

HEARING CONDUCTED BY THE
TEXAS STATE OFFICE OF ADMINISTRATIVE HEARINGS
SOAH DOCKET NO. 503-11-8434.MD
LICENSE NO. G-7790

IN THE MATTER OF THE

COMPLAINT AGAINST:

WILLIAM ANDREW CAMPBELL, M.D.

BEFORE THE

TEXAS MEDICAL BOARD

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 ("the Board"), and files this Complaint against William Andrew Campbell, M.D., ("Respondent"), based on Respondent's alleged violations of the Medical Practice Act ("the Act"), TEX. OCC. CODE ANN., Title 3, Subtitle B, Chapters 151-165, 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 151.003 of the Act.

II. LEGAL AUTHORITY AND JURISDICTION

1. Respondent is a Texas Physician and holds Texas Medical License No. G-7790, issued by the Board on June 9, 1985.
2. Respondent's license was in full force and effect at all times material and relevant to this Complaint.
3. Respondent received proper notice of an Informal Settlement Conference ("ISC") and appeared at the ISC, which was conducted in accordance with §2001.054(c), GOV'T CODE and §164.004 of the Act. All procedural rules were complied with, including but not limited to, Board Rules 182 and 187, as applicable.

4. No agreement to settle this matter has been reached by the parties.
5. 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. General Allegations:

1. Respondent prescribed controlled substances to nine patients: A, B, C, D, E, F, G, H, and I,¹ for the treatment of pain.
2. On each and every patient herein specified, Respondent failed to maintain adequate medical records.
3. On each and every patient herein specified, Respondent non-therapeutically prescribed controlled substances without adequate, objective, medical rationale to support the prescriptions.
4. On a number of patient herein specified, Respondent did not establish a proper physician-patient relationship with the patients prior to prescribing dangerous drugs and/or controlled substances.

B. Specific Patients:

1. Patient A:
 - a. Patient A was seen twice by the Respondent. The initial visit was on or about November 19, 2009. The patient related a prior motor vehicle accident with an injury to the arm and shoulder. She was already taking Hydrocodone, Soma, and Alprazolam. All these medications were refilled.
 - b. On or about December 22, 2009, Patient presents for refill of her medications, and report another MVA on or about December 4, 2009.

¹ Identification of the patients will be provided by separate document under seal.

c. Board Staff hereby incorporates, by reference, Allegation Nos. 1-4 above, as if set forth verbatim herein for Patient A.

2. Patient B:

a. The initial visit was on or about December 19, 2009. Patient presented with chronic neck pain, shoulder and back pain related to an injury eight months previously, being with.

b. Respondent refilled Hydrocodone, Soma, and Alprazolam at the initial visit.

c. Approximately one month later on follow-up, the Respondent medical records state only that "her meds are working." Medications are refilled.

d. Board Staff hereby incorporates, by reference, Allegation Nos. 1-4 above, as if set forth verbatim herein for Patient B.

e. In addition to the above care and treatment, Respondent also saw Patient B on or about March 3, 2010 for complaints of chronic neck pain, very fatigued, night sweats and blurred vision.

f. Respondent diagnosed "possible mycotoxicosis," without any differential diagnosis or ruling ruled out any other possible causes for Patient B's symptoms.

g. Respondent ordered an extensive battery of unnecessary tests for "toxic mold" exposure, including a broad series of blood serum testing panels for mold anti-bodies.

h. The blood serum testing panels Respondent ordered were medically unnecessary.

i. Ordering medically unnecessary tests constitutes overbilling.

j. Respondent ordered treatment with IVIG as treatment for "mycotoxicosis" without meeting any of the medical and diagnostic criteria required before prescribing the treatment. The prescribing of IVIG by Respondent is non-therapeutic, medically unnecessary, unreasonable, and improper.

3. Patient C:

a. Patient C presented for an initial visit on or about November 4, 2009, and received Hydrocodone, Soma, and Alprazolam.

b. Patient received prescriptions on or about November 13, 2009, without Respondent creating a medical record to support those prescriptions.

c. Board Staff hereby incorporates, by reference, Allegation Nos. 1-4 above, as if set forth verbatim herein for Patient C.

