

SOAH DOCKET No. 503-22-08903

HEARING CONDUCTED BY THE  
TEXAS STATE OFFICE OF ADMINISTRATIVE HEARINGS  
SOAH DOCKET NO. 503-22-\_\_\_\_\_.MD  
TEXAS MEDICAL LICENSE NO. K2038

ACCEPTED  
503-22-08903  
8/19/2022 3:25:46 pm  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Carol Hale, CLERK

IN THE MATTER OF THE  
  
COMPLAINT AGAINST  
  
WILLIAM L. HOLCOMB, JR., M.D.

BEFORE THE  
  
THE TEXAS MEDICAL BOARD

COMPLAINT

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

The Staff of the Texas Medical Board (the Board), by and through its attorney of record, Claudia Kirk, files this Complaint against William L. Holcomb, Jr., M.D. (Respondent), for alleged violations of the Medical Practice Act (the Act), Texas Occupations Code, Title 3, Subtitle B, Chapters 151 to 165 (Vernon Supp. 2019) and the rules adopted by the Board thereunder and would show the following:

**I. SUMMARY OF FACTUAL ALLEGATIONS**

The Board alleges that Respondent failed to meet the standard of care, non-therapeutically prescribed a controlled substance, and failed to keep adequate medical records for one patient. Specifically, Respondent misdiagnosed the patient with attention-deficit/hyperactivity disorder (ADHD). Respondent inappropriately prescribed the medication Vyvance (an amphetamine) for the patient’s severe anxiety, and he failed to appropriately document his examination of the patient and the rationale for this diagnosis. In addition, Respondent did not document that he discussed with the patient the instructions on appropriately taking the prescribed Vyvance medication and the risks, benefits, and side effects of the medication.

## **II. LEGAL AUTHORITY AND JURISDICTION**

1. Respondent is a Texas Physician and holds Texas Medical License No. K2038 that was originally issued on March 1, 1997. Respondent's license was in full force and effect at all times material and relevant to this Complaint.

2. Respondent received notice of one or more Informal Settlement Conferences (ISC). The Board complied with all procedural rules, including but not limited to, Board Rules 182 and 187, as applicable.

3. No agreement to settle this matter has been reached by the parties.

4. All jurisdictional requirements have been satisfied.

5. The filing of this Complaint and the relief requested are necessary to protect the health and public interest of the citizens of the State of Texas.

## **III. APPLICABLE STATUTES AND STATUTORY VIOLATIONS**

The following Statutes, Rules, and Agency Policy are applicable to the procedures for conduct of the hearing this matter:

### **A. General Statutes and Rules:**

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

2. 22 TEX. ADMIN. CODE, CHAPTER 187 sets forth the procedures adopted by the Board under the requirement of Section 164.007(a) of the Act.

3. 22 TEX. ADMIN. CODE, CHAPTER 190 sets forth aggravating factors that warrant more severe or restrictive action by the Board.

4. 1 TEX. ADMIN. CODE, CHAPTER 155 sets forth the rules of procedure adopted by SOAH for contested case proceedings.

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

6. Section 164.007(a) of the Act, Board Rule 187.37(d)(2), and Board Rule 190 provides the Board with the sole and exclusive authority to determine the charges on the merits, to impose sanctions for violation of the Act or a Board rule, and to issue a Final Order.

**B. Specific Violations Cited:**

Respondent has violated the Act and Board Rules.

1. Section 164.051(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent for committing an act prohibited by §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, Board Rule 165.1, failure to maintain an adequate medical record for each patient that is complete, contemporaneous, and legible.

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 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)(G), failure to disclose reasonably foreseeable side effects of a procedure or treatment.

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.

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, TEX. HEALTH & SAFETY CODE (THSC) §481.129(c), related to prescribing controlled substances without a valid medical purpose; and TEX. OCC. CODE §107.104, related to documentation and consultation required to treat intractable pain.

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

7. Section 164.053(a)(6) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent prescribing, administering, or dispensing in a manner inconsistent with public health and welfare: (A) dangerous drugs as defined by Chapter 483,

THSC; or (B), controlled substances scheduled in Chapter 481, THSC or the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. §§ 801 *et seq.*).

