

HEARING CONDUCTED BY THE  
TEXAS STATE OFFICE OF ADMINISTRATIVE HEARINGS  
SOAH DOCKET NO. 503-15 - 4535 .PA  
TEXAS PHYSICIAN ASSISTANT LICENSE NO. PA-03854

IN THE MATTER OF THE  
  
COMPLAINT AGAINST  
  
ANITA DAWN SHROUT, P.A.

BEFORE THE STATE OFFICE  
  
ADMINISTRATIVE HEARINGS

STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
2014 JUN 29 PM 1:53

**COMPLAINT**

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

COMES NOW, the Staff of the Physician Assistant Board (the "Board"), and files this Complaint against Anita Dawn ShROUT, P.A., ("Respondent"), based on Respondent's alleged violations of the Physician Assistant Act ("the Act"), Title 3, Subtitle C, Texas Occupations Code, and would show the following:

**I. INTRODUCTION**

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 204.101 of the Act.

**II. LEGAL AUTHORITY AND JURISDICTION**

1. Respondent is a Texas Physician Assistant and holds Texas Physician Assistant License No. PA-03854, originally issued by the Board on November 21, 2003. Respondent's license was in full force and effect at all times material and relevant to this Complaint.
2. Respondent received appropriate notice of an Informal Settlement Conference ("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.

### III. FACTUAL ALLEGATIONS

Board Staff has received information and, based on that information, believes that Respondent has violated the Act. Based on such information and belief, Board Staff alleges:

- A. In December 2011, Respondent applied for a position as a physician assistant with the Burzynski Clinic in Houston, Texas. The Burzynski Clinic hired Respondent to fill a “Research Associate” position instead. This position was related to the Burzynski Clinic clinical trials of an investigational new drug. As a “Research Associate” Respondent mostly interacted with patients without making any clinical decisions. Respondent failed to report having a supervising physician to the Board after she began these job duties.
- B. As part of her job duties, Respondent routinely provided information from her interaction with patients, including the patient in this case, to the physicians who performed medical evaluations and treatments. Respondent followed the instructions of the physicians who made clinical evaluations and treatment decisions.
- C. On April 19, 2012, Respondent wrote and signed an order for “U/A and financial consult.” The credentials “PA-C” follow Respondent’s name. There is no mention that the order was given by a physician, even though the note does appear to be co-signed by a physician.
- D. On April 23, 25, 26, 27, 28, 29, and 30, and May 1, 2, 4, 5, 6, 7, 8, and 9, 2012, Respondent wrote other orders for changes in the IV rate of the medications and lab work for the patient.
- E. On May 3, 2012, Respondent wrote the following order, “Please call in KCL 20 mEq PO TID #90 0 refills.” At all times, Respondent failed to adequately document whether she or another health care provider was the person who evaluated the patient and created the treatment plan and orders.
- F. Respondent failed to adequately document the health care provider who was making the evaluation and treatment decisions regarding the patient. Respondent’s failure to adequately document the health care provider who was

making the evaluation and treatment decisions regarding the patient was so significant that the medical records appear to show that Respondent was the health care provider who was making the evaluation and treatment decisions regarding the patient.

G. Respondent was consistently referred to as a “PA-C” throughout all the Burzynski Clinic documents including the initial employment contract and physician orders in the medical record.

H. The Burzynski Clinic eventually switched Respondent to duties that did not include the same duties related to clinical studies of an investigational new drug and that included performing physical examinations and other evaluations. Respondent reported a supervising physician to the Board once she was switched to these job duties.

#### **IV. STATUTORY VIOLATIONS**

The actions of Respondent as specified above violate one or more of the following provisions of the Act:

1. Section 204.302(4) of the Physician Assistant Act (hereinafter “the Act”) authorizes the Board to take disciplinary action against Respondent based on Respondent acting in an unprofessional and dishonorable manner that is likely to deceive, defraud or injure the public.

