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STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Carol Hale, CLERK

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STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Carol Hale, CLERK

HEARING CONDUCTED BY THE
TEXAS STATE OFFICE OF ADMINISTRATIVE HEARINGS
SOAH DOCKET NO. 503-21-_____.MD
TEXAS MEDICAL LICENSE NO. N-2465

TEXAS MEDICAL BOARD,
Petitioner

V.

ARIEL DE LLANOS, M.D.,
Respondent

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

COMPLAINT

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

COMES NOW, the Staff of the Texas Medical Board (Board Staff), by and through its attorney of record, Kemisha Williams, and files this Complaint against Ariel de Llanos, M.D., (Respondent), for alleged violations of the Medical Practice Act (Act), Title 3, Subtitle B, TEX. OCC. CODE ANN. §§151.001 *et seq.* (Vernon Supp. 2017) and the Board rules adopted thereunder, and would respectfully show the following:

I. SUMMARY OF FACTUAL ALLEGATIONS

Board Staff alleges that Respondent engaged in unprofessional conduct when he became romantically, sexually, and financially involved with one patient, whom he had treated as a psychiatric patient.

II. LEGAL AUTHORITY AND JURISDICTION

1. Respondent is a Texas physician and holds Texas Medical License No. N-2465, which was originally issued by the Board on April 3, 2009. 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 §151.003 of the Act.

III. APPLICABLE STATUTES AND STATUTORY VIOLATIONS

The following statutes, rules, and agency policy are applicable to the procedures for conduct of the hearing this matter:

A. General Statutes And Rules:

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

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 proceeding.

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

6. Section 164.007(a) of the Act, Board Rule 187, 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 one or more of the following provisions of the Act and Board Rules:

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

2. Section 164.051(a)(3) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's violation of the following Board Rule: 165.1(a), failure to create and maintain 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 defined by the following Board Rules: 190.8(1)(A), failure to treat a patient according to the generally accepted standard of care; 190.8(1)(C), failure to use proper diligence in one's professional practice; 190.8(1)(D), failure to safeguard against potential complications; and 190.8(1)(M) inappropriate prescription of dangerous drugs or controlled substances to oneself, family members, or others in which there is a close personal relationship.

4. Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's unprofessional or dishonorable conduct that is likely to deceive or defraud the public, as provided by §164.053 of the Act, or injure the public, and further defined by Board Rules 190.8(2)(F), engaging in sexually inappropriate behavior or comments directed towards a patient; 190.8(2)(G) becoming financially or personally involved with a patient in an inappropriate manner; 190.8(2)(K) behaving in an abusive or assaultive manner towards a patient or the patient's family or representatives that interferes with patient care or could be reasonably expected to adversely impact the quality of care rendered to a patient; 190.8(2)(N) failing to maintain the confidentiality of a patient; 190.8(2)(P) behaving in a disruptive manner towards 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; 190.8(2)(R) commission of a violation of state or federal law whether or not there is a complaint, indictment, or conviction, specifically (iii) any criminal violation of the MPA or other statutes regulating or pertaining to the practice of medicine: CPRC, Chapter 81, Sexual Exploitation by Mental Health Services Provider.

5. Section 164.053(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent committing an act that violates any state or federal law

if the act is connected with the physician's practice of medicine, specifically, CPRC, Chapter 81, Sexual Exploitation by Mental Health Services Provider

IV. FACTUAL ALLEGATIONS

Based on information and belief, Board Staff alleges:

1. Respondent initially saw the female patient on May 20, 2015 for issues with attention deficit and mood dysregulation.

2. The patient complained of difficulty controlling her anxiety, cycling of mood, including feeling worthless at times, low energy, low motivation and racing thoughts.

3. Respondent assessed the patient and did a mental status examination. Respondent diagnosed the patient with generalized anxiety disorder, ADHD, mood disorder and insomnia and noted to rule out dependent personality disorder and rule out borderline personality disorder with presence of borderline personality traits.

4. Respondent's plan included discontinuing the Wellbutrin the patient had been on, discontinue caffeine, work on sleep hygiene with help of Benadryl and melatonin, a discussion about low self-esteem and codependency and prescribed the patient .5mg of Xanax twice a day.

