

HEARING CONDUCTED BY THE
TEXAS STATE OFFICE OF ADMINISTRATIVE HEARINGS
SOAH DOCKET NO. 503-19- 2484 .MD
TEXAS MEDICAL LICENSE NO. M-7104

IN THE MATTER OF THE

BEFORE THE

COMPLAINT AGAINST

ARTHUR ARRIT CHAVASON, M.D.

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 (Board) files this Original Complaint against Arthur Arrit Chavason, M.D. (Respondent), for alleged violations of the Medical Practice Act (the Act), Title 3, Subtitle B, Texas Occupations Code and the Board's Rules, and would show the following:

I. SUMMARY OF FACTUAL ALLEGATIONS

Respondent failed to maintain professional boundaries with patients and employees and was disciplined by his peers for misconduct.

II. LEGAL AUTHORITY AND JURISDICTION

1. Respondent is a Texas physician and holds Texas Medical License No. M-7104, which was originally issued by the Board on August 24, 2007. 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 in 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, Ch. 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 164.051(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.

2. 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 165.1, which requires the maintenance of adequate medical records.

3. 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 190.8(1)(C), failure to use proper diligence in one's professional practice.

4. Section 164.051(a)(7) of the Act authorizes the Board to take disciplinary action against Respondent based on disciplinary action taken by Respondent's peers, as further defined by Board Rule 190.8(4), related to disciplinary action by peer

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, 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; and, 190.8(2)(P), behaving in a disruptive manner toward licensees, hospital personnel, other medical personnel, patients, family members or others that interferes with patient care or could be reasonably expected to adversely impact the quality of care rendered to a patient.

IV. FACTUAL ALLEGATIONS

Based on information and belief, Board Staff alleges:

1. In or around July 2009, Respondent was hired as a psychiatrist by the Holiner Group.

2. Respondent did not provide counseling or therapy to patients; instead, his role in patient treatment was solely medication management during 15-minutes sessions.

Employee One

3. Employee One was a Nurse Practitioner employed by the Holiner Group and assigned to Respondent.

4. Respondent and Employee One initially had a friendly relationship.

5. But, by in or around December 2009, after a few months of employment, Employee One began to feel uncomfortable with Respondent's inappropriate interest in her.

6. Respondent behaved in a possessive and jealous manner towards Employee One, telling her that did not want to share her with anyone else.

7. Respondent began monitoring who visited Employee One's office and how long they stayed.

8. Respondent repeatedly confronted Employee One to demand that she spend less time with other co-workers and more time with him.

9. Respondent's behavior continued to escalate until an incident occurred with another male employee in the hallway who was on his way to visit Employee One's office to say hello.

10. Respondent told the male employee that he should take [Employee One] on a date if you want to spend time with her.

11. Respondent subsequently told Employee One that she was the perfect girl for him.

12. Respondent had another confrontation with Employee One where he accused her of carrying on a romantic relationship with another co-worker.

13. Employee One became concerned about Respondent's mental health and began distancing herself from him in the workplace.

14. In early January 2010, a female co-worker spoke with Respondent and advised him to keep his relationship with Employee One professional and that he should not visit her office unless it was work related.

15. Later that month, Respondent called Employee One, unsolicited, on a weekday evening, after work, to discuss a stable patient.

16. Respondent quickly steered the conversation to his relationship with Employee One.

17. Respondent asked Employee One if, and who, she was dating.

18. Then, Respondent made several pointed references to Employee One's online dating profile.

19. After the conversation, Employee One became alarmed when she realized that she'd never told Respondent, or anyone else at work, about her online dating profile.

20. On or about February 1, 2010, Respondent called Employee One at 9 p.m., purportedly to discuss a patient.

21. Instead, Respondent immediately steered the conversation to their relationship.

22. Respondent asked Employee One if they could be friends again, like they used to be.

23. Employee One advised Respondent that she wanted to keep their relationship strictly professional.

24. Respondent sarcastically asked her if her therapist told her that.
25. On or about February 4, 2010, a sexual harassment complaint was made against Respondent regarding his conduct toward Employee One.
26. On or about February 5, 2010, Joel Holiner, M.D., owner of the Holiner Group, concluded an investigation into the allegations and determined that the sexual harassment was just a learning experience for everyone involved.
27. Respondent's sexual harassment of a subordinate co-worker six months after being hired at Holiner Group was the beginning of a pattern of practice sexually harassing co-workers.
28. Respondent sexual harassment of Employee One violates the Act and Board Rules, specifically:

Board Rule 190.14(1) 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, including (5) increased potential for harm to the public; (7) intentional, premeditated, knowing, or grossly negligent act constituting a violation; (8) prior similar violations; and, (11) other relevant circumstances increasing the seriousness of the misconduct.

Patient One

29. Patient One was a female patient who received treatment from Respondent.
30. On September 14, 2010, Respondent treated Patient One at his outpatient office at the Holiner Group.
31. The medication management session was supposed to last 15 minutes; however, Respondent spent 31 minutes with Patient One.
32. Patient One reported that she was feeling isolated, lonely, and wanted to be with someone so bad she had a one-night stand.
33. Patient One advised Respondent that she had a peculiarly heightened sexual state, which she believed was caused by the Risperdal prescription.
34. Respondent began flirting with Patient One during the visit, asking about her sexual preferences.

