

HEARING CONDUCTED BY THE
TEXAS STATE OFFICE OF ADMINISTRATIVE HEARINGS
SOAH DOCKET NO. 503-17- 0951 .MD
TEXAS MEDICAL LICENSE NO. Q-4532

IN THE MATTER OF THE
COMPLAINT AGAINST
SUJAN THYAGARAJ, 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 Original Complaint against Sujan Thyagaraj, 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

The New Mexico Medical Board (NMMB) suspended Respondent's license after the filing of a criminal complaint accusing him of sexually assaulting a patient.

II. LEGAL AUTHORITY AND JURISDICTION

1. Respondent is a Texas physician and holds Texas Medical License No. Q-4532, which was originally issued by the Board on May 15, 2015. 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. 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 Tex. Occ. Code § 164.007(a).
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 Ch. 155 requires the issuance of a Proposal for Decision containing Findings of Fact and Conclusions of Law.
6. Section 164.007(a) of the Act and Board Rules 187 and 190 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. Texas Occ. Code § 53.021(b) provides for the automatic revocation of Respondent's license by operation of law upon his imprisonment for a felony conviction.
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 Tex. Occ. Code § 164.052.
3. Section 164.051(a)(9) of the Act authorizes the Board to take disciplinary action against Respondent based on disciplinary action against Respondent by another state or the uniformed services of the United States, as further defined by Board Rule 190.8(3), disciplinary action by another state board.

4. Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based upon Respondent's unprofessional or dishonorable conduct that is likely to deceive or defraud the public or injure the public, as further defined by Board Rules 190.8(2)(E), engaging in sexual contact with a patient; 190.8(2)(F), engaging in sexually inappropriate behavior or comments directed towards a patient; 190.8(2)(K), behaving in an abusive or assaultive manner towards a patient or patient's family that interferes with patient care; and, 190.8(2)(R), violation of federal and state laws whether or not there is a complaint, indictment, or conviction, specifically, NMSA 1978, § 30-9-11(F), criminal sexual penetration in the third degree consists of all criminal sexual penetration perpetrated through the use of force or coercion.

5. 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 a law of this state that is connected with Respondent's practice of medicine.

6. Section 164.057(a)(1)(A) of the Act requires the Board to suspend Respondent's license upon his initial conviction for a felony.

7. Section 164.057(b) of the Act requires the Board to revoke Respondent's license upon his final conviction for a felony.

IV. FACTUAL ALLEGATIONS

Based on information and belief, Board Staff alleges:

1. On or about February 22, 2016, Respondent met with an adult female patient at his office for a treatment session. Respondent forced the patient to perform nonconsensual oral and manual sex during the therapy session. He ejaculated in the February 2016 Edition of Good Housekeeping Magazine. Respondent's sexual assault of an adult female patient constitutes a violation of the Act and Board Rules, specifically:

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 Tex. Occ. Code § 164.052.

Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based upon Respondent's unprofessional or dishonorable conduct that is likely to deceive or defraud the public or injure the public, as further defined by Board Rules 190.8(2)(E), engaging in sexual contact with a patient; 190.8(2)(F), engaging in sexually inappropriate behavior or comments

directed towards a patient; 190.8(2)(K), behaving in an abusive or assaultive manner towards a patient or patient's family that interferes with patient care; and, 190.8(2)(R), violation of federal and state laws whether or not there is a complaint, indictment, or conviction, specifically, NMSA 1978, § 30-9-11(F), criminal sexual penetration in the third degree consists of all criminal sexual penetration perpetrated through the use of force or coercion.

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 a law of this state that is connected with Respondent's practice of medicine.

2. Within an hour of the sexual assault, the patient met with the Roswell Police Department. She gave a sworn statement and had her hand tested for Respondent's DNA.

3. The Roswell Police Department visited Respondent at his office where he denied having sexual contact with the patient. He claimed that the patient was upset because he refused to give her opioids; however, he later admitted prescribing her Oxycodone. Respondent initially consented to a search of his office, but withdrew the consent after calling his lawyer. A warrant was issued and law enforcement seized his copy of the February 2016 Edition of Good Housekeeping Magazine. An examination of the magazine revealed that several of the pages were stuck together with a fluid.

4. On February 23, 2016, law enforcement attempted to serve a warrant on Respondent for a specimen of his DNA. They were unable to locate him at his office or residence and learned that his child was also not at school.

5. On February 24, 2016, law enforcement learned from one of Respondent's co-workers that he had left the country and returned to India.

