STATE OFFICE OF ADMINISTRATIVE HEARINGS RECEIVED ON 7/9/2025 3:14 PM

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Carol Hale, CLERK

SOAH Docket No. 503-25-23216

ACCEPTED
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7/9/2025 3:19:40 pm
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Carol Hale, CLERK

SOAH DOCKET NO. 503-25-_____.MD
TEXAS MEDICAL LICENSE NO. G3541

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|---|---|
| IN THE MATTER OF | BEFORE THE STATE OFFICE |
| THE COMPLAINT AGAINST | OF |
| FRANK ELMER LANE, MD | ADMINISTRATIVE HEARINGS |

# COMPLAINT

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

The Staff of the Texas Medical Board ("Board Staff"), by and through its attorney of record, Meredith Massey, files this Complaint against Respondent Frank Elmer Lane, MD ("Respondent") for alleged violations of the Medical Practice Act ("the Act"), Texas Occupations Code, Title 3, Subtitle B, §§ 151.001 *et seq.*, and the Rules adopted by the Board thereunder and would respectfully show the following:

## I. SUMMARY OF FACTUAL ALLEGATIONS

First, Respondent has engaged in unprofessional and dishonorable conduct by becoming personally and financially involved with one patient ("the Patient") in an inappropriate manner while providing psychiatric care to the Patient; by engaging in sexually inappropriate behavior or comments directed towards the Patient; by submitting records and statements that he knew represented his services as appropriate therapy and treatment for complex PTSD; and by behaving in a way that adversely affects the Patient's care.

Second, Respondent interfered in the Board's investigation of the complaint against him by asking the Patient if she filed the complaint that initiated the Board's investigation; by soliciting a letter of support from the Patient to aid him in the Board's investigation; and by directing the Patient to take certain actions to undermine the credibility of the complainant in the Board's investigation.

Third, Respondent violated the standard of care by engaging in unnecessary, unprofessional, and nontherapeutic social interactions with the Patient, a mental health patient to

whom Respondent prescribes controlled substances, under the guise of therapy; by failing to review the Patient's Texas Prescription Monitoring Program ("TXPMP") report and document that review in the medical record before prescribing benzodiazepines to the Patient; and by prescribing a benzodiazepine to the Patient two days after another provider prescribed a benzodiazepine to the Patient.

Fourth, Respondent failed to maintain complete and accurate medical and billing records for the Patient by not documenting his treatment plan for traveling with her for "exposure therapy"; by not documenting either of his in-person visits with the Patient in Colorado; and by not documenting any of their numerous encounters over text messages.

## II. LEGAL AUTHORITY AND JURISDICTION

1. Respondent is a Texas Physician and holds Texas Medical License No. G3541, which was originally issued on February 27, 1983. 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.

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 ("SOAH").

2. 22 Texas Administrative Code Chapter 187[1] sets forth the procedures adopted by the Board under the requirement of § 164.007(a) of the Act.

3. 22 Texas Administrative Code Chapter 190[2] sets forth aggravating factors that warrant more severe or restrictive action by the Board.

4. 1 Texas Administrative Code Chapter 155 sets forth the rules of procedure adopted by SOAH for contested case proceedings.

5. 1 Texas Administrative 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 and Board Rules 187 and 190 provide the Board with the sole and exclusive authority to determine the charges on the merits, to impose sanctions for violation of the Act or a Board Rule, and to issue a Final Order.

**B. Specific Violations Cited:**

Respondent has violated the Act and Board Rules as follows:

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 § 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 rule adopted under this Act; specifically, Board Rules: 165.1(a), failure to create and maintain an adequate medical record; 165.1(a)(1), failure to document each patient encounter; and 170.9, failure to comply with rules relating to a mandatory TXPMP check.