35. Respondent made comments during the session that if Patient One wasn't his patient, he would have sex with her right there on his desk.
36. At the conclusion of the session, Respondent rubbed his body against Patient One when he opened the door to let her out.
37. On September 21, 2010, Respondent had a follow up appointment with Patient One at the Holiner Group.
38. The session was supposed to last 15 minutes; however, Respondent spent 26 minutes with Patient One.
39. During the visit, Respondent gave Patient One a hug and felt her buttocks.
40. Respondent concluded the visit by increasing Patient One's Risperdal prescription, which she had reported a weekly early had the side-effect of putting her into a peculiarly heightened sexual state.
41. On September 30, 2010, Respondent saw Patient One for a follow up visit.
42. The medication management session was supposed to last 15 minutes; however, Respondent spent one hour with Patient One.
43. Patient One reported that she had lost her Klonopin two days earlier and asked for an early refill.
44. Patient One reported that in the two days since she lost her Klonopin prescription she had felt anxious, depressed, tearful, and engaged in risky sexual behavior by having sex with two men she knew without protection or birth control.
45. Respondent told Patient One he could justify spending more than 15 minutes with her by claiming that she might be pregnant.
46. During the visit, Respondent gave Patient One a hug and felt her breasts and buttocks.
47. On October 6, 2010, Respondent had a follow up visit with Patient One.
48. The session was supposed to last 15 minutes; however, Respondent spent 53 minutes Patient One.
49. Respondent's notes from the session document his lengthy discussion with Patient One about risky sexual behavior.

50. Respondent justified the length of the visit by noting in his records that they discussed at length the possible side effects on a hypothetical fetus of her continued use of Klonopin.

51. During the visit, Respondent gave Patient One a hug, felt her breasts and buttocks, and sucked on her nipples.

52. On October 27, 2010, Respondent had a follow up visit with Patient One.

53. The session was supposed to last 15 minutes; however, Respondent spent 50 minutes with Patient One.

54. Respondent conducted a physical examination of Patient One, taking her weight, height, and body mass index.

55. During the visit, Respondent gave Patient One a hug, felt her breasts and buttocks, and sucked on her nipples.

56. On November 9, 2010, Respondent had a follow up visit with Patient One.

57. The session was supposed to last 15 minutes; however, Respondent spent one hour and 14 minutes with Patient One.

58. Respondent conducted a physical examination of Patient One, taking her weight, height, and body mass index.

59. Respondent justified the length of the visit by noting that he spent extensive time educating Patient One on how to titrate a new medication he was prescribing and the side effects to watch out for.

60. In fact, Respondent brought Patient One to the closed door of his office where he blocked the door with his foot to prevent anyone from walking in on them.

61. Respondent then had Patient One perform oral sex and masturbate him in extremely brief increments to prevent anyone from walking in on them.

62. Respondent penetrated Patient One's vagina with his fingers during the visit, smelling and tasting his fingers afterward.

63. During the visit, Respondent gave Patient One a hug, felt her breasts and buttocks, and sucked on her nipples.

64. After the visit, Respondent documented calling Patient One regarding the new prescription.

65. Respondent noted that Patient One was hypo-manic and is enjoying it, and that she did not want to stop.
66. On November 16, 2010, Respondent had his final visit with Patient One.
67. The session was supposed to last 15 minutes; however, Respondent spent 46 minutes with Patient One.
68. Respondent conducted a physical examination of Patient One, taking her weight, height, and body mass index.
69. Respondent brought Patient One to the closed door of his office where he again blocked the door with his foot to prevent anyone from walking in on them.
70. Respondent then had Patient One perform oral sex and masturbate him in extremely brief increments to prevent anyone from walking in on them.
71. Respondent attempted to penetrate Patient One's vagina with his fingers during the visit, but she was on her period.
72. During the visit, Respondent gave Patient One a hug, felt her breasts and buttocks, and sucked on her nipples.
73. On November 21, 2010, Patient One called Holiner Group twice and was upset that she was unable to speak with Respondent, reportedly telling the operator that she would just overdose if she couldn't speak with him.
74. On November 22, 2010, Patient One spoke with Respondent over the phone to report that her medications were very helpful, but she had issues with rage and severe irritability to the point she was continuing to take pills beyond what was prescribed to calm down, but not because she was suicidal.
75. Respondent advised that he would be changing her prescriptions to one week at a time to prevent accidental overdose.
76. On December 9, 2010, Patient One called Dr. Holiner, to advise that she was reporting Respondent to the Board.
77. Patient One reported that Respondent put his lips on her breasts, held her breasts, put his fingers in her vagina, and that she put her mouth on his penis.
78. When Dr. Holiner asked if they had intercourse, she said that they had not.
79. The next day, December 10, 2010, Respondent sent Patient One a letter withdrawing treatment because of the financial burden, Patient One's non-compliance, and her

seeking treatment from other physicians outside of Holiner Group leading to the breakdown in their doctor-patient relationship.

80. Respondent's termination letter fails to mention the sexual allegations made by Patient One.

81. Respondent's conduct a year after being hired at Holiner Group was part of a pattern of inappropriate sexual behavior toward patients.

82. Respondent inappropriate treatment and conduct toward Patient One violates the Act and Board Rules, specifically:

Board Rule 190.14(1) 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, including (5) increased potential for harm to the public; (7) intentional, premeditated, knowing, or grossly negligent act constituting a violation; (8) prior similar violations; and, (11) other relevant circumstances increasing the seriousness of the misconduct.

Employee Nurses

83. In 2012, Green Oaks Hospital received sexual harassment complaints that Respondent would, unsolicited, put his hands on young, attractive, female nurses.

84. Respondent's unwanted touching of the female nurses included rubbing and massaging their shoulders.

85. Respondent's inappropriate conduct toward Green Oaks Hospital nurses violates 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 Section 164.052 of the Act.

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 190.8(1)(C), failure to use proper diligence in one's professional practice.

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 Rule 190.8(2)(P), behaving in a disruptive manner toward licensees, hospital personnel, other medical personnel, patients, family members or others that interferes with patient care or could be reasonably expected to adversely impact the quality of care rendered to a patient.

Board Rule 190.14(1) 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, including (5) increased potential for harm to the public; (7) intentional, premeditated, knowing, or grossly negligent act constituting a violation; (8) prior similar violations; and, (11) other relevant circumstances increasing the seriousness of the misconduct.

