

LICENSE NO. F-6384

IN THE MATTER OF

BEFORE THE

THE LICENSE OF

GEORGE WILLIAM ALLIBONE, M.D.

TEXAS MEDICAL BOARD

AGREED ORDER ON FORMAL FILING

On the 13th day of April, 2018, came on to be heard before the Texas Medical Board (the Board), duly in session, the matter of the license of George William Allibone, M.D. (Respondent). On April 18, 2016, Respondent appeared in person, with counsel, Jacques G. Simon, 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 Cokinos, a member of the Board, and Todd Pollock, M.D., a member of a District Review Committee.

The matter was not resolved following the ISC and a case was filed at the State Office of Administrative Hearings (SOAH) as Docket No. 503-17-5759. Respondent continued to be represented by Jacques G. Simon. Board Staff was represented by Heather Detrixhe Barham.

This Order addresses investigation numbers 16-6214, 16-3974, 16-3975, 16-3818, 16-1749, 15-7151 and 15-6697, as well as SOAH Docket No. 503-17-5759. It does not resolve any other investigation now pending before the Board.

BOARD CHARGES

Patient 1: Board Staff initially alleged that Respondent violated the standard of care with regard to treatment of a high-risk oncology patient. It is also alleged that Respondent failed to maintain adequate medical records, specifically in that they lacked documentation of vital signs, medical history or physical examination, as well as intravenous administration records.

Staff further alleged Respondent provided confidential and privileged physician-patient information pertaining to the patient's diagnosis, course of treatment and prognosis to an unauthorized party.

Patient 2: With regard to another patient, it was alleged that Respondent improperly administered IV therapy to a seriously ill patient without supervision for an extended length of time and without adequate documentation of a history, physical exam, or periodic reassessment of progress.

BOARD HISTORY

Respondent has not previously received a disciplinary order from the Board.

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. F-6384. Respondent was issued this license to on August 24, 1980. Respondent is not licensed to practice in any other state.
 - c. Respondent is primarily engaged in the practice of diagnostic radiology. Respondent is board certified by the American Board of Radiology/Internal Medicine, a member of the American Board of Medical Specialties.
 - d. Respondent is 71 years of age.
2. Specific Panel Findings:
 - a. Patient 1:
 - i. Respondent failed to appropriately document, pursuant to 22 T.A.C. 200 *et al*, the treatment of an oncology patient in that he failed to document the

- patient's vital signs or the physical examinations or findings, and failed to maintain intravenous administration records of alternative treatment.
- ii. Respondent failed to maintain the patient's confidentiality by disclosing protected health information to another individual without the patient's consent or for an authorized reason allowed under applicable laws.
- b. Patient 2: Respondent administered IV therapy to a seriously ill patient without adequate adequate documentation of a history, physical exam, or periodic reassessment of progress, as required by 22 T.A.C. 200 *et al.*

3. **Aggravating/Mitigating Factors:**

- a. In determining the appropriate sanctions in this matter, the Panel considered the following mitigating factors:
 - i. Respondent has no prior board history.
 - ii. Respondent did meet the standard of care in obtaining appropriate diagnostics at beginning of his treatment, accurately diagnosing liver cancer and referring the patient to a surgical oncologist for further treatment with a specialist.
 - iii. Respondent implemented acceptable alternative treatment methods at the patient's request, because the patient declined to undergo chemotherapy treatment.
 - iv. Respondent again timely ordered further imaging about six months after initiating treatment and accurately diagnosed the patient with advancing cancer, and again appropriately referred the patient to an oncologist for further evaluation and treatment.
 - v. Respondent again timely ordered further imaging about six months after initiating treatment, and accurately diagnosed the patient with advancing cancer, referring the patient again to an oncologist for further evaluation and treatment.
 - vi. Respondent has cooperated in the investigation of the allegations related to this Agreed Order. Respondent neither admits nor denies the information given above. 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 159.002(a) of the Act authorizes the Board to take disciplinary action against Respondent for disclosure of confidential and privileged physician-patient communication relative to or in connection with any professional services as a physician to the patient.
3. Section 164.051(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent for commission of an act prohibited under Section 164.052 of the Act.
4. Section 164.051(a)(3) of the Act authorizes the Board to take disciplinary action against Respondent for violation of 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.
5. Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent for 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.
6. 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.
7. Section 164.002(a) of the Act authorizes the Board to resolve and make a disposition of this matter through an Agreed Order.
8. 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. Respondent shall follow Rule 200 in providing alternative and/or complimentary medicine. To demonstrate compliance with this requirement, within sixty days of the entry of the Order, Respondent shall provide a list of written protocols to the compliance division of the Board, demonstrating that he is in compliance with the rules regarding complimentary and alternative medicine in Texas.