3. Section 164.051(a)(6) of the Act authorizes the Board to take disciplinary action against Respondent for failing 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)(B), negligence in performing medical services; 190.8(1)(C), failure to use proper diligence in one's

[1] Board Rule 187 was in effect at the time of the conduct underlying this Complaint and has been recodified as Board Rule 179.
[2] Board Rule 190 was in effect at the time of the conduct underlying this Complaint and has been recodified as Board Rule 180.

professional practice; 190.8(1)(D), failure to safeguard against potential complications; 190.8(1)(H), failure to disclose reasonable alternative treatments to a proposed procedure or treatment; 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 for unprofessional or dishonorable conduct that is likely to deceive or defraud the public, as provided in § 164.053 of the Act, or injure the public, as further defined by the following 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)(J), providing medically unnecessary services to a patient or submitting a billing statement to a patient or a third-party payer that the licensee knew or should have known was improper ("Improper" means the billing statement is false, is fraudulent, misrepresents services provided, or otherwise does not meet professional standards); 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 impact adversely the quality of care rendered to a patient; 190.8(2)(P), behaving in a disruptive manner towards licensees, hospital personnel, other medical personnel, patients, family members, and others that interferes with patient care or could be reasonably expected to impact adversely the quality of care rendered to a patient; and 190.8(2)(S), contacting or attempting to contact a complainant, witness, medical peer review committee member, or professional review body as defined under § 160.001 of the Act regarding statements used in an active investigation by the Board for purposes of intimidation.

5. Section 164.053(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's commission of an act that violates a law of this state that is connected with Respondent's practice of medicine; specifically, Texas Health & Safety Code § 481.0764, relating to a prescriber's obligation to check TXPMP before prescribing opioids, benzodiazepines, barbiturates, or carisoprodol.

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

7. Section 164.053(a)(6) of the Act authorizes the Board to take disciplinary action against Respondent for prescribing, administering, or dispensing in a manner inconsistent with public health and welfare: (A) dangerous drugs as defined by Texas Health & Safety Code Chapter 483 or (B) controlled substances scheduled in Texas Health & Safety Code Chapter 481 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:

A. General Allegations

1. Respondent is a Texas physician specializing in psychiatry. He is certified by the American Board of Psychiatry & Neurology with subspecialty certifications in adolescent psychiatry and addiction psychiatry. Respondent is not licensed to practice medicine in any other state.

2. Since 2015, Respondent has had a continuous physician-patient relationship with the Patient. When the Patient began living in Colorado, Respondent remained her psychiatrist, treating her virtually (when Respondent visited Texas) and in person (when Respondent visited Colorado). Respondent is not licensed to practice medicine in Colorado.

3. The Patient's diagnoses include schizoaffective disorder, complex post-traumatic stress disorder, generalized anxiety disorder, and insomnia. She experiences agoraphobia and paranoia. Respondent prescribes the Patient alprazolam (Xanax), zolpidem (Ambien), trazadone, Geodon, clonidine, and Prazosin.

B. Unprofessional Conduct: Inappropriate Involvement with a Patient

1. Respondent has engaged in unprofessional and dishonorable conduct by becoming personally involved with the Patient in an inappropriate manner. Respondent communicated regularly with the Patient via text message about social issues outside of the physician-patient relationship and fraternized with the Patient outside of office visits:

   a. During a visit to Colorado in 2023, Respondent spent seven hours of face-to-face time with the Patient over a two-day period. Respondent and the Patient

attended a jazz concert, took a train ride to Pike's Peak, visited an art gallery, socialized with Respondent's friend who is an artist, engaged in a "trigger-point massage/touch to neck + shoulder muscle area," and drank kratom tea. After Respondent departed Colorado, the Patient messaged Respondent, "Hey I'm bad with goodbyes but I just wanted to let you know how much fun that was and I just wanted to thank u safe travels!"

b. The Patient recounted to Respondent about volunteering at a psychedelic science conference. Respondent messaged the Patient, "Wish I was there! We'd have a good time!"

c. Respondent messaged the Patient, "Earth to [Patient]! Come in [Patient]! Hello? Are you in town? I'm flying in tonight to escape the heat for the weekend! It was [an] impulsive decision! Wanna get together?...or [you] busy?"