86. On July 15, 2014, the Holiner Group admonished Respondent for failing to document all communications with patients.

Patient Two

87. Patient Two was a female patient who received treatment from Respondent.

88. On or about May 14, 2014, Respondent had a session with Patient Two where she pointed out that his wall clock had the wrong time.

89. Respondent told her that it was heavy and needed a new battery.

90. Patient Two offered to assist him in removing the clock to install a new battery.

91. She stood up and walked over to the clock.

92. As she began removing the clock, Respondent approached her from behind.

93. Respondent began grinding the front of his body against Patient Two's backside as she faced the wall.

94. Patient Two was unable to get the clock off the wall.

95. Patient Two asked to see a different physician after the encounter because she felt uncomfortable.

96. Patient Two reported the encounter to Rinda Jordan, FPMHNP, APRN, Psychiatric Nurse Practitioner, an employee at the Holiner Group.

97. Nurse Jordan told Respondent about the allegation, but did not report it to administration because Patient was "middle-aged [and] frumpy, and probably just misread the situation."

98. Respondent inappropriate treatment and conduct toward Patient Two violates 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 Section 164.052 of the Act.

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; and, 190.8(2)(P), behaving in a disruptive manner toward licensees, hospital personnel, other medical personnel, patients, family members or others that interferes with patient care or could be reasonably expected to adversely impact the quality of care rendered to a patient.

Board Rule 190.14(1) 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, including (1) harm to one or more patients; (2), severity of patient harm; (3) one or more violations that involve more than one patient; (4) economic harm to any individual or entity and the severity of such harm; (5) increased potential for harm to the public; (7) intentional, premeditated, knowing, or grossly negligent act constituting a violation; (8) prior similar violations; and, (11) other relevant circumstances increasing the seriousness of the misconduct.

Employee Two

99. Employee Two was a female technician subordinate of Respondent's who was employed at Green Oaks Hospital.

100. In or around September 2014, Respondent began an inappropriate and unprofessional relationship with Employee Two.

101. Respondent was observed holding hands with Employee Two, hugging her, sharing a Coca-Cola from the same straw, and other intimate contact.

102. On or about October 8, 2014, Dr. Holiner was contacted about Respondent's behavior.

103. Dr. Holiner's investigation began by disciplining the female subordinate with a write-up.

104. Next, Dr. Holiner's had a friendly conversation with Respondent where he reminded him that he was married.

105. Respondent denied hugging Employee Two, but stated that if they did hug, it was probably just a friendly hug.

106. Respondent further denied holding Employee Two's hand, but state that if he did then it was probably to pull her out of the way of incoming traffic in the hospital's parking garage.

107. On or about October 16, 2014, Dr. Holiner reviewed camera footage of Respondent's prior interactions with Employee Two, whereupon he confirmed the validity of all of the allegations against Respondent.

108. Later that afternoon, Dr. Holiner learned that Respondent had pulled Employee Two away from her work station and the two had a lengthy conversation on the unit floor.

109. So, Dr. Holiner had Employee Two, the female subordinate technician, written up a second time.

110. Dr. Holiner learned during his investigation that Respondent was scheduling certain female patients for times when other staff were out of the office, such as during lunch breaks or after 5 p.m., and spending far in excess of the 15-minute scheduled increments specifically with the specific female patients.

111. Respondent's inappropriate conduct toward Employee Two violates 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 Section 164.052 of the Act.

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 190.8(1)(C), failure to use proper diligence in one's professional practice.

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.

Board Rule 190.14(1) 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, including (4) economic harm to any individual or entity and the severity of such harm; (5) increased potential for harm to the public; (6) attempted concealment of the act constituting a violation; (7) intentional, premeditated, knowing, or grossly negligent act constituting a violation; (8) prior similar violations; and, (11) other relevant circumstances increasing the seriousness of the misconduct.

Patient Three

112. Patient Three was a female patient who received treatment from Respondent.

113. On or about October 17, 2014, Dr. Holiner knocked on Respondent's office door at a time when he was not scheduled to be with patients to discuss his investigation regarding Employee Two, but discovered that Respondent's office door was locked.

114. Respondent unlocked the door and Dr. Holiner discovered Patient Three alone with Respondent inside, sobbing uncontrollably.

115. Dr. Holiner concluded that Respondent had personally rescheduled Patient Three without notifying other staff and was 18 minutes into a 15-minute visit without having taken a single note.

116. Dr. Holiner further learned that Respondent had prescribed Patient Three Zofran a few weeks earlier without documenting the reason.

117. Respondent was also surreptitiously texting with Patient Three, despite prior warnings about communicating with patients via text.

118. On or about October 22, 2014, the Holiner Group learned that Respondent had been in undocumented contact with multiple other female patients.

119. Respondent admitted that he had undocumented contact with female patients regarding "billing and scheduling" that he did not record because he did not think it was clinically relevant.

120. The Holiner Group ordered Respondent to document all patient contact, phone call, and interaction.

121. On or about October 27, 2014, Dr. Holiner had an office-wide email sent instructing all employees to leave their office doors unlocked during visits, in case of emergency.

122. On or about October 28, 2014, Respondent replied to the email, "that sounds good. Can we get a little sign or something to denote 'be careful' or open door very slowly, etc., in case we have little kids running around in our office? I seem to have a large pregnant/post-partum load so kids come to appointments and I just don't want the door to smack them in the head or anything like that is all."

123. Respondent's unprofessional conduct toward Patient Three violates 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 Section 164.052 of the Act.

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 190.8(1)(C), failure to use proper diligence in one's professional practice.

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.

Board Rule 190.14(1) 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, including (1) harm to one or more patients; (2), severity of patient harm; (3) one or more violations that involve more than one patient; (4) economic harm to any individual or entity and the severity of such harm; (5) increased potential for harm to the public; (6) attempted concealment of the act constituting a violation; (7) intentional, premeditated, knowing, or grossly negligent act constituting a violation; (8) prior similar violations; and, (11) other relevant circumstances increasing the seriousness of the misconduct.