6. The Fifth Judicial District Attorney's Office filed a criminal complaint, Cause No. M-7-FR-2016-00074, against the Respondent in Chavez County Magistrate Court. Respondent's conviction for criminal sexual penetration in the third degree will constitute a violation of the Act and Board Rules, specifically:

Texas Occ. Code § 53.021(b) provides for the automatic revocation of Respondent's license by operation of law upon his imprisonment for a felony conviction.

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 a law of this state that is connected with Respondent's practice of medicine.

Section 164.057(a)(1)(A) of the Act requires the Board to suspend Respondent's license upon his initial conviction for a felony.

Section 164.057(b) of the Act requires the Board to revoke Respondent's license upon his final conviction for a felony.

7. On March 2, 2016, the NMMB contact Respondent regarding the criminal allegations. Respondent provided no response.

8. On March 25, 2016, the NMMB summarily suspended Respondent's medical license after concluding that he poses a clear and imminent danger to public health and safety. The NMMB's suspension of Respondent's medical license constitutes a violation of the Act and Board Rules, specifically:

Section 164.051(a)(9) of the Act authorizes the Board to take disciplinary action against Respondent based on disciplinary action against Respondent by another state or the uniformed services of the United States, as further defined by Board Rule 190.8(3), disciplinary action by another state board.

V. AGGRAVATING AND MITIGATING FACTORS

1. Board Rule 190.15 provides that the Board may consider aggravating and mitigating factors that warrant more or less severe disciplinary action. This case includes the following aggravating factors: harm to one or more patients; the severity of patient harm; increased potential for harm to the public; attempted concealment of the act constituting a violation; intentional, premeditated, knowing, or grossly negligent act constituting a violation; previous disciplinary action by any government agency or health care entity; and, other relevant circumstances increasing seriousness of the misconduct.

2. 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.

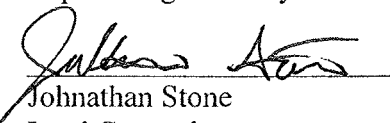
Respectfully submitted,

TEXAS MEDICAL BOARD

CHRISTOPHER PALAZOLA
Litigation Manager

SUSAN RODRIGUEZ
Supervising Attorney

By:


Johnathan Stone
Lead Counsel
Senior Staff Attorney
State Bar No. 24071779

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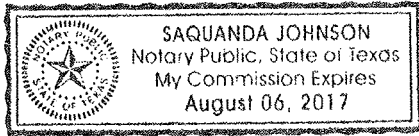
ATTORNEYS FOR THE BOARD

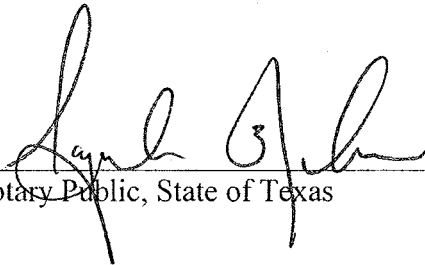
THE STATE OF TEXAS

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COUNTY OF TRAVIS

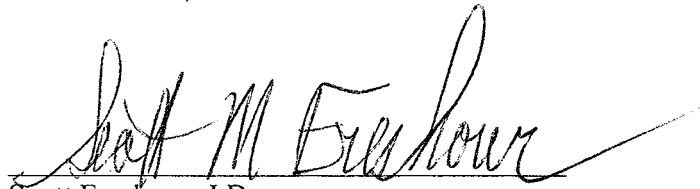
SUBSCRIBED AND SWORN to before me by the said Johnathan Stone, on October 31,
2016.





Notary Public, State of Texas

Filed with the Texas Medical Board on Oct 19th, 2016.

A handwritten signature in cursive script, reading "Scott M. Freshour". The signature is written in black ink and is positioned above a horizontal line.

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

CERTIFICATE OF SERVICE

I certify that on October 31, 2016, a true and correct copy of the foregoing document has been served as follows:

BY EMAIL TO: DOCKETING@SOAH.TEXAS.GOV:

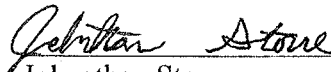
Docket Clerk
State Office of Administrative Hearings
William P. Clements Bldg.
300 W. 15th Street, Suite 504
Austin, TX 78701-1649

BY CERTIFIED RETURNED MAIL/RRR NO. 7008 2810 0000 1411 5831 AND FIRST CLASS MAIL

Sujan Thyagaraj, M.D.
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Rajsujan@yahoo.com
Respondent

BY HAND DELIVERY TO:

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Johnathan Stone
Lead Counsel
Senior Staff Attorney