

HEARING CONDUCTED BY THE
TEXAS STATE OFFICE OF ADMINISTRATIVE HEARINGS
SOAH DOCKET NO. 503-23-17431.MD
TEXAS MEDICAL LICENSE NO. G3053

IN THE MATTER OF THE
COMPLAINT AGAINST
HUGH S. PHARIES, M.D.

BEFORE THE
TEXAS MEDICAL BOARD

DEFAULT ORDER

During an open meeting in Austin, Texas, and by videoconference, the Texas Medical Board (Board) considered Board Staff's request for Determination of Default and Issuance of Order of Default (Motion) against Hugh S. Pharies, M.D. (Respondent).

I. FINDINGS

1. Respondent is a Texas physician and holds Texas Medical License No. G3053, and was licensed to practice as a physician at all times material and relevant to this Order.
2. All jurisdictional requirements have been satisfied under TEX. OCC. CODE ANN., Title 3, Subtitle B, the Medical Practice Act (Act).
3. Respondent received all notice that may be required by law and by the rules of the Board.
4. A Complaint was filed by the Board on April 20, 2023, with the State Office of Administrative Hearings (SOAH), alleging that Respondent failed to meet the standard of care, inappropriately prescribed, and failed to keep adequate medical records for one patient. Specifically, Respondent prescribed large amounts of controlled substances without an appropriate diagnosis or monitoring. Therefore, Respondent violated the Act and was subject to disciplinary action by the Board.
5. On or about April 20, 2023, the Board served Respondent with a copy of the Complaint via United States Postal Service (USPS) by certified mail/return receipt requested at Respondent's mailing address of record on file with the Board.

6. A hearing on the merits was set for June 7, 2023, at SOAH. Notice of that hearing was sent via United States Postal Service (USPS) by certified mail/return receipt requested to the last known address for Respondent on May 9, 2023. That notice contained the following **NOTICE: PURSUANT TO SOAH RULE §155.501, UPON FAILURE TO APPEAR AT THE HEARING, THE FACTUAL ALLEGATIONS IN THE NOTICE AND COMPLAINT WILL BE DEEMED ADMITTED AS TRUE, AND THE RELIEF SOUGHT IN THE NOTICE OF HEARING MAY BE GRANTED BY DEFAULT.**

7. No answer or responsive pleading was ever filed by Respondent.
8. Respondent failed to appear at the hearing on June 7, 2023.
9. The SOAH issued the Default Dismissing Order on June 8, 2023.
10. Pursuant to 22 TEX. ADMIN. CODE §187.27, the Board finds that this Determination of Default is meritorious, and satisfies all jurisdictional and legal requirements. The Board further finds that the issuance of a Default Order is warranted.

II. CONCLUSIONS OF LAW

Based on the above Findings, the Board concludes the following:

1. Violations of the Act: The actions of Respondent as specified in the Complaint violate one or more of the following provisions of the Act:
 - a. 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.
 - b. 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.
 - c. 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)(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; and 190.8(1)(G), failure to disclose reasonably foreseeable side effects of a procedure or treatment.

d. 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, or injure the public.

e. 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, Texas Health & Safety Code §§481.071(a) and 481.129(c), related to prescribing controlled substances without a valid medical purpose.

f. Section 164.053(a)(3) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent writes prescriptions for or dispenses to a person who: (A), is known to be an abuser of narcotic drugs, controlled substances, or dangerous drugs; or (B), the physician should have known was an abuser of narcotic drugs, controlled substances, or dangerous drugs.

g. 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.

h. 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, Texas Health and Safety Code; or (B), controlled substances scheduled in Chapter 481, Health and Safety Code, or the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. Sections 801 *et seq.*).

2. Aggravating 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: 190.15(a)(1), harm to one or more patients; and 190.15(a)(5), increased potential for harm to the public.

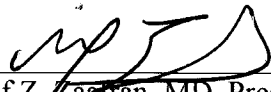
III. ORDER

IT IS THEREFORE the Board's finding, having reviewed the administrative record, that this Determination of Default is meritorious.

Based on the above finding that Determination of Default is meritorious, the Board ORDERS that:

1. All allegations set forth in the Complaint filed in SOAH No. 503-23-17431.MD are deemed true.
2. Respondent's Texas Physician License No. G3053 is hereby REVOKED.

SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this
18th day of August, 2023.



Sherif Z. Zafran, MD, President
Texas Medical Board