Patient Four

124. Patient Four was a female patient who received treatment from Respondent.

125. Patient Four had, over the prior year, missed eight appointments, cancelled six appointments, and had an outstanding balance.

126. Respondent refused to discharge her from his care.

127. On or about December 8, 2014, the Holiner Group learned that Respondent had been trying to schedule out-of-office visits with Patient Four.

128. On January 8, 2015, Patient Four advised the Holiner Group that she discuss her appointments with Respondent directly on his phone; however, her medical records have no records of these conversations.

129. Ultimately, another provider at Holiner Group took over Patient Four's treatment.

130. The provider evaluated Patient Four and recommended a high level of care, such as intensive outpatient or a day hospital program.

131. Patient Four was subsequently discharged from the Holiner Group for failure to comply with the recommendation.

132. On May 13, 2015, the Holiner Group caught Respondent attempting to communicate with Patient Four after her discharge.

133. Respondent's unprofessional conduct toward Patient Four violates 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 Section 164.052 of the Act.

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 190.8(1)(C), failure to use proper diligence in one's professional practice.

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.

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Patient Five

134. Patient Five was a female patient who received treatment from Respondent.

135. On or about December 18, 2014, Patient Five advised the Holiner Group that she refused to be alone with Respondent.

136. Patient Five reported that Respondent repeatedly asked her about her tattoos and where they were located on her body in an inappropriate manner that made her uncomfortable.

137. Respondent's unprofessional conduct toward Patient Five violates 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 Section 164.052 of the Act.

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 190.8(1)(C), failure to use proper diligence in one's professional practice.

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)(F), engaging in sexually inappropriate behavior or comments directed towards a patient; and, 190.8(2)(P), behaving in a disruptive manner toward licensees, hospital personnel, other medical personnel, patients, family members or others that interferes with patient care or could be reasonably expected to adversely impact the quality of care rendered to a patient.

Board Rule 190.14(1) provides that the Board may impose more restrictive sanctions when there are multiple violations of the Act.

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Patient Six

138. Patient Six was a female patient who received treatment from Respondent.

139. On or about December 11, 2014, the Holiner Group learned that Respondent had undocumented communications with Patient Six seeking to arrange out-of-office visits with her.

140. On or about July 7, 2015, Respondent contact Patient Six about scheduling without documenting the phone call.

141. Respondent was scheduled to have a 15-minute session with her; however, he spent one hour and 20 minute with her.

142. On July 16, 2015, Respondent had a phone call with Patient Six that he did not document in her medical records.

143. On July 21, 2015, Respondent had a session with Patient Six.

144. Respondent saw the prior patient for nine minutes, cutting that patient's appointment short.

145. Respondent was scheduled to see Patient Six for 15-minutes; however, he spent 42 minutes in session with her.

146. Respondent was observed slipping Patient Six a sealed envelope that she put in her purse.

147. Respondent was observed making physical contact with Patient Six's backside as he exited his office.

148. Additionally, Respondent's hands appeared to be on Patient Six's body as she left.

149. On August 20, 2015, Respondent was caught calling Patient Six multiple times without documenting it and scheduling her for her an appointment at a time when the office was closed.

150. Respondent's unprofessional conduct toward Patient Six violates 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 Section 164.052 of the Act.

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 190.8(1)(C), failure to use proper diligence in one's professional practice.

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)(F), engaging in sexually inappropriate behavior or comments directed towards a patient; and, 190.8(2)(P), behaving in a disruptive manner toward licensees, hospital personnel, other medical personnel, patients, family members or others that interferes with patient care or could be reasonably expected to adversely impact the quality of care rendered to a patient.

Board Rule 190.14(1) provides that the Board may impose more restrictive sanctions when there are multiple violations of the Act.

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First Peer Discipline

151. On or about January 12, 2015, Dr. Holiner met with Respondent to discuss the mounting complaints.

152. The meeting took place at the Green Oaks Hospital Doctor's Lounge, where the male doctors conversed for about 15 minutes.

153. Dr. Holiner reminded Respondent of the need to document all his patient interactions, to schedule patient encounters when other staff were present in the office, and that he should not change patient schedules without notifying other staff.

154. Dr. Holiner further expressed concern about the "long appointments [Respondent] sets only for certain female patients and reminded him that he can never lock office doors during sessions (which he has done). I asked him to consider whether he was not giving extra attention to some patients to meet his own primal (sic) needs and gratification."

155. Respondent's continued violations after his conversation with Dr. Holiner in the Doctor's Lounge violates the Act and Board Rules, specifically:

Board Rule 190.15 provides that the Board may consider aggravating factors that warrant more severe or restrictive disciplinary action, including (5) increased potential for harm to the public; (7) intentional, premeditated, knowing, or grossly negligent act constituting a violation; (8) prior similar violations; and, (11) other relevant circumstances increasing the seriousness of the misconduct.

Second Peer Discipline

156. On or about March 3, 2015, Lydia Martinez, Sr., a Human Resources Consultant was finally brought in by the Holiner Group to conduct an investigation into the allegations made against Respondent by Patient Two.

157. Respondent admitted to most of the details regarding Patient Two, but claimed that he was only afraid that the clock could fall and wasn't sure if he put his hands on the patient.

158. H.R. Consultant Martinez concluded that Respondent had previously been the subject of the following complaints at the Holiner Group: (i) contacting patients by cell phone, (ii) scheduling young, attractive, female patients during hours when the office was closed (lunchtime and after 5 p.m.), (iii) allowing female patients to break practice policies by renewing their prescriptions without being seen, (iv) seeing nonpaying female patients, (v) locking his office door when seeing young, attractive, female patients, (vi) scheduling female patients for 30 minute sessions when all his sessions should have been 15-minutes, and (vii) texting and emailing with patients.