2. Respondent shall revise the disclosure and consent forms that are documented in the patient records to include information to the patient that includes the following:

- a. The objectives, expected outcomes, or goals of the proposed treatment, such as functional improvement, pain relief, or expected psychosocial benefit;
- b. The risks and benefits of the proposed treatment;
- c. The extent the proposed treatment could interfere with any ongoing or recommended medical care; and
- d. A description of the underlying therapeutic basis or mechanism of action of the proposed treatment, written in a manner understandable to the patient, and that includes a statement whether or not the treatment is approved by the United States Food and Drug Administration.

3. Within eighteen (18) months following the date of the entry of this Order, Respondent shall take and pass with a score of 75 or above the Special Purpose Examination (SPEX) as promulgated by the Federation of State Medical Boards of the United States. Respondent is allowed three attempts to successfully pass this examination.

Respondent's failure to take and pass the SPEX within three attempts within eighteen (18) months 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 SPEX 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.

4. Within one year from the date of the entry of this Order, Respondent shall enroll in and successfully complete at least 8 hours of continuing medical education (CME) approved for Category I credits by the American Medical Association or the American Osteopathic Association in the topic of medical recordkeeping to be approved in writing in advance by the Executive Director or a designee. To obtain approval for the course, Respondent shall submit in writing to the Compliance Department 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 Department on or before the expiration of the time limit set forth for completion of the course. The CME requirements set forth in this paragraph shall be in addition to all other CME required for licensure maintenance.

5. Respondent shall pay an administrative penalty in the amount of \$1,000 within 60 days of the date of the entry of this Order. The administrative penalty shall be paid in a single payment by cashier's check or money order payable to the Texas Medical Board and shall be

submitted to the Board for routing so as to be remitted to the Comptroller of Texas for deposit in the general revenue fund. Respondent's failure to pay the administrative penalty as ordered shall constitute grounds for further disciplinary action by the Board, and may result in a referral by the Executive Director of the Board for collection by the Office of the Attorney General.

6. At all times while Respondent is under the terms of this Order, Respondent shall give a copy of this Order to all hospitals, nursing homes, treatment facilities, and other health care entities where Respondent has privileges, has pending an application for privileges, applies for privileges, or otherwise practices. Within 30 days of being first contacted by the Compliance Division of the Board following entry of this Order, Respondent shall provide to the Compliance Division of the Board documentation, including proof of delivery, that the Order was delivered to all such facilities.

7. Pursuant to Board rule 189.15, the time period of this Order shall be extended for any period of time that: (a) Respondent subsequently practices exclusively outside the State of Texas; (b) this Order is stayed or enjoined by Court Order; or (c) for any period of time longer than 60 consecutive days that Respondent does not actively practice medicine and such cessation in practice is NOT due to a suspension of Respondent's license. Respondent shall immediately notify the Board in writing in the event that Respondent leaves Texas to practice elsewhere or ceases active practice for more than 60 consecutive days. Upon Respondent's return to active practice or return to Texas, Respondent shall notify the Board in writing. Upon return to Texas or active practice, Respondent shall be required to comply with the terms of this Order for the period of time remaining on the Order. Respondent shall pay all fees for reinstatement or renewal of a license covering the period of extension or tolling. Tolling shall be in accordance with Board Rule 189.15.

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

9. 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.

10. 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).

11. 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.

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

13. This Order shall automatically terminate upon Respondent's completion of the terms in Ordering Paragraph Numbers 1, 2, 3, 4 and 5.


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, GEORGE WILLIAM ALLIBONE, 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: 4-5-, 2018.



GEORGE WILLIAM ALLIBONE, M.D.
Respondent

STATE OF Texas

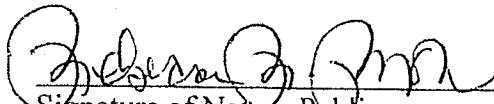
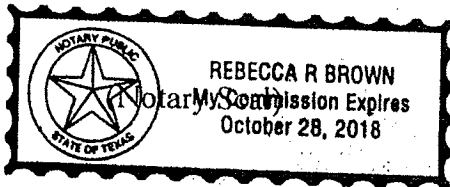
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COUNTY OF Harris

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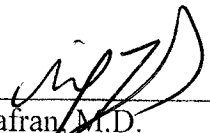
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SWORN TO AND ACKNOWLEDGED BEFORE ME, the undersigned Notary Public, on this 4th day of April, 2018.



Signature of Notary Public

13 SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this
day of April, 2018.



Sherif Zaafran, M.D.
Texas Medical Board