4. Patient D:

a. Respondent wrote prescriptions for Patient D on or about December 4, 2009, for Hydrocodone, Soma, and Alprazolam

b. The Respondent had no medical records for this Patient D.

c. Board Staff hereby incorporates, by reference, Allegation Nos. 1-4 above, as if set forth verbatim herein for Patient D.

5. Patient E:

a. Patient E initially presented to Respondent on or about December 29, 2009, for chronic back pain and knee pain due to an injury suffered in November 2008. The patient disclosed taking Hydrocodone, Soma, and Alprazolam from the New Caney Pain Clinic at initial presentation.

b. Respondent prescribed Hydrocodone, Soma, and Alprazolam at the initial visit.

c. Patient present for follow-up on or about March 3, 2010, and April 4, 2010, respectively, and was prescribed Hydrocodone, Soma, and Alprazolam each time.

d. Board Staff hereby incorporates, by reference, Allegation Nos. 1-4 above, as if set forth verbatim herein for Patient E.

6. Patient F:

a. Respondent wrote prescriptions for Patient F on or about December 3, 2009, for Hydrocodone, Soma and Alprazolam.

b. The Respondent provided prescriptions for Hydrocodone, Soma and Alprazolam on or about January 1, 2010.

c. The Respondent has no medical records for Patient F.

d. Board Staff hereby incorporates, by reference, Allegation Nos. 1-4 above, as if set forth verbatim herein for Patient F.

7. **Patient G:**

- a. Respondent wrote prescriptions for Patient G on or about November 23, 2009, for Hydrocodone, Soma and Alprazolam.
- b. The Respondent provided prescriptions for Hydrocodone, Soma and Alprazolam on or about December 29, 2009, and January 1, 2010, respectively.
- c. The Respondent has no medical records for Patient G.
- d. Board Staff hereby incorporates, by reference, Allegation Nos. 1-4 above, as if set forth verbatim herein for Patient G.

8. **Patient H:**

- a. Respondent wrote prescriptions for Patient H on or about November 23, 2009, for Hydrocodone, Soma and Alprazolam.
- b. The Respondent provided prescriptions for Hydrocodone, Soma and Alprazolam on or about December 29, 2009, and January 1, 2010, respectively.
- c. The Respondent has no medical records for Patient H.
- d. Board Staff hereby incorporates, by reference, Allegation Nos. 1-4 above, as if set forth verbatim herein for Patient H.

9. **Patient I:**

- a. Respondent wrote prescriptions for Patient I on or about December 1, 2009, for Hydrocodone, Soma and Alprazolam, with refills authorized.
- b. The Respondent provided prescriptions for Hydrocodone, Soma and Alprazolam on or about December 14, 2009, and January 7, 2010, respectively.
- c. The Respondent has no medical records for Patient I.
- d. Board Staff hereby incorporates, by reference, Allegation Nos. 1-4 above, as if set forth verbatim herein for Patient I.

C. **Statutory Violations:**

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

1. Section 164.051(a)(1) of the Act authorizes the Board to take disciplinary action based on Respondent's commission of an act prohibited under Section 164.052 of the Act
2. Section 164.051(a)(3) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's violation of a Board Rule(s), Specifically, Board Rule 165.1, requiring a physician to maintain adequate medical records and Board Rule 170, related to the Board's guidelines for the treatment of pain.
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, generally, and 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)(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)(G), failure to disclose reasonably foreseeable side effects of a procedure or treatment; 190.8(1)(H), failure to disclose reasonable alternative treatments to a proposed procedure or treatment; and 190.8(1)(L), prescription of any dangerous drug or controlled substance without first establishing a proper professional relationship with a patient.
4. Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based upon Respondent's unprofessional or dishonorable conduct that is likely to deceive or defraud the public or injure the public, as further defined by, Board Rule 190.8(2)(J), provides that upon unprofessional or dishonorable conduct that is likely to deceive or defraud the public or injure the public includes the providing medically unnecessary services to a patient or submitting a billing statement to a patient or third party payor that the licensee knew or should have known was improper
5. 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 non-therapeutic in nature or non-therapeutic in the manner the drug or treatment is administered or prescribed.

