

HEARING CONDUCTED BY THE  
TEXAS STATE OFFICE OF ADMINISTRATIVE HEARINGS  
SOAH DOCKET NO. 503-14-1671.MD  
TEXAS MEDICAL LICENSE NO. N-5626

TEXAS MEDICAL BOARD

v.

SOO YOUNG CHONG, M.D.

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

**FIRST AMENDED COMPLAINT**

TO THE HONORABLE TEXAS MEDICAL BOARD AND THE HONORABLE  
ADMINISTRATIVE LAW JUDGE SHARON CLONIGER:

COMES NOW, the Staff of the Texas Medical Board (Board), and files this First Amended Complaint against Soo Young Chong, M.D. (Respondent), based on Respondent's alleged violations of the Medical Practice Act (Act), Title 3, Subtitle B, Texas Occupations Code, and would show the following:

**I. INTRODUCTION**

Respondent was improperly operating two unregistered pain management clinics, The Corner Clinic and Med Plus Health and Rehab, in violation of the Act and Board rules. Respondent also failed to adequately supervise his mid-level providers at these clinics. Finally, Respondent and/or his mid-level provider failed to meet the standard of care in the treatment of seven chronic pain patients treated at Med Plus Health and Rehab. 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. N-5626 originally issued on April 9, 2010. Respondent's license was in full force and effect at all times material and relevant to this Complaint.

2. Respondent received notice of an Informal Settlement Conference. 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. STATUTORY VIOLATIONS**

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

1. Section 157.001(b) of the Act states that the delegating physician remains responsible for the medical acts of the persons performing the delegated acts.
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, specifically, Board Rules 165.1, regarding the maintenance of medical records; 170, regarding the treatment of patients for chronic pain; 193, related to supervision of mid-level practitioners; and 195, regarding pain management clinic requirements.
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, 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 Tex. Occ. Code Section 107.152, authorizing the Board to revoke or suspend the license of a physician who prescribes or administers a drug or treatment that is not for a legitimate medical purpose, that is nontherapeutic in the manner prescribed or administered, or in a manner inconsistent with public and welfare.
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 provided by Section 164.053, and as further defined by Board Rule 190.8(2)(R), commission of a violation of federal or state law; Tex. Occ. Code Section 107.052, related to prescribing controlled substances for a purpose that is not a legitimate medical purpose; Tex. Occ. Code Section 107.104, related to required documentation and consultation; and Texas Health and Safety Code Section 481.129(c), related to prescribing controlled substances without a valid medical purpose;

5. Section 164.052(a)(17) of the Act authorizes the Board to take disciplinary action against Respondent based upon Respondent directly or indirectly aiding or abetting the practice of medicine by a person, partnership, association, or corporation that is not licensed to practice medicine by the Board.
6. Section 164.053(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent based upon Respondent's commission of an act that violates any state or federal law if the act is connected with the physician's practice of medicine, specifically Texas Health and Safety Code Section 481.129(c), related to prescribing controlled substances without a valid medical purpose; Tex. Occ. Code Section 107.052, related to prescribing controlled substances for a purpose that is not a legitimate medical purpose; Tex. Occ. Code Section 107.104, related to required documentation and consultation.
7. Section 164.053(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based upon Respondent prescribing or administering a drug or treatment that is nontherapeutic.
8. Section 164.053(a)(6) of the Act authorizes the Board to take disciplinary action against Respondent based upon 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 the Comprehensive Drug Abuse Prevention and Control Act of 1970, (21 U.S.C. Section 801 et seq.).
9. Section 164.053(a)(8) of the Act authorizes the Board to take disciplinary action against Respondent based upon Respondent's failure to adequately supervise the activities of those acting under the supervision of the physician.

10. Section 164.053(a)(9) delegates professional medical responsibility or acts to a person if the delegating physician knows or has reason to know that the person is not qualified by training, experience, or licensure to perform the responsibility or acts.
11. Section 168.101(a) states that a pain management clinic may not operate in the state of Texas unless it is certified.
12. Section 168.102(a) states that a physician who owns or operates a pain management clinic shall apply for a certificate for the clinic under this chapter, and that a pain management clinic must be owned and operated by a medical director who is a physician who practices in this state under an unrestricted license.
13. Section 168.201(c) requires that a physician who owns or operates a pain management clinic to be on-site at the clinic at least 33 percent of the clinic's total number of operating hours; and to review at least 33 percent of the total number of patient files of the clinic, including the patient files of a clinic employee or contractor to whom authority for patient care has been delegated by the clinic.
14. Section 168.201(d) states that a person who owns or operates a pain management clinic is engage in the practice of medicine.
15. Section 168.202 of the Act authorizes the Board to take disciplinary action against Respondent based upon Respondent's failure to follow the Board's regulations regarding the operation of pain management clinics.

