

HEARING CONDUCTED BY THE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS  
SOAH DOCKET NO. 503-18-1477.MD  
TEXAS MEDICAL LICENSE NO. F-6376

IN THE MATTER OF THE

COMPLAINT AGAINST

MAUREEN LENORE ADAIR, M.D.

BEFORE THE

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 Complaint against Maureen Lenore Adair, M.D. (Respondent), for alleged violations of the Medical Practice Act (the Act), Texas Occupations Code, Title 3, Subtitle B, Chapters 151 to 165 and the rules of the Board would show the following:

**I. SUMMARY OF FACTUAL ALLEGATIONS**

At issue is Respondent's unprofessional conduct based on her failure to practice medicine in an acceptable professional manner consistent with public health and welfare and non-therapeutic prescribing dangerous drugs and/or controlled substances to the patient. In addition, Respondent failed to adhere to those established guidelines and requirements for the treatment of pain for the patient.

**II. LEGAL AUTHORITY AND JURISDICTION**

1. Respondent is a Texas Physician and holds Texas Medical License No. F-6376, that was originally issued 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.

### **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, CHAPTER 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, CHAPTER 190 sets forth aggravating factors that warrant more severe or restrictive action by the Board.
4. 1 TEX. ADMIN. CODE, CHAPTER 155 sets forth the rules of procedure adopted by SOAH for contested case proceedings.
5. 1 TEX. ADMIN. CODE, CHAPTER 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 187.37(d)(2) and Board Rule 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 the following provisions of the Act and Board Rules.

1. Section 159.006(a) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's failing to furnish copies of the requested billing or medical records, or a summary or narrative of the records, including records received from a physician or other health care provider involved in the care or treatment of the patient.



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 violation of Board Rules: 165.1(a), failure to maintain an adequate medical record, and 170.3, failure to adhere to those established guidelines and requirements for the treatment of pain.

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 Rule 190.8(1)(A), failure to treat patient according to the generally accepted standard of care, (B), negligence in performing medical services, (C), failure to use proper diligence in one's professional practice, and (D), failure to safeguard against potential complications.

5. 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.

6. Section 164.053(a)(3) of the Act authorize the Board to take disciplinary action against Respondent based on Respondent writing prescriptions for or dispensing to a person who is known to be an abuser of narcotic drugs, controlled substances, or dangerous drugs or to a person who the physician should have known was an abuser of the narcotic drugs, controlled substances, or dangerous drugs.

7. Section 164.053(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent prescribing or administering a drug or treatment that is nontherapeutic in nature or nontherapeutic in the manner the drug or treatment is administered or prescribed.

8. Section 164.053(a)(6) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent 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 controlled substances scheduled in the Comprehensive Drug Abuse Prevention and Control Act of 1970, (21 U.S.C. § 801 et seq.).

#### IV. FACTUAL ALLEGATIONS

Based on information and belief, Board Staff alleges:

**A. Respondent violated the Act by failing to meet the standard of care and non-therapeutically prescribing controlled substances to the patient.**

1. Respondent specializes in child and adolescent psychiatry.
2. Respondent first saw the patient on August 5, 2004. At that time Respondent diagnosed the patient with Post-Traumatic Stress Disorder, Panic Disorder with Agoraphobia and a history of Bipolar Disorder; Respondent prescribed Xanax .5mg three times a day, continued Zoloft 100mg and added Pamelor. Respondent failed to record a specific mental status exam at that initial visit.
3. Pharmacy records show that from May 2005, to July 2005, Respondent prescribed dangerous drugs and/or controlled substances to the patient; including, Sonata, Alprazolam, Topamax, Vicodin, and Hydrocodone.
4. Pharmacy records show that from February 2008, to August 2016, Respondent prescribed dangerous drugs and/or controlled substances to the patient; including:
  - At least 90 prescriptions for Alprazolam
  - At least 34 prescriptions for Hydrocodone
  - At least 4 prescriptions of Diazepam
  - At least 2 prescriptions for Temazapan
  - At least 2 prescriptions for Clonazepam
5. Respondent non-therapeutically prescribed dangerous drugs and controlled substances without medical justification and failed to fully evaluate and monitor the patient from February 2008, to August 2016.
6. The patient was not seen by Respondent from February 11, 2013 to March 30, 2015; however, pharmacy records show that Respondent continued to prescribe the patient Alprazolam and Hydrocodone.
7. On May 21, 2014, the patient was seen at Lone Star Circle of Care because she was pregnant. On July 3, 2014, the patient prematurely delivered twin infants. Pharmacy records show that Respondent prescribed Alprazolam 2mg #180, and Hydrocodone 325mg #150, to the patient from May 2014, through July 2014.



8. From May 9, 2016, to May 13, 2016, the patient was involved in a termination of parental rights trial. Respondent testified at the trial on behalf of the patient, stating that she told her to “ignore her OB/GYN’s recommendation to discontinue the use of Xanax and Hydrocodone during pregnancy.” In addition, during the trial, Respondent continued to prescribe Alprazolam 2mg #120, Clonazepam and Temazepam to the patient.

9. The patient was prescribed controlled substances from another physician on at least six different occasions, while Respondent prescribed controlled substances to her.