6. 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, dangerous drugs as defined by Chapter 483, Health and Safety Code; or controlled substances scheduled in Chapter 481 Health and Safety Code; or controlled substances scheduled in the Comprehensive Drug Abuse Prevention and Control Act of 1970, (21 U.S.C. §801 et seq.).

7. Section 164.053(a)(7) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent by violating Section 311.0025 of the Texas Health & Safety Code.

D. Aggravating Factors:

Board Rule 190.15 provides that aggravating factors may be considered by the Board in reaching a determination of sanctions. Aggravating factors applicable in this case are: one or more violations that involve one or more patients; increased potential for harm to the public; intentional, knowing, or grossly negligent act constituting a violation; and previous disciplinary action by the Board.

IV. APPLICABLE STATUTES, RULES AND AGENCY POLICY

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

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. 1 TEX. ADMIN. CODE, CHAPTER 155 sets forth the rules of procedure adopted by SOAH for contested case proceedings.
4. 1 TEX. ADMIN. CODE, CHAPTER 155.507, requires the issuance of a Proposal for Decision (PFD) containing Findings of Fact and Conclusions of Law.

5. Section 164.007(a) 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.

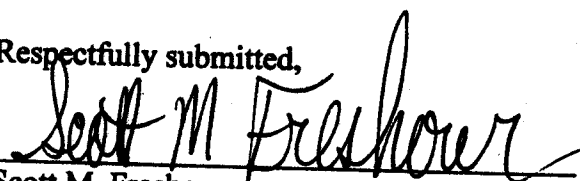
VI. NOTICE TO RESPONDENT

IF YOU DO NOT FILE A WRITTEN ANSWER TO THIS COMPLAINT WITH THE STATE OFFICE OF ADMINISTRATIVE HEARINGS WITHING 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.

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,

By:



Scott M. Freshour

State Bar No. 00789299

Texas Medical Board

333 Guadalupe, Tower 3, Suite 610

Austin, Texas 78701

Telephone: 512-305-7096

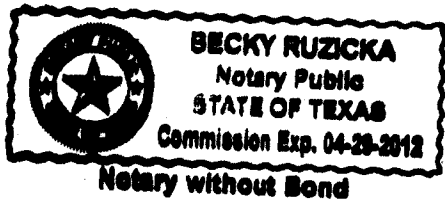
Facsimile: 512-305-7007

THE STATE OF TEXAS

COUNTY OF TRAVIS

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SUBSCRIBED AND SWORN to before me by the said Scott M. Freshour on this 1st day of August, 2011.



Becky Ruzicka
Notary Public, State of Texas

Filed with the Texas Medical Board on this 25th day of July, 2011.

Mari Robinson
Mari Robinson, J.D.
Executive Director
Texas Medical Board

CERTIFICATE OF SERVICE

I certify that on the 1st day of August, 2011, a true and correct copy of the foregoing complaint document has been served as follows:

VIA E-MAIL TO: docketing@soah.state.tx.us

Docket Clerk
State Office of Administrative Hearings
William P. Clements Building
300 West 15th Street, Room 502
Austin, Texas 78701

**Via First Class Mail and
Certified Mail - Return Receipt Requested: 7008 2810 0000 1403 9885**

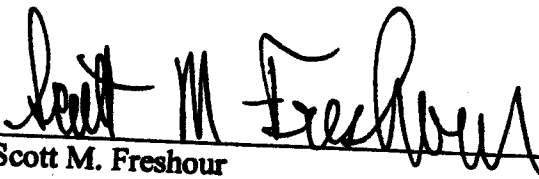
Andrew Campbell, MD
96 Berry Road
Houston, TX 77022
Respondent

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Scott M. Freshour