#### IV. 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. Operation of Unregistered Pain Management Clinics

Respondent operated at least two unregistered pain management clinics that were not owned by physicians licensed in the state of Texas, as is required. These clinics include The Corner Clinic, located at 505 Maxey Rd., Suite F, Houston, TX 77013, and Med Plus Health and Rehab (Med Plus), located at 6776 Southwest Freeway #630, Houston, Texas, 77074.

From on or about June 1, 2012, through on or about November 5, 2012, Respondent's duties at The Corner Clinic were to review charts and supervise his mid-level provider, Tim Senthavisouk, a nurse practitioner. Both Respondent and Mr. Senthavisouk admitted that 100% of the patients treated at The Corner Clinic were issued prescriptions for hydrocodone, Soma, or a benzodiazepine on a monthly basis, and other types of treatment were not offered. Respondent admitted that The Corner Clinic was not a registered pain management clinic, and that it was owned by Mr. Senthavisouk, who is not a physician. The Harris County Clerk's office also identifies Mr. Senthavisouk as the owner of The Corner Clinic. As the majority of the patients were receiving hydrocodone, Soma, or a benzodiazepine on a monthly basis, The Corner Clinic was required to be registered as a pain management clinic.

From on or about August 19, 2013, through on or about June 16, 2014, Respondent's duties at Med Plus were to review charts and supervise his mid-level provider, Randy Presley, a nurse practitioner. Respondent admitted that all of the patients treated at Med Plus were issued prescriptions for hydrocodone, Soma, or a benzodiazepine on a monthly basis, and that the only additional treatments available were a massage chair and hot and cold packs. Respondent also admitted that Med Plus was not a registered pain management clinic, and that it was owned by Mr. Presley, who is not a physician. The Harris County Clerk's office also identified Mr. Presley as the owner of Med Plus.

From January 1, 2014, through January 31, 2014, 576 patients were seen at Med Plus. Of those 576 patients, approximately 571 patients or 99% of the patients received prescriptions for controlled drugs. In addition, 567 of the patients or 98% received two or more prescriptions for controlled drugs. As the majority of the patients were receiving hydrocodone, Soma, or a benzodiazepine on a monthly basis, The Corner Clinic was required to be registered as a pain management clinic.

Violations:

- Section 157.001(b) of the Act;
- Section 167.202 of the Act;
- Section 164.051(a)(3) of the Act, as further defined by Board Rules 195;
- Section 164.052(a)(17) of the Act;
- Section 164.053(a)(9) of the Act; and
- Section 168 of the Act, including 168.101(a), 168.102(a), 168.201(d), and 168.202.

## B. Failure to Adequately Supervise Mid-Level Providers

1. Respondent delegated prescriptive authority and supervised Mr. Senthavisouk from on or about June 1, 2012, through on or about November 5, 2012. According to Respondent, The Corner Clinic was open Monday through Friday from 7:00 a.m. through 5:00 p.m. According to Mr. Senthavisouk, The Corner Clinic was open Monday through Friday from 8:00 a.m. through 3:00 p.m., and Saturday from 8:00 a.m. through 2:00 p.m. Respondent worked at the clinic about one hour once a week. Respondent's midlevel provider, Mr. Senthavisouk, was the owner of The Corner Clinic, which was an unregistered pain management clinic. Respondent failed to adequately supervise his midlevel provider.