d. Respondent flew to Colorado and asked the Patient if she wanted to "plan dinner or something" for the two of them and two of Respondent's friends—who are in a romantic relationship—when his flight arrived. Respondent asked the Patient to "pick something" and joked, "I know you've always wanted to be a social coordinator." During this visit, Respondent and the Patient took a road trip from Colorado to Santa Fe, New Mexico to see an art exhibit. After these excursions, the Patient messaged Respondent, "[T]hank you so much. That was so sweet. I had the best time ever…" and "Thank YOU!!!! I honestly haven't had that much fun in a long time…." Respondent encouraged her to "take a nice shower & RELAX! You've survived another adventure weekend!"

e. The Patient disclosed to Respondent that she had a friendship-ending fight with the artist introduced to her by Respondent. Respondent replied, "I know both of you as 'survivors' of complex trauma [who are] on a similar quest for healing and wholeness, much better as allies/friends…than anything else." The Patient became irritated and ended the conversation. Nine hours later, Respondent reached out to the Patient with: "Hope your day went well and you're not frustrated with me!"

f. Respondent messaged the Patient, "I'd LOVE to do that cog train up, pack down to timberline & camp out looking out over the plains to Kansas!" The Patient replied, "Yeah! I'm in, lemme know way ahead of time so I can plan."

g. The Patient informed Respondent that she was traveling to Dallas and offered, "So if you'd like to drive back w[ith] me let me know I'll be headed back anytime." Respondent replied, "I was hoping [to] set up some time with you when [you] travel back to Dallas but I'll be in North Carolina…."

2. Respondent has engaged in unprofessional and dishonorable conduct by becoming financially involved with the Patient in an inappropriate manner. Respondent routinely exchanges and offers to provide monetary assistance and hospitalities of pecuniary value to the Patient:

a. Respondent encouraged the Patient to attend a virtual conference on consciousness and psychedelics. When she expressed concern about the cost, Respondent offered, "I'll cover your ticket & consider it part of your therapy, OK?... If you get something out of it, you can pay it off later, and if you don't, it's on me!"

b. When the Patient mentioned financial hardship caused by her unoccupied rental property, Respondent took the initiative to forward her listing to potential tenants whom he believed would be a good fit.

c. Respondent told the Patient that he was flying to Colorado for the weekend and remarked, "I have shelter if I need it [or] I could play homeless if I want!" In the same message, Respondent offered, "[I'm] happy to buy you food, gas, whatever, if you wanna get out, rendezvous or make the trip to Santa Fe!" The same weekend, the Patient asked Respondent if she could "hitch a ride" in his car back to Dallas, urging, "We can ride together it'll be fun!"

d. The Patient messaged Respondent about their upcoming Santa Fe trip and asked, "[I]f ur driving can I ride back to Dallas with you? It will save me a plane ticket $$$."

e. Respondent flew to Colorado and arranged for the Patient pick him up from the airport. Respondent bought the Patient dinner. After their road trip to Santa Fe, Respondent sent the Patient gas money and thanked her for sharing her car and her time for "a fun adventure."

f. Respondent gifted the Patient a box of leftover hardwood flooring planks and delivered them to her rental property that she was renovating.

3. Respondent actions described above constitute violations of the Act and Board Rules, specifically:

> Section 164.051(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's commission of an act prohibited under § 164.052 of the Act.
>
> Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent for unprofessional or dishonorable conduct that is likely to deceive or defraud the public, as provided in § 164.053 of the Act, or injure the public, as further defined by the following Board Rules: 190.8(2)(G), becoming financially or personally involved with a patient in an inappropriate manner.