5. The patient reported that at the initial visit, Respondent recommended that the patient talk regularly with an astrologist who was a personal friend of Respondent. Respondent and this individual would discuss the patient's life as it related to astrology and her treatment during the entire time Respondent treated and was involved with the patient. Respondent's communication to a third party about the patient, her life and the best way to treat her based on astrology violated the Act and Board Rules as follows:

- a. Section of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's unprofessional or dishonorable conduct that is likely to deceive or defraud the public, as provided by §164.053 of the Act, or injure the public, and as further defined by Board Rules 190.8(2)(N) failing to maintain the confidentiality of a patient.

6. The patient saw the Respondent for twelve more follow-up visits over the next three years and two months, wherein the patient repeatedly reported feelings of inadequacy and issues with her professional and romantic life.

7. At a June 8, 2015 visit, Respondent's notes for this visit included multiple references to the patient's issues with the patient's ADHD and planning for the future.

8. Respondent's notes for the patient's session on August 25, 2015 contain a lengthy narrative about the patient's personal life, including who she was dating and the circumstances that led to her divorce. The note describes anxiety that persistently affects multiple issues and areas in her life and attention deficit and distractibility leading to procrastination and incomplete tasks.

9. Respondent noted that they extensively discussed the patient's issues with codependency and low self-esteem.

10. On November 9, 2015, the patient reported less irritability but still with cycling moods. Respondent prescribed Prozac 20mg every morning. Respondent's notes states that he counseled the patient on different strategies in terms of relationship problems.

11. On March 3, 2016, Respondent's notes for the patient's visit indicate a discussion about coping skills and issues concerning relationships with men that have failed.

12. Respondent's note also includes details on who the patient was dating and some of her future employment plans.

13. At an August 19, 2016 visit, Respondent's note indicates the patient had issues with her last boyfriend and that "as usual" the patient's main issue is relationship problems with men. The note also indicates Respondent discussed "finding a man in the future" with the patient.

14. Respondent saw the patient at three month intervals over the next two years. Respondent indicated in the record that he continued to discuss coping skills, anxiety about career plans and the patient's issues with relationships and the stress that caused her.

15. Respondent would spend anywhere from thirty-five to fifty-five minutes counseling the patient beyond just the effectiveness of her medications.

16. On August 31, 2017, Respondent notes that the patient shows borderline traits that she exhibits in relationships and that might interfere with the patient getting along with her coworkers.

17. On May 22, 2018, Respondent's note describes the dissolution of another of the patient's romantic relationships and that the patient is "despondent" and goes back to low self-esteem every time she cannot "retain a man." The note states that Respondent discussed the kind of men that might be beneficial (more experience, older) with the patient.

18. The patient's last office visit with Respondent was on August 20, 2018. There is no note in the record indicating Respondent would no longer be treating the patient or that he had terminated the treatment relationship. The record indicates a plan for follow-up in three months.

19. Respondent's failure to document termination of the patient's care constitutes a violation of the Act or Board Rules as follows:

- a. Section 164.051(a)(3) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's violation of the following Board Rule: 165.1(a), failure to create and maintain adequate medical records
- b. 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 defined by Board Rules 190.8(1)(C), failure to use proper diligence in one's professional practice; and 190.8(1)(D), failure to safeguard against potential complications.

20. The patient stated that Respondent conveyed an interest in a romantic relationship with her in December 2018 and that they began to see each other regularly outside of the office for several weeks after that.

21. The patient's pharmacy records indicate that even after the last office visit of August 20, 2018, Respondent continued to prescribe to the patient with prescriptions written for Vyvanse and Xanax well into 2019.

22. Respondent's failure to formally terminate the physician-patient relationship while continuing to prescribe controlled substances to the patient with whom he had become romantically involved violated the Act or Board Rules as follows

- a. Section 164.051(a)(3) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's violation of the following Board Rule: 165.1(a), failure to create and maintain adequate medical records.
- b. 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 defined by Board Rules 190.8(1)(C), failure to use proper diligence in one's professional practice; 190.8(1)(D), failure to safeguard against potential complications; 190.8(1)(M) inappropriate prescription of dangerous drugs or controlled substances to oneself, family members, or others in which there is a close personal relationship.
- c. Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's unprofessional or dishonorable conduct that is likely to deceive or defraud the public, as provided by §164.053 of the Act, or injure the public, and as further defined by Board Rules 190.8(2)(E) engaging in sexual contact with a patient; 190.8(2)(F) engaging in sexually inappropriate

behavior or comments directed towards a patient; 190.8(2)(G) becoming financially or personally involved with a patient in an inappropriate manner; 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; 190.8(2)(R) commission of a violation of state or federal law whether or not there is a complaint, indictment, or conviction, specifically (iii), any criminal violation of the Medical Practice Act or other statutes regulating or pertaining to the practice of medicine: Civil Practice and Remedies Code, Chapter 81, Sexual Exploitation by Mental Health Services Provider.