### Violations:

- Section 157.001(b) of the Act;
- Section 164.051(a)(3) of the Act, as further defined by Board Rule 193 and 195;
- Section 164.053(a)(8) of the Act; and
- Section 168 of the Act, including 168.201(c) and 168.202

2. Respondent delegated prescriptive authority and supervised Mr. Presley from on or about August 19, 2013, through on or about June 16, 2014. Respondent stated that the clinic was open Monday through Saturday. Mr. Presley stated that the clinic was open Monday through Friday from 7:30 a.m. through 2:00 p.m., and some Saturdays from 8:00 a.m. through 12:00 p.m. Respondent stated he worked three hours per week at the clinic. Respondent admitted that he did not know the number of medical records he reviewed, as the staff pulled them and had them ready for his to review. Respondent's midlevel provider, Mr. Presley, was the owner of Med Plus, which was an unregistered pain management clinic. Respondent failed to adequately supervise his midlevel provider.

### Violations:

- Section 157.001(b) of the Act;
- Section 164.051(a)(3) of the Act, as further defined by Board Rule 193 and 195;
- Section 164.053(a)(8) of the Act; and
- Section 168 of the Act, including 168.201(c) and 168.202.

C. Violation of the Standard of Care in the Treatment of Seven Chronic Pain Patients

Respondent and/or his mid-level provider, Mr. Presley, failed to meet the standard of care in the treatment of seven chronic pain patients. (Patient A, Patient B, Patient C, Patient D, Patient E, Patient F, and Patient G).<sup>1</sup> Respondent and/or his mid-level provider nontherapeutically prescribed to these patients without adequate documented support or indication.

1. Patient A:

From January 2013 through March 2014, Respondent and/or his mid-level provider treated Patient A for various complaints, including neck pain and hypertension. Respondent and/or his mid-level provider prescribed Patient A controlled substances, including opioids and carisoprodol, and/or dangerous drugs through the course of treatment. Respondent and/or his mid-level failed to meet the standard of care in the treatment of Patient A.

- a. Respondent and/or his mid-level provider did not request and/or obtain Patient A's prior medical records.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rule 170; and
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D).

- b. Respondent and/or his mid-level provider did not obtain and document an adequate medical history for Patient A.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170; and
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D).

- c. Respondent and/or his mid-level provider did not perform and/or document an adequate physical exam of Patient A.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170; and
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D).

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<sup>1</sup> Identification of the patients will be provided by separate document submitted under seal.

- d. Respondent and/or his mid-level provider did not document an adequate treatment plan for Patient A.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D), (G), and (H);
- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104; and
- Section 164.053(a)(1) of the Act, Tex. Occ. Code Section 107.104.

- e. Respondent and/or his mid-level provider did not discuss and/or document a discussion with Patient A regarding the risks and benefits of the diagnosis and treatment.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D), (G), and (H);
- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104; and
- Section 164.053(a)(1) of the Act, Tex. Occ. Code Section 107.104.

- f. Respondent and/or his mid-level provider did not first exhaust all conservative treatments (such as, but not limited to, physical therapy and nonsteroidal anti-inflammatories) or document such attempts, prior to prescribing controlled substances for Patient A's pain complaints.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D) and (H);
- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104;
- Section 164.053(a)(1) of the Act, Tex. Occ. Code Section 107.104.

- g. Respondent and/or his mid-level provider did not adequately monitor Patient A for abuse and/or diversion of the prescribed medication.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170; and
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D);



- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104; and
  - Section 164.053(a)(1) of the Act, Tex. Occ. Code Section 107.104.
- h. Respondent and/or his mid-level provider did not perform and/or document adequate periodic reviews of Patient A's treatment:
- i. Respondent and/or his mid-level provider did not properly evaluate and monitor Patient A's progress or lack of progress towards reach treatment objectives.
  - ii. Respondent and/or his mid-level provider did not modify or adjust Patient A's treatment plan when indicated.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170; and
  - Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D).
- i. Respondent and/or his mid-level provider's continued treatment of Patient A with controlled substances was nontherapeutic, as it was not supported by reliable and objective evidence in the medical record.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;
  - Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D), (G), and (H), and Tex. Occ. Code Section 107.152;
  - Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104 and 107.152, Texas Health and Safety Code Section 481.129(c);
  - Section 164.053(a)(1) of the Act, Texas Health and Safety Code Section 481.129(c) and Tex. Occ. Code Section 107.104;
  - Section 164.053(a)(5); and
  - Section 164.053(a)(6).
- j. Respondent and/or his mid-level provider did not maintain adequate medical records for Patient A.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D), (G), and (H);
- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104; and
- Section 164.053(a)(1) of the Act, Tex. Occ. Code Section 107.104.