C. Unprofessional Conduct: Inappropriate Behavior & Comments Towards a Patient

1. Respondent acted in an unprofessional and dishonorable manner by engaging in sexually inappropriate behavior and comments with the Patient. The following conversation exchanges from 2023 raise reasonable concern to suspect a potential sexual boundary violation:

a. Respondent messaged the Patient about introducing her to his artist friend. He told the Patient, "I wanted to touch base with you and bring you two together[.] As it unfolded, more good things happened! I felt closer to both of you…it felt like a positive energy field that kept glowing. Thank you! Thank you!"
b. Respondent messaged the Patient about the psychedelics conference for which Respondent purchased her a virtual ticket. Respondent messaged the Patient, "I find it intriguing that we'll be consciously attending a conference on Consciousness simultaneously [while] our bodies will be 1,765 miles apart!"
c. Respondent messaged the Patient about his "impulsive decision" to fly to Colorado for the weekend and asked, "Wanna get together?" The Patient responded that she was hosting a guest. Respondent said that he could stay with his friend, "so I have shelter if I need it!," or since he had his camping supplies, "I could play homeless if I want!" Respondent continued, "[B]ut happy to buy you food, gas, whatever, if you wanna get out, rendezvous or make the trip to

Santa Fe! Ha! Ha!" Respondent then inquired whether the Patient's guest was a "free spirit." The Patient answered, "So found out person staying w me is NOT a free spirit!!!" Respondent commented back, "[U]nless you're under subpoena…you don't have to submit to interrogation." The Patient told Respondent that her guest was going to report Respondent for having contact with her outside an office setting. Respondent messaged, "Didn't mean to cause a ruckus! Try to calm your guest and we can talk another time!" The Patient replied, "Down boy down!" Respondent told the Patient that he was staying with a friend for the night and would be careful not to disturb her. The Patient responded, "Lol. [You're] way less of a bother than my current guest."

d. Respondent messaged the Patient about taking the cog train up the mountain during his impromptu weekend trip to Colorado. He mentioned that he had packed his sleeping bag and mattress and proposed, "Would be KOOL to ride up, hop off on top, hike down to timberline camp & wake up to see the sun come up over the Kansas plain."

2. Respondent's actions described above constitute violations of the Act and Board Rules, specifically:

> Section 164.051(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's commission of an act prohibited under § 164.052 of the Act.
>
> Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent for unprofessional or dishonorable conduct that is likely to deceive or defraud the public, as provided in § 164.053 of the Act, or injure the public, as further defined by the following Board Rules: 190.8(2)(F), engaging in sexually inappropriate behavior or comments directed towards a patient.

D. Unprofessional Conduct: Improper Services Below Professional Standards

1. Respondent acted in an unprofessional and dishonorable manner by generating and submitting medical records and billing statements that he knew misrepresented the services as appropriate to the Patient's therapy and treatment for her diagnosed conditions.

2. Respondent's records for the Patient refer to the train ride, the trigger point massage, and the Santa Fe road trip as "intervention" and "procedure." However, the numerous text messages between Respondent and the Patient indicate a dynamic extracurricular to the therapeutic physician-patient context and suggest that these encounters are social portrayed as professional.

3. Respondent's actions described above constitute violations of the Act and Board Rules, specifically:

> Section 164.051(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's commission of an act prohibited under § 164.052 of the Act.
>
> Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent for unprofessional or dishonorable conduct that is likely to deceive or defraud the public, as provided in § 164.053 of the Act, or injure the public, as further defined by the following Board Rules: 190.8(2)(J), providing medically unnecessary services to a patient or submitting a billing statement to a patient or a third-party payer that the licensee knew or should have known was improper ("Improper" means the billing statement is false, is fraudulent, misrepresents services provided, or otherwise does not meet professional standards).

E. Unprofessional Conduct: Behavior That Could Adversely Affect Care

1. Respondent acted in an unprofessional and dishonorable manner by behaving in a way that adversely affects the Patient's care.