- d. Section 164.053(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent committing an act that violates any state or federal law if the act is connected with the physician's practice of medicine, specifically Civil Practice and Remedies Code, Chapter 81, Sexual Exploitation by Mental Health Services Provider.

23. In early to mid-December 2018, Respondent gave the patient his cell phone number and later texted her to say that he would give her a job and that they should talk over the details at dinner at a seafood restaurant.

24. Respondent and the patient met for dinner where the patient states that Respondent touched her hand over the table, told her that he had waited a long time for this moment and that he was in love with her. Respondent told the patient that because of her issues, people take advantage of her and he is going to fix that. The patient stated that she was in shock because Respondent was already involved and living with another woman.

25. Respondent asked to kiss the patient, but she said no and that they could hug. When they hugged, Respondent moved the patient's face to kiss her mouth and neck. Respondent's romantic pursuit of his psychiatric patient with whom he failed to formally terminate the physician-patient relationship and whom he knew struggled with romantic relationships caused an inappropriate power differential and violated the Act or Board Rules and as follows:

- a. 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 defined by Board Rules 190.8(1)(D), failure to safeguard against potential complications.
- b. Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's unprofessional or dishonorable conduct that is likely to deceive or defraud the public, as provided by §164.053 of the Act, or injure the public, and as further defined by Board Rules 190.8(2)(E) engaging in sexual contact with a patient; 190.8(2)(F) engaging in sexually inappropriate behavior or comments directed towards a patient; 190.8(2)(G) becoming financially

or personally involved with a patient in an inappropriate manner; 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; 190.8(2)(K) behaving in an abusive or assaultive manner towards a patient or the patient's family or representatives that interferes with patient care or could be reasonably expected to adversely impact the quality of care rendered to a patient; 190.8(2)(R) commission of a violation of state or federal law whether or not there is a complaint, indictment, or conviction, specifically (iii), any criminal violation of the Medical Practice Act or other statutes regulating or pertaining to the practice of medicine: Civil Practice and Remedies Code, Chapter 81, Sexual Exploitation by Mental Health Services Provider.

- c. Section 164.053(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent committing an act that violates any state or federal law if the act is connected with the physician's practice of medicine, specifically Civil Practice and Remedies Code, Chapter 81, Sexual Exploitation by Mental Health Services Provider).

26. On or around December 11, 2018, after the dinner, Respondent wanted to meet in the parking garage of the Barnes & Nobles to talk. Respondent stated that he was going to leave his girlfriend. Respondent and the patient kissed each other.

27. For the next three days, Respondent and the patient would meet up in parking lots and talk and kiss each other. The patient temporarily ended the relationship after she saw texts from Respondent's girlfriend indicating that he had not left her yet.

28. On or around December 16, 2021, Respondent and the patient met at a hamburger restaurant. The patient voiced concerns about being confused and afraid, but Respondent gave her his hat and said she should wear it. Respondent and the patient kissed in the car and he fondled her breasts.

29. Over the next few days, Respondent would meet the patient in a grocery store parking lot to talk and kiss.

30. On or around December 21, 2021, Respondent paid for the patient to have a manicure and pedicure. Later that day, Respondent came to the patient's house. They kissed and Respondent touched the patient all over her body and wanted to have sex, but the patient voiced that she was not ready. Respondent told her he could wait.

31. On or around December 22, 2018, Respondent and the patient went to dinner at a restaurant. Afterward he bought her a toy at the gas station.

32. On or around December 23, 2018, Respondent came to the patient's house again, where he touched the patient all over her body, including her genitals. Respondent asked the patient what contraceptive she will use.

33. On or around December 24, 2018, Respondent asked the patient for pictures and the patient sent her professional pictures to him.

