLUDING THE REVOCATION OF YOUR LICENSE. A COPY OF ANY ANSWER YOU FILE WITH THE STATE OFFICE OF ADMINISTRATIVE HEARINGS SHALL ALSO BE PROVIDED TO THE HEARINGS COORDINATOR OF THE TEXAS MEDICAL BOARD.

VII. PRAYER

Board Staff requests that an administrative law judge employed by the State Office of Administrative Hearings conduct a contested case hearing on the merits of the Complaint, and issue a Proposal for Decision containing Findings of Fact and Conclusions of Law necessary to support a determination that Respondent violated the Act as set forth in this Complaint.

Respectfully submitted,

TEXAS MEDICAL BOARD

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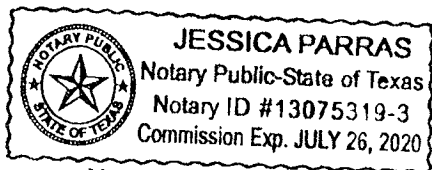
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THE STATE OF TEXAS

COUNTY OF TRAVIS

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§


SUBSCRIBED AND SWORN to before me by the said Heather Detrixhe Barham, J.D.,
on August 21, 2017.



Notary without Bond

Jessica Parras
Notary Public, State of Texas

Filed with the Texas Medical Board on Aug 21st, 2017.



Scott Freshour, J.D.
Interim Executive Director
Texas Medical Board

CERTIFICATE OF SERVICE

I certify that on the 22nd day of August, 2017, a true and correct copy of the foregoing document has been served as follows:

By Email to docketing@soah.texas.gov:

Docket Clerk
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