2. Respondent engaged in social interactions that could adversely impact the clinical therapeutic relationship. Here, Respondent's boundary violations may cause psychological harm to the Patient in light of her mental health diagnoses and trauma history. When the Patient informed Respondent that her guest intended to report him for inappropriate contact, Respondent did not immediately respond. The Patient sent a series of text messages stating, "I'm not liking this silence. I don't want this person running out the good people in my life. Please respond [crying face emoji]. Hey u ok? Let me know u made it safe! [smiling face emoji]. U there?" This reaction is not indicative of a professional therapeutic alliance and instead shows an exploitative relationship.

3. Respondent's actions described above constitute violations of the Act and Board Rules, specifically:

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

Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent for unprofessional or dishonorable conduct that is likely to deceive or defraud the public, as provided in § 164.053 of the Act, or injure the public, as further defined by the following Board Rules: 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 impact adversely the quality of care rendered to a patient; and 190.8(2)(P), behaving in a disruptive manner towards licensees, hospital personnel, other medical personnel, patients, family members, and others that interferes with patient care or could be reasonably expected to impact adversely the quality of care rendered to a patient.

F. Unprofessional Conduct: Investigation Interference

1. Respondent acted in an unprofessional and dishonorable manner by improperly contacting the Patient regarding the Board's investigation.

2. Respondent questioned the Patient, "[W]e've got a problem[.] Did you file a complaint against me with the State Board?" The Patient responded, "This is from that guy [Complainant]! I told you! Did u not listen??? Why in the hell would u think it's me?"

3. Respondent solicited the Patient to draft a letter of support to help him defend himself in the Board's investigation. He told the Patient, "You are going to have to put something in writing that I can submit to the Board, explaining who this guy is, and what his motives are. [A]nything that clarifies for the Board that you, my patient, have no complaint with your treatment." Respondent then specified the details of what he wanted the Patient to include in her letter of support:

> [W]rite a summary of how you know this person, what you've learned about his criminal background, the recent encounter, & why you think he filed this complaint. You might end it with a statement about how long you have been a patient under my care for treatment of complex Post Traumatic Stress Disorder and how his behavior has affected you. The goals of your therapy have been 1) improve sleep quality & overall health with a nutritional diet and exercise 2) desensitize you to post-traumatic "triggers" 3) decrease your isolation 4) increase social interaction and building a network of supportive relationships 5) build your self-esteem and confidence in your identity as an artist as well as an environmental

engineer 6) manage periods of depression or symptoms of anxiety that impede your progress.

4. Respondent directed the Patient to take certain actions to undermine the credibility of the person who filed the complaint against him. Respondent told the Patient that her letter of support should explain "that this person has ulterior motives for sabotaging your therapy [and] sees it as a threat to his ability to control you, etc." Respondent encouraged the Patient to file a police report against the complainant for vandalism and press charges for unwanted physical contact. Respondent instructed the Patient to file a restraining or protective order against the complainant and to write a summary about him and his criminal background.

5. Respondent actions described above constitute violations of the Act and Board Rules, specifically:

> Section 164.051(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's commission of an act prohibited under § 164.052 of the Act.
>
> Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent for unprofessional or dishonorable conduct that is likely to deceive or defraud the public, as provided in § 164.053 of the Act, or injure the public, as further defined by the following Board Rules: 190.8(2)(S), contacting or attempting to contact a complainant, witness, medical peer review committee member, or professional review body as defined under § 160.001 of the Act regarding statements used in an active investigation by the Board for purposes of intimidation.

G. Standard of Care Violations

1. Respondent violated the standard of care when he engaged in unnecessary, unprofessional, and nontherapeutic social interactions with the Patient, an individual with serious mental illness to whom Respondent was prescribing controlled substances and an antipsychotic medication, under the guise of therapy. Respondent's interactions with the Patient can negatively affect the clinical therapeutic relationship and are not appropriate treatment for a serious mental health condition like complex PTSD. Respondent's conduct has the potential to cause serious misunderstanding and psychological harm to the Patient, who has a history of trauma and requires a prescription for antipsychotic medication on an as-needed basis.