34. On or around December 25, 2018, Respondent met the patient at her house and brought a large stuffed bear and \$2,500 as a gift for Christmas. Respondent and the patient kissed, and he touched her all over her body. Respondent purchasing gifts for and becoming physically involved with the patient while pursuing her romantically created a further power differential that was detrimental to the patient and violated the Act or Board Rules as follows:

- a. 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 defined by Board Rules 190.8(1)(D), failure to safeguard against potential complications.
- b. Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's unprofessional or dishonorable conduct that is likely to deceive or defraud the public, as provided by §164.053 of the Act, or injure the public, and as further defined by Board Rules 190.8(2)(E) engaging in sexual contact with a patient; 190.8(2)(F) engaging in sexually inappropriate behavior or comments directed towards a patient; 190.8(2)(G) becoming financially or personally involved with a patient in an inappropriate manner; 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; 190.8(2)(K) behaving in an abusive or assaultive manner towards a patient or the patient's family or representatives that interferes with patient care or could be reasonably expected to adversely impact the quality of care rendered to a patient; 190.8(2)(R) commission of a violation of state or federal law whether or not there is a complaint, indictment, or conviction, specifically (iii), any criminal violation of the Medical Practice Act or other statutes regulating or pertaining to the practice of medicine: Civil Practice and Remedies Code, Chapter 81, Sexual Exploitation by Mental Health Services Provider.
- c. Section 164.053(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent committing an act that violates any state or federal law if the act is connected with the physician's practice of medicine, specifically Civil Practice and Remedies Code, Chapter 81, Sexual Exploitation by Mental Health Services Provider.

35. On or about December 28, 2018, the patient traveled to visit family. Respondent texted her the entire time.

36. When the patient returned, Respondent met her at her house in the evening. Respondent and the patient had sexual intercourse for the first time. Respondent told the patient things to make her believe he wanted to be with her romantically and would be leaving his girlfriend. Respondent engaging in sexual intercourse with his psychiatric patient with whom he still had not terminated the physician-patient relationship violated the Act or Board Rule as follows:

- a. Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's unprofessional or dishonorable conduct that is likely to deceive or defraud the public, as provided by §164.053 of the Act, or injure the public, and as further defined by Board Rules 190.8(2)(E) engaging in sexual contact with a patient; 190.8(2)(G) becoming financially or personally involved with a patient in an inappropriate manner; 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; 190.8(2)(R) commission of a violation of state or federal law whether or not there is a complaint, indictment, or conviction, specifically (iii), any criminal violation of the Medical Practice Act or other statutes regulating or pertaining to the practice of medicine: Civil Practice and Remedies Code, Chapter 81, Sexual Exploitation by Mental Health Services Provider.
- b. Section 164.053(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent committing an act that violates any state or federal law if the act is connected with the physician's practice of medicine, specifically Civil Practice and Remedies Code, Chapter 81, Sexual Exploitation by Mental Health Services Provider

37. From about January 4, 2019 to January 9, 2019, Respondent and the patient would meet at her house or at the hotel room he was living in during this time for sex. Respondent also took the patient to see movies, shopping, out to restaurants and to pray at a cathedral where he asked the patient to pray for his former girlfriend.

38. On or about January 8, 2019, while Respondent was at the patient's house for sex, he gave her a handgun and told her it was special and to keep it under her pillow. Respondent providing a deadly weapon to his psychiatric patient, which was inappropriate and could be interpreted as threatening or suggestive, violated the Act or Board Rules as follows:

- a. 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 defined by Board Rules 190.8(1)(D), failure to safeguard against potential complications.
- b. Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's unprofessional or dishonorable conduct that is likely to deceive or defraud the public, as provided by §164.053 of the Act, or injure the public, and as further defined by Board Rules 190.8(2)(E) engaging in sexual contact with a patient; 190.8(2)(F) engaging in sexually inappropriate behavior or comments directed towards a patient; 190.8(2)(G) becoming financially or personally involved with a patient in an inappropriate manner; 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; 190.8(2)(K) behaving in an abusive or assaultive manner towards a patient or the patient's family or representatives that interferes with patient care or could be reasonably expected to adversely impact the quality of care rendered to a patient; 190.8(2)(R) commission of a violation of state or federal law whether or not there is a complaint, indictment, or conviction, specifically (iii), any criminal violation of the Medical Practice Act or other statutes regulating or pertaining to the practice of medicine: Civil Practice and Remedies Code, Chapter 81, Sexual Exploitation by Mental Health Services Provider.

39. On or about January 10, 2019, Respondent and the patient had sex at the hotel where Respondent was living. The patient told Respondent that she was tired, but she felt compelled to have sex with him anyway. Respondent commented that the patient seemed tired afterward.