- k. Respondent and/or his mid-level provider did not meet the standard of care in the treatment of Patient A.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D), (G), and (H), and Tex. Occ. Code Section 107.152;
- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104 and 107.152, Texas Health and Safety Code Section 481.129(c);
- Section 164.053(a)(1) of the Act, Texas Health and Safety Code Section 481.129(c) and Tex. Occ. Code Section 107.104;
- Section 164.053(a)(5); and
- Section 164.053(a)(6).

**2. Patient B:**

From August 2012 through February 2014, Respondent and/or his mid-level provider treated Patient B for various complaints, including lower back pain and muscle spasms. Respondent and/or his mid-level provider prescribed Patient B controlled substances, including opioids and carisoprodol, and/or dangerous drugs through the course of treatment. Respondent and/or his mid-level failed to meet the standard of care in the treatment of Patient B.

- a. Respondent and/or his mid-level provider did not request and/or obtain Patient B's prior medical records.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rule 170; and
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D).

- b. Respondent and/or his mid-level provider did not obtain and document an adequate medical history for Patient B.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170; and
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D).

- c. Respondent and/or his mid-level provider did not perform and/or document an adequate physical exam of Patient B.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170; and

- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D).

d. Respondent and/or his mid-level provider did not document an adequate treatment plan for Patient B.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D), (G), and (H);
- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104; and
- Section 164.053(a)(1) of the Act, Tex. Occ. Code Section 107.104.

e. Respondent and/or his mid-level provider did not discuss and/or document a discussion with Patient B regarding the risks and benefits of the diagnosis and treatment.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D), (G), and (H);
- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104; and
- Section 164.053(a)(1) of the Act, Tex. Occ. Code Section 107.104.

f. Respondent and/or his mid-level provider did not first exhaust all conservative treatments (such as, but not limited to, physical therapy and nonsteroidal anti-inflammatories) or document such attempts, prior to prescribing controlled substances for Patient B's pain complaints.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D) and (H);
- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104;
- Section 164.053(a)(1) of the Act, Tex. Occ. Code Section 107.104.

g. Respondent and/or his mid-level provider did not adequately monitor Patient B for abuse and/or diversion of the prescribed medication.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170; and

- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D);
  - Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104; and
  - Section 164.053(a)(1) of the Act, Tex. Occ. Code Section 107.104.
- h. Respondent and/or his mid-level provider did not perform and/or document adequate periodic reviews of Patient B's treatment:
- i. Respondent and/or his mid-level provider did not properly evaluate and monitor Patient B's progress or lack of progress towards reach treatment objectives.
  - ii. Respondent and/or his mid-level provider did not modify or adjust Patient B's treatment plan when indicated.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170; and
  - Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D).
- i. Respondent and/or his mid-level provider's continued treatment of Patient B with controlled substances was nontherapeutic, as it was not supported by reliable and objective evidence in the medical record.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;
  - Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D), (G), and (H), and Tex. Occ. Code Section 107.152;
  - Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104 and 107.152, Texas Health and Safety Code Section 481.129(c);
  - Section 164.053(a)(1) of the Act, Texas Health and Safety Code Section 481.129(c) and Tex. Occ. Code Section 107.104;
  - Section 164.053(a)(5); and
  - Section 164.053(a)(6).
- j. Respondent and/or his mid-level provider did not maintain adequate medical records for Patient B.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D), (G), and (H);

- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104; and
  - Section 164.053(a)(1) of the Act, Tex. Occ. Code Section 107.104.
- k. Respondent and/or his mid-level provider did not meet the standard of care in the treatment of Patient B.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D), (G), and (H), and Tex. Occ. Code Section 107.152;
- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104 and 107.152, Texas Health and Safety Code Section 481.129(c);
- Section 164.053(a)(1) of the Act, Texas Health and Safety Code Section 481.129(c) and Tex. Occ. Code Section 107.104;
- Section 164.053(a)(5); and
- Section 164.053(a)(6).

**3. Patient C:**

From January 2013 through February 2014, Respondent and/or his mid-level provider treated Patient C for various complaints, including lower back pain and neck pain. Respondent and/or his mid-level provider prescribed Patient C controlled substances, including opioids and carisoprodol, and/or dangerous drugs through the course of treatment. Respondent and/or his mid-level failed to meet the standard of care in the treatment of Patient C.