#### **IV. FACTUAL ALLEGATIONS**

Based on information and belief, Board Staff alleges:

1. Respondent failed to meet the applicable standard of care, non-therapeutically prescribed a controlled substance, and failed to keep adequate medical record documentation for one patient, as follows:

- a. Respondent saw the patient on only one occasion in March of 2021 for an Initial Psychiatric Evaluation, via telemedicine due the Covid-19 pandemic. The patient had an existing diagnosis of post-traumatic stress disorder (PTSD) and bipolar disorder.
- b. Respondent misdiagnosed the patient with attention-deficit/hyperactivity disorder (ADHD). It is extremely rare for a patient to have concomitant bipolar disorder and ADHD. Respondent's medical records show no evidence that the patient had ADHD.
- c. Respondent inappropriately prescribed the medication Vyvance, at the maximum recommended dosage, for the patient after she stated she had severe anxiety due to taking another new medication. Respondent's prescription of Vyvance was going to be another new prescription which could again cause the patient the same anxiety issue because the medication Vyvance (an amphetamine) itself commonly causes and/or increases anxiety. In addition, after prescribing Vyvance, Respondent did not schedule a required timely follow-up appointment.
- d. Respondent failed to appropriately document in the medical records: his examination of the patient and his rationale for this diagnosis of ADHD; his instructions to the patient on the appropriate way to take the medication Vyvance; and his discussion to the patient on the risks, benefits, and side effect of the medication.

2. Respondent's failure to meet the standard of care, nontherapeutic prescribing of a controlled substance, and failure to keep adequate medical records for one patient is a violation of Act and Board Rules as follows:

Section 164.051(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent for committing an act prohibited by §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, Board Rule 165.1, failure to maintain an adequate medical record for each patient that is complete, contemporaneous, and legible.

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 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)(G), failure to disclose reasonably foreseeable side effects of a procedure or treatment.

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.

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, THSC §481.129(c), related to prescribing controlled substances without a valid medical purpose; and TEX. OCC. CODE §107.104, related to documentation and consultation required to treat intractable pain.

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

Section 164.053(a)(6) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent prescribing, administering, or dispensing in a manner inconsistent with public health and welfare: (A) dangerous drugs as defined by Chapter 483,; or (B), controlled substance THSC scheduled in Chapter 481, THSC, or the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. §§801 *et seq.*).

## **V. AGGRAVATING AND MITIGATING FACTORS**

Board Rules 190.14 and 190.15 provide that the Board may consider aggravating factors that warrant more severe or restrictive disciplinary action. This case includes the following aggravating factors: 190.15(1), harm to one patient; and 190.15(5), increased potential for harm to the public.

Board staff is not aware of any mitigating factors that apply and demands that Respondent submit proof to substantiate any alleged mitigating factors.

## **VI. NOTICE TO RESPONDENT**

**IF YOU DO NOT FILE A WRITTEN ANSWER TO THIS COMPLAINT WITH THE STATE OFFICE OF ADMINISTRATIVE HEARINGS WITHIN 20 DAYS AFTER THE DATE OF RECEIPT, A DEFAULT ORDER MAY BE ENTERED AGAINST YOU, WHICH MAY INCLUDE THE DENIAL OF LICENSURE OR ANY OR ALL OF THE REQUESTED SANCTIONS, INCLUDING THE REVOCATION OF YOUR LICENSE. A COPY OF ANY ANSWER YOU FILE WITH THE STATE OFFICE OF ADMINISTRATIVE HEARINGS SHALL ALSO BE PROVIDED TO THE HEARINGS COORDINATOR OF THE TEXAS MEDICAL BOARD.**

## **VII. PRAYER**

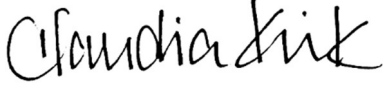
Board Staff requests that an administrative law judge employed by the State Office of Administrative Hearings conduct a contested case hearing on the merits of the Complaint, and issue a Proposal for Decision containing Findings of Fact and Conclusions of Law necessary to support a determination that Respondent violated the Act and Board Rules as set forth in this Complaint.

Respectfully submitted,

TEXAS MEDICAL BOARD

AMY SWANHOLM, J.D., MSEL  
Litigation and Enforcement Support Manager

MICHELLE A. MCFADDIN, J.D.  
Supervising Attorney

By:   
Claudia Kirk, J.D., Attorney-in-Charge  
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Filed with the Texas Medical Board on the 18<sup>th</sup> day of August, 2022.

A handwritten signature in black ink that reads "Stephen Brint Carlton". The signature is written in a cursive style with a horizontal line underneath the name.

Stephen Brint Carlton, J.D.  
Executive Director



**CERTIFICATE OF SERVICE**

I certify that on the 19th day of August, 2022, a true and correct copy of the foregoing Complaint has been served as follows:

**VIA E-FILING:**

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

**VIA E-FILING**

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*Respondent's Counsel*

**VIA FIRST CLASS MAIL & CMRRR NO. 7014 2870 0000 3046 2059**

William L. Holcomb, Jr, M.D.  
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Austin, TX 78704

**VIA E-FILING:**

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



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Claudia Kirk, J.D.