40. On or about January 11, 2019, Respondent asked the patient to deposit patient checks for him into a bank account. Later, Respondent and the patient had sex again at his hotel room. Respondent's conduct violated the Act and or Board Rules as follows:

- a. 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 defined by Board Rules 190.8(1)(D), failure to safeguard against potential complications.
- b. Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's unprofessional or dishonorable conduct that is likely to deceive or defraud the public, as provided by §164.053 of the Act, or injure the public, and as further defined by Board Rules 190.8(2)(E) engaging in sexual contact with a patient; 190.8(2)(F) engaging in sexually inappropriate behavior or comments directed towards a patient; 190.8(2)(G) becoming financially or personally

involved with a patient in an inappropriate manner; 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; 190.8(2)(K) behaving in an abusive or assaultive manner towards a patient or the patient's family or representatives that interferes with patient care or could be reasonably expected to adversely impact the quality of care rendered to a patient; 190.8(2)(R) commission of a violation of state or federal law whether or not there is a complaint, indictment, or conviction, specifically (iii), any criminal violation of the Medical Practice Act or other statutes regulating or pertaining to the practice of medicine: Civil Practice and Remedies Code, Chapter 81, Sexual Exploitation by Mental Health Services Provider.

- c. Section 164.053(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent committing an act that violates any state or federal law if the act is connected with the physician's practice of medicine, specifically Civil Practice and Remedies Code, Chapter 81, Sexual Exploitation by Mental Health Services Provider).

41. On or about January 12, 2019, Respondent took the patient to dinner with him and his office manager. The office manager asked the patient a lot of questions about her relationship with Respondent which upset the patient. Once Respondent and the patient were alone again, Respondent yelled at the patient that she had borderline personality, told her she was too difficult because of her diagnosis and threatened to leave her if she got upset again.

42. Respondent using the patient's diagnosis against her in an argument further entrenched the power imbalance, harmed the patient and violated the Act and Board rules as follows:

- a. 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 defined by Board Rules 190.8(1)(D), failure to safeguard against potential complications.
- b. Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's unprofessional or dishonorable conduct that is likely to deceive or defraud the public, as provided by §164.053 of the Act, or injure the public, and as further defined by Board Rules 190.8(2)(G) becoming financially or personally involved with a patient in an inappropriate manner; 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; 190.8(2)(K) behaving in an abusive or assaultive manner towards a patient or the patient's family or representatives that

interferes with patient care or could be reasonably expected to adversely impact the quality of care rendered to a patient.

43. On or about January 13, 2019, Respondent and the patient went to see a movie and later had sex in Respondent's hotel room. After the fact, Respondent once again commented that the patient had seemed tired. Respondent's continued sexual contact with the patient violated the Act and or Board Rules as follows:

- a. 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 defined by Board Rules 190.8(1)(D), failure to safeguard against potential complications.
- b. Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's unprofessional or dishonorable conduct that is likely to deceive or defraud the public, as provided by §164.053 of the Act, or injure the public, and as further defined by Board Rules 190.8(2)(E) engaging in sexual contact with a patient; 190.8(2)(F) engaging in sexually inappropriate behavior or comments directed towards a patient; 190.8(2)(G) becoming financially or personally involved with a patient in an inappropriate manner; 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; 190.8(2)(K) behaving in an abusive or assaultive manner towards a patient or the patient's family or representatives that interferes with patient care or could be reasonably expected to adversely impact the quality of care rendered to a patient; 190.8(2)(R) commission of a violation of state or federal law whether or not there is a complaint, indictment, or conviction, specifically (iii), any criminal violation of the Medical Practice Act or other statutes regulating or pertaining to the practice of medicine: Civil Practice and Remedies Code, Chapter 81, Sexual Exploitation by Mental Health Services Provider.
- c. Section 164.053(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent committing an act that violates any state or federal law if the act is connected with the physician's practice of medicine, specifically Civil Practice and Remedies Code, Chapter 81, Sexual Exploitation by Mental Health Services Provider.

44. On or about January 14, 2019, Respondent told the patient he wanted to put her on the payroll at his office and asked for a voided check. The patient canceled the money transfer, which upset Respondent. Respondent's conduct violated the Act and or Board Rules as follows:

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

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

45. On or about January 18, 2019, Respondent sent the patient money again and told her he would be waiting for her at the hotel. When the patient arrived, Respondent told her that he would not leave his girlfriend after all. The patient became upset. Respondent tried to kiss and undress her. Respondent and the patient had sex, but the patient felt pressured to do so. Respondent's conduct violated the Act and or Board Rules as follows:

