

FILED
503-24-21743
7/15/2024 12:58 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Jessica Rodriguez, CLERK

SOAH Docket No. 503-24-21743

ACCEPTED
503-24-21743
7/15/2024 1:52:36 pm
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Jessica Rodriguez, CLERK

**HEARING CONDUCTED BY THE
TEXAS STATE OFFICE OF ADMINISTRATIVE HEARINGS
SOAH DOCKET NO. 503-24-_____.MD
TEXAS MEDICAL LICENSE NO. T-8668**

IN THE MATTER OF THE

COMPLAINT AGAINST

ZINIA SUE THOMAS, 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 (Board Staff) files this Complaint against Zinia Sue Thomas, M.D. (Respondent), for alleged violations of the Medical Practice Act (the Act), Title 3, Subtitle B, Texas Occupations Code, and the Board's Rules, and would show the following:

I. SUMMARY OF FACTUAL ALLEGATIONS

Respondent's Colorado medical license (CO License) was suspended by the Colorado Medical Board (CMB) for arrests in Missouri (MO) involving Delivery of Controlled Substance Except 35 Grams or Less of Marijuana or Synthetic Cannabinoid.

II. LEGAL AUTHORITY AND JURISDICTION

1. Respondent is a Texas Physician and holds Texas Medical License No. T-8868 originally issued on July 8, 2022. 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, as provided in §151.003 of the Act.

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 et. seq., 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)(9) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent holding a license to practice medicine subject to disciplinary action by another state, as further defined by Board Rule 190.8(3), disciplinary action by another state board. Pursuant to section 164.051(c) of the Act, certified copies of the record of another state that takes action described by section 164.051(a)(9) are conclusive evidence of that action.

IV. FACTUAL ALLEGATIONS

Based on information and belief, Board Staff alleges:

1. Respondent is a physician, with license number T8668, issued on July 8, 2022.

2. On or around January 19, 2023, the CMB reviewed a complaint and media report that stated Respondent was illegally in possession of a large amount of marijuana and ecstasy pills and improperly qualified patients' medical marijuana cards in Michigan by diagnosing patients with certain conditions without seeing those patients.

3. On or about January 20, 2023, CMB issued an Order Pursuant to Section 12-240-125(8)(a), C.R.S. (CMB Order), requiring Respondent to submit to a mental or physical examination with the Colorado Physician Health Program (CPHP). The CMB Order required Respondent to:

- Contact CPHP no later than January 27, 2023;
- Execute, no later than January 27, 2023, all releases to allow unrestricted communication between CPHP and the CMB Panel;
- Appear for all appointments with CPHP;
- Provide any information requested by CPHP;
- Schedule timely appointments as requested or recommended by CPHP;
- Otherwise cooperate fully with CPHP; and
- Continue to cooperate fully with CPHP and to comply with any and all requests or recommendations CPHP deems appropriate to facilitate any and all examinations necessary to determine if Respondent is unable to practice medicine with reasonable skill and safety to patients because of a condition described in sections 12-240-121(1)(e) or (i), C.R.S., or section 12-30-108(1), C.R.S.

4. On February 17, 2023, CMB Panel reviewed communication from CPHP on January 30, 2023, that Respondent failed to contact CPHP by January 27, 2023.

5. Pursuant to CMB Order and Section 12-240-125(8)(a), C.R.S., Respondent's failure to comply with the requirements of the CMB Order was grounds for suspension with CMB. Also, CMB Panel determined that Respondent failed to comply with CPHP's requirement for evaluation and thus failed to comply with the requirement of CMB Order.

6. Pursuant to Section 12-240-125(8)(a), C.R.S., CMB Panel was authorized to suspend Respondent's license to practice medicine in CO until the required examinations were conducted and pending further disciplinary proceedings.

7. As a result, on February 28, 2023, CMB Panel suspended Respondent's CO License.

8. As of the entry of this Complaint, Respondent's CO License remains suspended.

9. Respondent's out-of-state disciplinary action taken by the CMB constitutes a violation of:

Section 164.051(a)(9) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent holding a license to practice medicine subject to disciplinary action by another state, as further defined by Board Rule 190.8(3), disciplinary action by another state board.

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 provides that the Board may consider aggravating factors that warrant more severe or restrictive disciplinary action. This case includes the following aggravating factors: (5) increased potential for harm to the public; (7) intentional, premeditated, knowing, or grossly negligent act constituting a violation; and (11) other relevant circumstances increasing the severity of the misconduct.

Board Staff is not aware of any mitigating factors that apply and demands 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

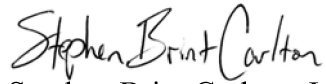
AMY SWANHOLM, J.D., MSEL
Litigation Director

By:

A handwritten signature in dark ink, appearing to read "Michael Bostic", is written over a horizontal line.

Michael Bostic, JD
Staff Attorney
Texas State Bar No. 24113617
1801 Congress Avenue, Suite 9-200
Austin, Texas 78701
Telephone: (512) 305-7177
Facsimile: (888) 391-2366
Email: michael.bostic@tmb.state.tx.us
ATTORNEYS FOR BOARD

Filed with the Texas Medical Board on July 11, 2024.

A handwritten signature in black ink that reads "Stephen Brint Carlton". The signature is written in a cursive, flowing style.

Stephen Brint Carlton, J.D.
Executive Director
Texas Medical Board

CERTIFICATE OF SERVICE

I certify that on the 15th day of July 2024, a true and correct copy of the foregoing document has been served as follows:

E-file

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

Via First Class Mail and Certified Mail Article No. 7008 2810 0000 1408 5417

Zinia Sue Thomas, MD
13041 Tapawingo Place
Saint Louis, MO 63127

Via E-file

Robin Etheridge
Hearings Coordinator
Texas Medical Board
1801 Congress
Suite 9-200
Austin, TX 78701



Michael Bostic
Staff Attorney