159. H.R. Consultant Martinez's Report concludes that Respondent's violations support a finding of sexual harassing behavior (which would be difficult to defend in the future), that the practice's reputation was at risk by Respondent's conduct, that Respondent's pattern of behavior showed a conscious disregard for the rules and that he posed a *high risk* of further sexual misconduct, and that Respondent's credibility had been damaged to the point where he was at-risk even to false allegations.

160. H.R. Consultant Martinez recommended that Respondent undergo an extensive workshop or training regarding patient-doctor relationships. This workshop should include the following: patient-doctor relationships, sexual harassment training, and ethical behavior for doctors in the psychiatric profession.

161. Dr. Holiner reviewed the report and finally took action against Respondent.

162. On or about March 12, 2015, the Holiner Group disciplined Respondent with a lengthy Performance Improvement Plan (PIP) that required him to, among other things, cease to extend sessions with certain female patients beyond 15-minutes, scheduling young, attractive, female patients for times when the office was closed, having relationships with patients that are inappropriate, hugging, and contacting patients without document it.

163. Respondent's PIP was disciplinary action by peers that violates 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 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 Respondent's violation of a Board Rule, specifically 165.1, which requires the maintenance of adequate medical records.

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 190.8(1)(C), failure to use proper diligence in one's professional practice.

Section 164.051(a)(7) of the Act authorizes the Board to take disciplinary action against Respondent based on disciplinary action taken by Respondent's peers, as further defined by Board Rule 190.8(4), related to disciplinary action by peer

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.

Board Rule 190.14(1) 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, including (1) harm to one or more patients; (2), severity of patient harm; (3) one or more violations that involve more than one patient; (4) economic harm to any individual or entity and the severity of such harm; (5) increased potential for harm to the public; (6) attempted concealment of the act constituting a violation; (7) intentional, premeditated, knowing, or grossly negligent act constituting a violation; (8) prior similar violations; (9) previous disciplinary action by the board, any government agency, peer review organization, or health care entity; and, (11) other relevant circumstances increasing the seriousness of the misconduct.

Sexual Harassment Training

164. On or about March 30, 2015, Respondent successfully completed a Sexual Harassment and Prevention Training and Counseling Workshop by the Sexual Harassment Prevention Institute, LLC.

165. Respondent's continued sexual misconduct after completing a Sexual Harassment and Prevention Training and Counseling Workshop violates the Act and Board Rules, specifically:

Board Rule 190.14(1) 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, including (5) increased potential for harm to the public; (6) attempted concealment of the act constituting a violation; (7) intentional, premeditated, knowing, or grossly negligent act constituting a violation; and, (11) other relevant circumstances increasing the seriousness of the misconduct.

Patient Seven

166. On July 9, 2015, Respondent was observed hugging Patient Seven even at the end of her appointment.

167. Respondent had multiple prior warnings about hugging female patients.

168. Respondent's unprofessional conduct toward Patient Seven violates 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 Section 164.052 of the Act.

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 190.8(1)(C), failure to use proper diligence in one's professional practice.

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; and, 190.8(2)(P), behaving in a disruptive manner toward licensees, hospital personnel, other medical personnel, patients, family members or others that interferes with patient care or could be reasonably expected to adversely impact the quality of care rendered to a patient.

Board Rule 190.14(1) 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, including (1) harm to one or more patients; (2), severity of patient harm; (3) one or more violations that involve more than one patient; (4) economic harm to any individual or entity and the severity of such harm; (5) increased potential for harm to the public; (6) attempted concealment of the act constituting a violation; (7) intentional, premeditated, knowing, or grossly negligent act constituting a violation; (8) prior similar violations; (9) previous disciplinary action by the board, any government agency, peer review organization, or health care entity; and, (11) other relevant circumstances increasing the seriousness of the misconduct.

Sexual Harassment Training

169. On or about August 1, 2015, the Holiner Group required Respondent to sign their new Employee Handbook Romantic Relationships Policy.

170. Respondent's continued sexual misconduct after reading and signing the new Employee Handbook Romantic Relationships Policy violates the Act and Board Rules, specifically:

Board Rule 190.15 provides that the Board may consider aggravating factors that warrant more severe or restrictive disciplinary action, including (5) increased potential for harm to the public; (6) attempted concealment of the act constituting a violation; (7) intentional, premeditated, knowing, or grossly negligent act constituting a violation; and, (11) other relevant circumstances increasing the seriousness of the misconduct.

Third Peer Discipline

171. On or about August 4, 2015, Respondent's peers at the Holiner Group had a follow up evaluation to determine his compliance with his PIP.

172. Respondent was determined to be non-compliant with the requirements because he continued to extend sessions with certain female patients beyond 15-minutes, scheduling young, attractive, female patients for times when the office was closed, having relationships with patients that are inappropriate, hugging, and contacting patients without documenting it.

173. On or about August 6, 2015, Respondent's peers at the Holiner Group disciplined him for failure to comply with the PIP by requiring him to complete three counseling sessions, obtain a letter of clearance from a healthcare professional, and participate in the Vanderbilt University or PACE Boundaries Courses.

174. Respondent's peer-imposed discipline for failing to comply with his PIP was disciplinary action by peers that violates 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 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 Respondent's violation of a Board Rule, specifically 165.1, which requires the maintenance of adequate medical records.

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 190.8(1)(C), failure to use proper diligence in one's professional practice.

Section 164.051(a)(7) of the Act authorizes the Board to take disciplinary action against Respondent based on disciplinary action taken by Respondent's peers, as further defined by Board Rule 190.8(4), related to disciplinary action by peer

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.

Board Rule 190.14(1) 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, including (1) harm to one or more patients; (2), severity of patient harm; (3) one or more violations that involve more than one patient; (4) economic harm to any individual or entity and the severity of such harm; (5) increased potential for harm to the public; (6) attempted concealment of the act constituting a violation; (7) intentional, premeditated, knowing, or grossly negligent act constituting a violation; (8) prior similar violations; (9) previous disciplinary action by the board, any government agency, peer review organization, or health care entity; and, (11) other relevant circumstances increasing the seriousness of the misconduct.