- a. 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 defined by Board Rules 190.8(1)(D), failure to safeguard against potential complications.
- b. Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's unprofessional or dishonorable conduct that is likely to deceive or defraud the public, as provided by §164.053 of the Act, or injure the public, and as further defined by Board Rules 190.8(2)(E) engaging in sexual contact with a patient; 190.8(2)(F) engaging in sexually inappropriate behavior or comments directed towards a patient; 190.8(2)(G) becoming financially or personally involved with a patient in an inappropriate manner; 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; 190.8(2)(K) behaving in an abusive or assaultive manner towards a patient or the patient's family or representatives that interferes with patient care or could be reasonably expected to adversely impact the quality of care rendered to a patient; 190.8(2)(R) commission of a violation of state or federal law whether or not there is a complaint, indictment, or conviction, specifically (iii), any criminal violation of the Medical Practice Act or other statutes regulating or pertaining to the practice of medicine: Civil Practice and Remedies Code, Chapter 81, Sexual Exploitation by Mental Health Services Provider.
- c. Section 164.053(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent committing an act that violates any state or federal law if the act is connected with the physician's practice of medicine, specifically Civil Practice and Remedies Code, Chapter 81, Sexual Exploitation by Mental Health Services Provider.

46. On or about January 20, 2019, was the last day Respondent and the patient saw each other. Respondent asked for his gun back, told the patient he did not want to be romantically involved and urged the patient to continue talking to his astrology friend. Respondent and the patient met in a McDonald's parking lot in order to exchange the gun. Respondent tried to

seduce the patient again. Respondent's continued coercive and manipulative behavior towards the patient violated the Act and or Board Rules as follows:

- a. 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 defined by Board Rules 190.8(1)(D), failure to safeguard against potential complications.
- b. Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's unprofessional or dishonorable conduct that is likely to deceive or defraud the public, as provided by §164.053 of the Act, or injure the public, and as further defined by Board Rules 190.8(2)(E) engaging in sexual contact with a patient; 190.8(2)(F) engaging in sexually inappropriate behavior or comments directed towards a patient; 190.8(2)(G) becoming financially or personally involved with a patient in an inappropriate manner; 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; 190.8(2)(K) behaving in an abusive or assaultive manner towards a patient or the patient's family or representatives that interferes with patient care or could be reasonably expected to adversely impact the quality of care rendered to a patient; 190.8(2)(R) commission of a violation of state or federal law whether or not there is a complaint, indictment, or conviction, specifically (iii), any criminal violation of the Medical Practice Act or other statutes regulating or pertaining to the practice of medicine: Civil Practice and Remedies Code, Chapter 81, Sexual Exploitation by Mental Health Services Provider.
- c. Section 164.053(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent committing an act that violates any state or federal law if the act is connected with the physician's practice of medicine, specifically Civil Practice and Remedies Code, Chapter 81, Sexual Exploitation by Mental Health Services Provider.

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: (2), severity of patient harm; (5) increased potential for harm to the public; (7) intentional, premeditated, knowing, or grossly negligent act constituting a violation; (11) other relevant circumstances increasing the seriousness of the misconduct. Respondent's Board history includes:

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

WHEREFORE, PREMISES CONSIDERED, 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.

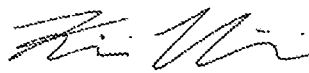
Respectfully submitted,

TEXAS MEDICAL BOARD

SUSAN RODRIGUEZ

Litigation Manager

By:



Kemisha Williams, Staff Attorney

Texas State Bar No. 24088644

333 Guadalupe, Tower 3, Suite 610

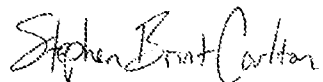
Austin, Texas 78701

Email: Kemisha.Williams@tmb.state.tx.us

Telephone: (512) 305-7081

Facsimile: (512) 305-7007

Filed with the Texas Medical Board on this 19th day of April 2021.

A handwritten signature in black ink that reads "Stephen Brint Carlton". The signature is written in a cursive style with a large initial 'S'.

Stephen Brint Carlton, J.D.
Executive Director
Texas Medical Board

CERTIFICATE OF SERVICE

I certify that on the 19th day of April 2021, a true and correct copy of the foregoing document has been served as follows:

Via Efile:

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

Via Certified Returned Mail / RRR No. 7014 2870 0000 3057 2109 and

First Class Mail:

Ariel De Llanos, MD
2040 BABCOCK ROAD
STE 301
SAN ANTONIO, TX 78229

Via Efile

Amy Welborn
2705 Bee Caves Road
Suite 220
Austin, Texas 78746
(Respondent's Counsel)

Via Efile:

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



Kemisha Williams