2. Respondent violated the standard of care when he failed to review the Texas prescription monitoring program website and document that review in the Patient's medical records before prescribing her alprazolam (Xanax), a benzodiazepine. Further, had Respondent reviewed the Patient's TXPMP report before he wrote the Patient a prescription for a benzodiazepine (alprazolam (Xanax)) on July 27, 2023, he would have been aware that, two days prior on July 25, 2023, the Patient had obtained a prescription for another benzodiazepine (diazepam (Valium)) from another provider.

3. Respondent's actions described above constitute violations of the Act and Board Rules, specifically:

> Section 164.051(a)(3) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's violation of a rule adopted under this Act, specifically Board Rule 170.9 relating to the established rules for a mandatory TXPMP check.
>
> Section 164.051(a)(6) of the Act authorizes the Board to take disciplinary action against Respondent for failing 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)(B), negligence in performing medical services; 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)(H), failure to disclose reasonable alternative treatments to a proposed procedure or treatment; 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.
>
> Section 164.053(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's commission of an act that violates a law of this state that is connected with Respondent's practice of medicine; specifically, Texas Health & Safety Code § 481.0764 relating to a prescriber's obligation to check TXPMP before prescribing opioids, benzodiazepines, barbiturates, or carisoprodol.
>
> Section 164.053(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent for prescribing or administering a drug or treatment that is nontherapeutic in nature or nontherapeutic in the manner in which the drug or treatment is prescribed or administered.
>
> Section 164.053(a)(6) of the Act authorizes the Board to take disciplinary action against Respondent for prescribing, administering, or dispensing in a

manner inconsistent with public health and welfare: (A) dangerous drugs as defined by Chapter 483, Texas Health & Safety Code; or (B) controlled substances scheduled in Texas Health & Safety Code Chapter 481, or the Comprehensive Drug Abuse, Prevention and Control Act of 1970 (21 U.S.C. §§ 801 *et seq*.).

H. Recordkeeping Violations

1. Respondent failed to create and maintain an adequate record for the Patient that is complete and contains documentation of each patient encounter as required by Board Rules.

2. Respondent's medical records for the Patient do not document his treatment plan for traveling with her for "exposure therapy." Respondent's billing records for the Patient contain no entries or documentation for either of his in-person visits with the Patient in Colorado. Neither accounts for their numerous encounters over text messages.

3. Respondent's actions described above constitute violations of the Act and Board Rules, specifically:

> Section 164.051(a)(3) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's violation of a rule adopted under this Act; specifically, Board Rules: 165.1(a), failure to create and maintain an adequate medical record; and 165.1(a)(1), documentation of each patient encounter.

## 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(a) provides that the Board may consider aggravating factors that warrant more severe or restrictive disciplinary action. This case includes the following aggravating factors: (1) harm to one or more patients; (5) increased potential for harm to the public; (6) attempted concealment of the act constituting a violation; and (11) other relevant circumstances increasing the seriousness of the misconduct.

Board Staff is aware of no 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 WILL 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, JD, MSEL
Director of Litigation

Meredith Massey

Meredith Massey, JD
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**ATTORNEYS FOR BOARD STAFF**

Filed with the Texas Medical Board on July 9th, 2025.

Stephen Brint Carlton, JD
Executive Director
Texas Medical Board

## CERTIFICATE OF SERVICE

I certify that on July9, 2025, a true and correct copy of the foregoing Complaint has been served as follows:

**By E-File**
Docket Clerk
STATE OFFICE OF ADMINISTRATIVE HEARINGS
William P. Clements Building
300 W. 15th Street, Suite 504
Austin, Texas 78701-1649

**By First-Class Mail and CMRRR 9589 0710 5270 0402 8466 54**
Frank Elmer Lane, MD
9533 Losa Drive, Suite 3
Dallas, Texas 75218-3573
**RESPONDENT**

**By E-File**
Carolyn Ivey, Hearings Coordinator
TEXAS MEDICAL BOARD
1801 Congress Avenue, Suite 9.200
Austin, Texas 78701

Meredith Massey
Meredith Massey, JD
Senior Staff Attorney