Sexual Harassment Training

175. On or about October 9, 2015, Respondent completed the Vanderbilt University Maintaining Proper Boundaries Course.

176. Respondent's continued sexual misconduct after completing the Vanderbilt University Maintaining Proper Boundaries Course violates the Act and Board Rules, specifically:

Board Rule 190.15 provides that the Board may consider aggravating factors that warrant more severe or restrictive disciplinary action, including (5) increased potential for harm to the public; (6) attempted concealment of the act constituting a violation; (7) intentional, premeditated, knowing, or grossly negligent act constituting a violation; and, (11) other relevant circumstances increasing the seriousness of the misconduct.

Patient Eight

177. Patient Eight was a female patient who received treatment from Respondent.

178. On or about June 23, 2016, Patient Eight complained that Respondent had told her during their session that a male patient at Green Oaks Hospital who exposed his genitals to her had good taste because she had a nice butt.

179. Respondent's unprofessional conduct toward Patient Eight violates 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 Section 164.052 of the Act.

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 190.8(1)(C), failure to use proper diligence in one's professional practice.

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; and, 190.8(2)(P), behaving in a disruptive manner toward licensees, hospital personnel, other medical personnel, patients, family members or others that interferes with patient care or could be reasonably expected to adversely impact the quality of care rendered to a patient.

Board Rule 190.14(1) 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, including (1) harm to one or more patients; (2), severity of patient harm; (3) one or more violations that involve more than one patient; (4) economic harm to any individual or entity and the severity of such harm; (5) increased potential for harm to the public; (6) attempted concealment of the act constituting a violation; (7) intentional, premeditated, knowing, or grossly negligent act constituting a violation; (8) prior similar violations; (9) previous disciplinary action by the board, any government agency, peer review organization, or health care entity; and, (11) other relevant circumstances increasing the seriousness of the misconduct.

Fourth Peer Discipline

180. On or about July 7, 2016, Respondent was written up for repeated failure to comply with his PIP.

181. Specifically, Respondent continued to extend sessions with certain female patients beyond 15-minutes, scheduling young, attractive, female patients for times when the office was closed, having relationships with patients that are inappropriate, hugging, and contacting patients without documenting it.

182. Respondent was warned that continued violations would result in suspension without pay and, ultimately, termination.

183. Respondent's failure to comply with the terms of his PIP violates the Act and Board Rules, specifically:

Board Rule 190.15 provides that the Board may consider aggravating factors that warrant more severe or restrictive disciplinary action, including (1) harm to one or more patients; (2), severity of patient harm; (3) one or more violations that involve more than one patient; (4) economic harm to any individual or entity and the severity of such harm; (5) increased potential for harm to the public; (6) attempted concealment of the act constituting a violation; (7) intentional, premeditated, knowing, or grossly negligent act constituting a violation; (8) prior similar violations; (9) previous disciplinary action by the board, any government agency, peer review organization, or health care entity; and, (11) other relevant circumstances increasing the seriousness of the misconduct.

Employee Three

184. Employee Three is a female subordinate at Green Oaks Hospital.

185. On or about January 19, 2017, Respondent told Employee Three that she was hot.

186. Respondent's inappropriate conduct toward Employee Three violates 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 Section 164.052 of the Act.

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 190.8(1)(C), failure to use proper diligence in one's professional practice.

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 Rule 190.8(2)(P), behaving in a disruptive manner toward licensees, hospital personnel, other medical personnel, patients, family members or others that interferes with patient care or could be reasonably expected to adversely impact the quality of care rendered to a patient.

Board Rule 190.14(1) 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, including (4) economic harm to any individual or entity and the severity of such harm; (5) increased potential for harm to the public; (6) attempted concealment of the act constituting a violation; (7) intentional, premeditated, knowing, or grossly negligent act constituting a violation; (8) prior similar violations; (9) previous disciplinary action by the board, any government agency, peer review organization, or health care entity; and, (11) other relevant circumstances increasing the seriousness of the misconduct.

Fifth Peer Discipline

187. On or about January 19, 2017, the Holiner Group suspended Respondent for three days without pay and required him to spend two weeks covering McKinney Hospital for continuing to violate his PIP and for making inappropriate comments to Employee Three.

188. Respondent's peer-imposed suspension for failing to comply with his PIP was disciplinary action by peers that violates 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 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 Respondent's violation of a Board Rule, specifically 165.1, which requires the maintenance of adequate medical records.

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 190.8(1)(C), failure to use proper diligence in one's professional practice.

Section 164.051(a)(7) of the Act authorizes the Board to take disciplinary action against Respondent based on disciplinary action taken by Respondent's peers, as further defined by Board Rule 190.8(4), related to disciplinary action by peer

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.

Board Rule 190.14(1) 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, including (1) harm to one or more patients; (2), severity of patient harm; (3) one or more violations that involve more than one patient; (4) economic harm to any individual or entity and the severity of such harm; (5) increased potential for harm to the public; (6) attempted concealment of the act constituting a violation; (7) intentional, premeditated, knowing, or grossly negligent act constituting a violation; (8) prior similar violations; (9) previous disciplinary action by the board, any government agency, peer review organization, or health care entity; and, (11) other relevant circumstances increasing the seriousness of the misconduct.

Sixth Peer Discipline

189. On or about July 7, 2017, Respondent was written up for repeated failure to comply with his PIP.

190. Respondent's peers concluded that he continued to have inappropriate relationships with staff, hanging out in female staff offices for non-work related reasons, making lewd and unprofessional comments about co-workers, including calling them hot, unsolicited touching of female staff, and failing to maintain professional behavior at all times.

191. Respondent's failure to comply with the terms of his PIP violates 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 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 Respondent's violation of a Board Rule, specifically 165.1, which requires the maintenance of adequate medical records.