2. Section 204.303(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent’s violation of a rule adopted under the Act, specifically Board Rules: 165.1, which requires maintenance of adequate medical records; 185.17(3), violation of the Act, or any rules relating to the practice of a physician assistant; 185.13, failure to notify the Board timely, before beginning practice or upon changing practice, of intent to begin practice, including identification of the person acting as supervising physician for the physician assistant; 185.17(9), acts in an unprofessional or dishonorable manner that is likely to deceive, defraud, or injure the public; 185.17(10), failure to practice as a physician assistant in an acceptable manner consistent with public health and welfare; 185.17(11), commits any act that is

in violation of the laws of the State of Texas if the act is connected with practice as a physician assistant.

3. Section 204.304(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's failure to practice as a physician assistant in an acceptable manner consistent with public health and welfare as provided by Board Rule 190.8(1)(C), failure to use proper diligence in one's professional practice;

#### **V. AGGRAVATING FACTORS**

Board Rule 190.15 provides that the Board may consider aggravating factors in reaching a determination of sanctions. In this case, the facts warrant more severe or restrictive disciplinary action. This case includes the following aggravating factors: multiple violations of the Act; and history of prior disciplinary order.

On July 17, 2009, the Board entered an Agreed Order (2009 Order) related to: prescribing controlled substances after Respondent's Drug Enforcement Administration (DEA) registration had expired; prescribing medications under the DEA registration of a physician who was not listed as her supervising physician; and inappropriate prescribing to two patients. The 2009 Order required on-site physician supervision for Respondent for a year, successful completion of the Ethics and Boundaries (ProBE) course and passing the jurisprudence (JP) exam.

#### **VI. APPLICABLE STATUTES, RULES, AND AGENCY POLICY**

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

1. Section 204.101 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 204.101 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 204.101 of the Act, Board Rule 187.37(d)(2) 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.

#### **VII. 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 PHYSICIAN ASSISTANT BOARD.**

#### **VIII. 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 (“PFD”) 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 PHYSICIAN ASSISTANT BOARD  
CHRISTOPHER PALAZOLA  
Litigation Manager  
SUSAN RODRIGUEZ  
Lead Attorney

By: \_\_\_\_\_



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THE STATE OF TEXAS

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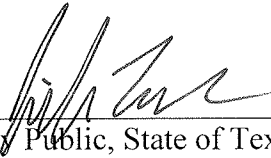
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COUNTY OF TRAVIS

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SUBSCRIBED AND SWORN to before me by the said Lee Bukstein, J.D., on  
June 29<sup>th</sup>, 2015.



  
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Notary Public, State of Texas

Filed with the Texas Physician Assistants Board on June 22, 2015.

Scott M Freshour for

Mari Robinson, J.D.

Executive Director

Texas Medical Board

Texas Physician Assistant Board

*by permission*

**CERTIFICATE OF SERVICE**

On June 29<sup>th</sup>, 2015, I certify that a true and correct copy of this Complaint has been served on the following individuals at the locations and the manner indicated below.

**By CMRRR #7008 2810 0000 1406 0827 and First Class Mail:**

Anita Dawn Shrout, PA  
10022 Prairie Mist St.  
Houston, TX 77088

**Via Fax To: (512) 276-6712 and First Class Mail:**

Lara L. Silva, Attorney at Law  
The Silva Law Firm  
702 Rio Grande  
Austin, TX 78701

**By Email To: [docketing@soah.state.tx.us](mailto:docketing@soah.state.tx.us):**

Docket Clerk  
State Office of Administrative Hearings  
300 West 15<sup>th</sup> #504  
Austin, Texas 78701

**By Hand Delivery:**

Robin Etheridge  
Hearings Coordinator  
Texas Physician Assistants Board  
333 Guadalupe, Tower 3, Suite 610  
Austin, Texas 78701

  
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Lee Bukstein, J.D.