10. Respondent’s failure to meet the standard of care and non-therapeutic prescribing violates the following provisions of the Act:

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.

Section 164.051(a)(3) of the Act authorizes the Board to take disciplinary action against Respondent based on violation of Board rule 165.1(a), failure to maintain an adequate medical record.

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 Rule 190.8(1) (A), failure to treat patient according to the generally accepted standard of care, (B), negligence in performing medical services, (C), failure to use proper diligence in one’s professional practice, and (D), failure to safeguard against potential complications.

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

164.053(a)(3) of the Act authorize the Board to take disciplinary action against Respondent based on Respondent writing prescriptions for or dispensing to a person who is known to be an abuser of narcotic drugs, controlled substances, or dangerous drugs or to a person who the physician should have known was an abuser of the narcotic drugs, controlled substances, or dangerous drugs.

Section 164.053(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent prescribing or administering a drug or treatment that is nontherapeutic in nature or nontherapeutic in the manner the drug or treatment is administered or prescribed.

Section 164.053(a)(6) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent 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 controlled substances scheduled in the Comprehensive Drug Abuse Prevention and Control Act of 1970, (21 U.S.C. § 801 et seq.).

**B. Respondent violated the Act by failing to adhere to those established guidelines and requirements for the treatment of pain for the patient.**

1. Respondent specializes in child and adolescent psychiatry; she does not specialize in pain management and she did not enter into a pain management contract with the patient.

2. Respondent prescribed Hydrocodone to the patient for pain, from August 17, 2011 to August 26, 2014.

3. Texas Medical Board Rule 170 governs the practice of pain management by physicians in Texas.

4. Respondent did not adhere to those established guidelines and requirements for the treatment of pain by failing to: 1) evaluate the patient; 2) have a treatment plan; 3) have informed consent; 4) have an agreement for treatment; 5) conduct periodic reviews; 6) have a consultation and referral; and 7) have adequate medical records.



5. Respondent failure to adhere to those established guidelines and requirements for the treatment of pain for the patient violates the following provisions of the Act:

Section 164.051(a)(3) of the Act authorizes the Board to take disciplinary action against Respondent based on violation of Board Rules: 165.1(a), failure to maintain an adequate medical record, and 170.3, failure to adhere to those established guidelines and requirements for the treatment of pain.

**C. Respondent violated the Act by failing to adequately document medical records**

1. Respondent's records for the patient were inadequate based on a failure to exam, evaluate and monitor the patient during treatment.

2. Respondent's failure to adequately document medical records violates the following provisions of the Act:

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

**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.

Board Rule 190.15 provides that the Board may consider aggravating factors that warrant more severe or restrictive 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 act constituting a violation; prior similar violations; previous disciplinary action by the board, any government agency, peer review organization, or health care entity; and other relevant circumstances increasing the severity of the misconduct.

Board staff is not aware of any mitigating factors that apply and demands 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 and Board Rules as set forth in this Complaint.

Respectfully submitted,  
TEXAS MEDICAL BOARD

CHRISTOPHER PALAZOLA  
Litigation Manager

SUSAN RODRIGUEZ  
Supervising Attorney

By:



Jerry Bergman, Staff Attorney  
State Bar No. 24081694  
Telephone: (512) 305-7072  
Fax: (512) 305-7007  
333 Guadalupe, Tower 3, Suite 610  
Austin, Texas 78701

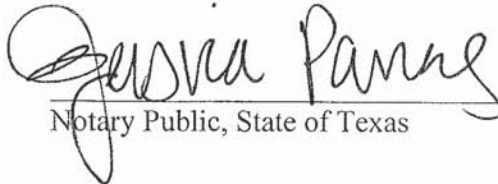


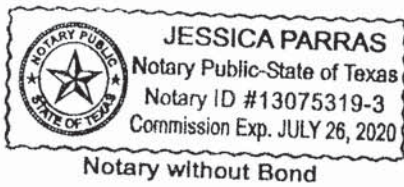
THE STATE OF TEXAS

§  
§  
§

COUNTY OF TRAVIS

14, 2017. SUBSCRIBED AND SWORN to before me by the said Jerry Bergman on December

  
\_\_\_\_\_  
Notary Public, State of Texas



Filed with the Texas Medical Board on December 12<sup>th</sup>, 2017.

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 December 14, 2017, a true and correct copy of the foregoing Complaint 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  
[Docketing@soah.texas.gov](mailto:Docketing@soah.texas.gov)

**By fax to 866-250-4443:**

Elizabeth L. Higginbotham, R.N., J.D.  
Higginbotham & Associates LLC  
One Castle Hills  
1100 NW Loop 410 Suite 700  
San Antonio Texas 78213

**By certified returned mail/rrr No. 7014 2870 0000 3055 8721 and first class mail:**

Maureen Lenore Adair, M.D.  
P.O. Box 5748  
Austin, TX 78763

**By Hand Delivery to:**

Robin Etheridge  
Hearings Coordinator  
Texas Medical Board  
333 Guadalupe, Tower 3, Suite 610  
Austin, TX 78701



Jerry Bergman, Staff Attorney