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)(C), failure to use proper diligence in one's professional practice.

Section 164.051(a)(7) of the Act authorizes the Board to take disciplinary action against Respondent based on disciplinary action taken by Respondent's peers, as further defined by Board Rule 190.8(4), related to disciplinary action by peer

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.

Board Rule 190.14(1) 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, including (1) harm to one or more patients; (2), severity of patient harm; (3) one or more violations that involve more than one patient; (4) economic harm to any individual or entity and the severity of such harm; (5) increased potential for harm to the public; (6) attempted concealment of the act constituting a violation; (7) intentional, premeditated, knowing, or grossly negligent act constituting a violation; (8) prior similar violations; (9) previous disciplinary action by the board, any government agency, peer review organization, or health care entity; and, (11) other relevant circumstances increasing the seriousness of the misconduct.

Patient Nine

192. Patient Nine was a female patient who received treatment from Respondent.

193. On March 28, 2017, Respondent was observed hugging Patient Nine at the end of her appointment.

194. Respondent had multiple prior warnings about hugging female patients.

195. Respondent's unprofessional conduct toward Patient Nine violates 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 Section 164.052 of the Act.

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 190.8(1)(C), failure to use proper diligence in one's professional practice.

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; and, 190.8(2)(P), behaving in a disruptive manner toward licensees, hospital personnel, other medical personnel, patients, family members or others that interferes with patient care or could be reasonably expected to adversely impact the quality of care rendered to a patient.

Board Rule 190.14(1) 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, including (1) harm to one or more patients; (2), severity of patient harm; (3) one or more violations that involve more than one patient; (4) economic harm to any individual or entity and the severity of such harm; (5) increased potential for harm to the public; (6) attempted concealment of the act constituting a violation; (7) intentional, premeditated, knowing, or grossly negligent act constituting a violation; (8) prior similar violations; (9) previous disciplinary action by the board, any government agency, peer review organization, or health care entity; and, (11) other relevant circumstances increasing the seriousness of the misconduct.

Patient Ten

196. Patient Ten was a male patient who received treatment from Respondent.

197. On or about March 30, 2017, Respondent was observed using obscene and profane language while talking with Patient Ten.

198. Respondent's unprofessional conduct toward Patient Ten violates 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 Section 164.052 of the Act.

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 190.8(1)(C), failure to use proper diligence in one's professional practice.

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.

Board Rule 190.14(1) 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, including (3) one or more violations that involve more than one patient; (5) increased potential for harm to the public; and, (11) other relevant circumstances increasing the seriousness of the misconduct.

199. On or about January 1, 2018, Respondent submitted a 90-day letter of resignation to the Holiner Group.

Patient Eleven

200. Patient Eleven was a female patient receiving treatment from Respondent.

201. On or about January 9, 2018, Respondent called a patient a "crazy hot bitch" and that she was "smoking hot" during a session.

202. Patient Eleven reported that she felt like Respondent was grooming her for a sexual relationship.

203. Patient Eleven advised Respondent that she only had \$7 in her bank account during the session.

204. Respondent told her, "let me meet you somewhere and I can buy you what you need."

205. Respondent added that Patient Eleven's house was on his way to work and that he could meet her on his way in.

206. Patient Eleven mentioned that her leg hurt from working out and Respondent replied that, "if I could, I would massage it for you."

207. At the conclusion of their session, Respondent gave Patient Eleven a lingering frontal hug with his arms around her lower back.

208. Respondent sighed after letting go of Patient Eleven in a manner that made her uncomfortable.

209. Respondent's unprofessional conduct toward Patient Eleven violates 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 Section 164.052 of the Act.

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 190.8(1)(C), failure to use proper diligence in one's professional practice.

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; and, 190.8(2)(P), behaving in a disruptive manner toward licensees, hospital personnel, other medical personnel, patients, family members or others that interferes with patient care or could be reasonably expected to adversely impact the quality of care rendered to a patient.

Board Rule 190.14(1) 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, including (1) harm to one or more patients; (2), severity of patient harm; (3) one or more violations that involve more than one patient; (4) economic harm to any individual or entity and the severity of such harm; (5) increased potential for harm to the public; (6) attempted concealment of the act constituting a violation; (7) intentional, premeditated, knowing, or grossly negligent act constituting a violation; (8) prior similar violations; (9) previous disciplinary action by the board, any government agency, peer review organization, or health care entity; and, (11) other relevant circumstances increasing the seriousness of the misconduct.

Seventh Peer Discipline

210. On or about January 12, 2018, Dr. Holiner met with Respondent and terminated his employment, effective immediately, at the Holiner Group for repeated instances of unprofessional behavior.

211. Respondent's peer-imposed termination for or repeated instances of unprofessional behavior was disciplinary action by peers that violates 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 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 Respondent's violation of a Board Rule, specifically 165.1, which requires the maintenance of adequate medical records.

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 190.8(1)(C), failure to use proper diligence in one's professional practice.

Section 164.051(a)(7) of the Act authorizes the Board to take disciplinary action against Respondent based on disciplinary action taken by Respondent's peers, as further defined by Board Rule 190.8(4), related to disciplinary action by peer

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.

Board Rule 190.14(1) 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, including (1) harm to one or more patients; (2), severity of patient harm; (3) one or more violations that involve more than one patient; (4) economic harm to any individual or entity and the severity of such harm; (5) increased potential for harm to the public; (6) attempted concealment of the act constituting a violation; (7) intentional, premeditated, knowing, or grossly negligent act constituting a violation; (8) prior similar violations; (9) previous disciplinary action by the board, any government

agency, peer review organization, or health care entity; and, (11) other relevant circumstances increasing the seriousness of the misconduct.

Eight Peer Discipline

212. On or about January 16, 2018, the Green Oaks Hospital Peer Review Committee held a meeting with Respondent to consider the boundaries allegations made against him by Patient Eleven.

213. At the conclusion of the meeting, Respondent submitted a letter of resignation.

214. Respondent was advised that if he resigned while under investigation, it would be considered disciplinary action by the Board and the National Practitioner Databank.

215. Respondent still chose to submit his resignation.

216. Respondent's resignation of his admitting privileges while under investigation was disciplinary action by peers that violates 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 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 Respondent's violation of a Board Rule, specifically 165.1, which requires the maintenance of adequate medical records.

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 190.8(1)(C), failure to use proper diligence in one's professional practice.

Section 164.051(a)(7) of the Act authorizes the Board to take disciplinary action against Respondent based on disciplinary action taken by Respondent's peers, as further defined by Board Rule 190.8(4), related to disciplinary action by peer

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.

Board Rule 190.14(1) 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, including (1) harm to one or more patients; (2), severity of patient harm; (3) one or more violations that involve more than one patient; (4) economic harm to any individual or entity and the severity of such harm; (5) increased potential for harm to the public; (6) attempted concealment of the act constituting a violation; (7) intentional, premeditated, knowing, or grossly negligent act constituting a violation; (8) prior similar violations; (9) previous disciplinary action by the board, any government agency, peer review organization, or health care entity; and, (11) other relevant circumstances increasing the seriousness of the misconduct.

Patient Twelve

217. Patient Twelve was a female patient who received treatment from Respondent.

218. On or about February 19, 2018, Patient Twelve advised the Holiner Group that over the past several years, prior to his termination, when she had seen Respondent, he made inappropriate comments about her appearance, about her marriage, that her husband didn't appreciate her, and suggested that they should meet up outside of work.

219. Prior to his termination, and after Patient Twelve was assigned to another provider at the Holiner Group, Respondent saw Patient Twelve in the hallway and told her that they could get together now that she was no longer his patient.

220. Patient Twelve advised him repeatedly that she was married, but Respondent dismissed her objections.

221. Respondent's unprofessional conduct toward Patient Twelve violates 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 Section 164.052 of the Act.

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 190.8(1)(C), failure to use proper diligence in one's professional practice.

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)(F), engaging in sexually inappropriate

behavior or comments directed towards a patient; and, 190.8(2)(P), behaving in a disruptive manner toward licensees, hospital personnel, other medical personnel, patients, family members or others that interferes with patient care or could be reasonably expected to adversely impact the quality of care rendered to a patient.

Board Rule 190.14(1) 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, including (1) harm to one or more patients; (2), severity of patient harm; (3) one or more violations that involve more than one patient; (4) economic harm to any individual or entity and the severity of such harm; (5) increased potential for harm to the public; (6) attempted concealment of the act constituting a violation; (7) intentional, premeditated, knowing, or grossly negligent act constituting a violation; (8) prior similar violations; (9) previous disciplinary action by the board, any government agency, peer review organization, or health care entity; and, (11) other relevant circumstances increasing the seriousness of the misconduct.

Ninth Peer Discipline

222. On or about April 17, 2018, the Medical City Dallas Hospital revoked Respondent's privileges after concluding that he violated hospital policy by resigning his privileges at Green Oaks Hospital while under investigation and by failing to timely report the resignation, as required by the Hospital's Credentialing Policy.

223. The revocation of Respondent's privileges at Medical City Dallas Hospital for failing to comply with its policies was disciplinary action by peers that violates 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 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 Respondent's violation of a Board Rule, specifically 165.1, which requires the maintenance of adequate medical records.

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 190.8(1)(C), failure to use proper diligence in one's professional practice.

Section 164.051(a)(7) of the Act authorizes the Board to take disciplinary action against Respondent based on disciplinary action taken by Respondent's peers, as further defined by Board Rule 190.8(4), related to disciplinary action by peer

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.

Board Rule 190.14(1) 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, including (1) harm to one or more patients; (2), severity of patient harm; (3) one or more violations that involve more than one patient; (4) economic harm to any individual or entity and the severity of such harm; (5) increased potential for harm to the public; (6) attempted concealment of the act constituting a violation; (7) intentional, premeditated, knowing, or grossly negligent act constituting a violation; (8) prior similar violations; (9) previous disciplinary action by the board, any government agency, peer review organization, or health care entity; and, (11) other relevant circumstances increasing the seriousness of the misconduct.

V. MITIGATING FACTORS

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,

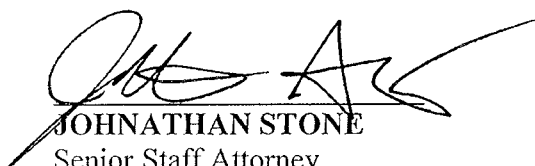
TEXAS MEDICAL BOARD

CHRISTOPHER PALAZOLA

Litigation Manager

SUSAN RODRIGUEZ

Supervising Attorney

A handwritten signature in black ink, appearing to read "Johnathan Stone", is written over the printed name.

JOHNATHAN STONE

Senior Staff Attorney

Lead Counsel

State Bar No. 24071779

Texas Medical Board

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ATTORNEYS FOR THE BOARD

THE STATE OF TEXAS

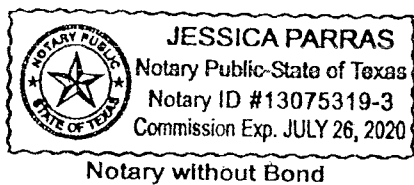
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COUNTY OF TRAVIS

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SUBSCRIBED AND SWORN to before me by the said Johnathan Stone on February 5,
2019.





Notary Public, State of Texas

Filed with the Texas Medical Board on January 28, 2019.

Stephen Brint Carlton

Stephen 'Brint' Carlton, J.D.

Executive Director

Texas Medical Board

CERTIFICATE OF SERVICE

I certify that on February 5, 2019, a true and correct copy of the foregoing document has been served as follows:

By Email:

Docket Clerk

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/s/ Johnathan Stone

JOHNATHAN STONE

Senior Staff Attorney

Lead Counsel