- a. Respondent and/or his mid-level provider did not request and/or obtain Patient C's prior medical records.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rule 170; and
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D).

- b. Respondent and/or his mid-level provider did not obtain and document an adequate medical history for Patient C.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170; and
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D).

- c. Respondent and/or his mid-level provider did not perform and/or document an adequate physical exam of Patient C.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170; and
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D).

d. Respondent and/or his mid-level provider did not document an adequate treatment plan for Patient C.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D), (G), and (H);
- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104; and
- Section 164.053(a)(1) of the Act, Tex. Occ. Code Section 107.104.

e. Respondent and/or his mid-level provider did not discuss and/or document a discussion with Patient C regarding the risks and benefits of the diagnosis and treatment.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D), (G), and (H);
- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104; and
- Section 164.053(a)(1) of the Act, Tex. Occ. Code Section 107.104.

f. Respondent and/or his mid-level provider did not first exhaust all conservative treatments (such as, but not limited to, physical therapy and nonsteroidal anti-inflammatories) or document such attempts, prior to prescribing controlled substances for Patient C's pain complaints.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D) and (H);
- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104;
- Section 164.053(a)(1) of the Act, Tex. Occ. Code Section 107.104.

- g. Respondent and/or his mid-level provider did not adequately monitor Patient C for abuse and/or diversion of the prescribed medication.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170; and
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D);
- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104; and
- Section 164.053(a)(1) of the Act, Tex. Occ. Code Section 107.104.

- h. Respondent and/or his mid-level provider did not perform and/or document adequate periodic reviews of Patient C's treatment:

- i. Respondent and/or his mid-level provider did not properly evaluate and monitor Patient C's progress or lack of progress towards reach treatment objectives.
- ii. Respondent and/or his mid-level provider did not modify or adjust Patient C's treatment plan when indicated.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170; and
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D).

- i. Respondent and/or his mid-level provider's continued treatment of Patient C with controlled substances was nontherapeutic, as it was not supported by reliable and objective evidence in the medical record.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D), (G), and (H), and Tex. Occ. Code Section 107.152;
- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104 and 107.152, Texas Health and Safety Code Section 481.129(c);
- Section 164.053(a)(1) of the Act, Texas Health and Safety Code Section 481.129(c) and Tex. Occ. Code Section 107.104;
- Section 164.053(a)(5); and
- Section 164.053(a)(6).

- j. Respondent and/or his mid-level provider did not maintain adequate medical records for Patient C.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D), (G), and (H);
- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104; and
- Section 164.053(a)(1) of the Act, Tex. Occ. Code Section 107.104.

- k. Respondent and/or his mid-level provider did not meet the standard of care in the treatment of Patient C.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D), (G), and (H), and Tex. Occ. Code Section 107.152;
- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104 and 107.152, Texas Health and Safety Code Section 481.129(c);
- Section 164.053(a)(1) of the Act, Texas Health and Safety Code Section 481.129(c) and Tex. Occ. Code Section 107.104;
- Section 164.053(a)(5); and
- Section 164.053(a)(6).

**4. Patient D:**

From March 2013 through February 2014, Respondent and/or his mid-level provider treated Patient D for various complaints, including lower back pain and hypertension. Respondent and/or his mid-level provider prescribed Patient D controlled substances, including opioids and carisoprodol, and/or dangerous drugs through the course of treatment. Respondent and/or his mid-level failed to meet the standard of care in the treatment of Patient D.

- a. Respondent and/or his mid-level provider did not request and/or obtain Patient D's prior medical records.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rule 170; and
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D).

- b. Respondent and/or his mid-level provider did not obtain and document an adequate medical history for Patient D.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170; and



- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D).

c. Respondent and/or his mid-level provider did not perform and/or document an adequate physical exam of Patient D.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170; and
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D).

d. Respondent and/or his mid-level provider did not document an adequate treatment plan for Patient D.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D), (G), and (H);
- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104; and
- Section 164.053(a)(1) of the Act, Tex. Occ. Code Section 107.104.

e. Respondent and/or his mid-level provider did not discuss and/or document a discussion with Patient D regarding the risks and benefits of the diagnosis and treatment.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D), (G), and (H);
- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104; and
- Section 164.053(a)(1) of the Act, Tex. Occ. Code Section 107.104.

f. Respondent and/or his mid-level provider did not first exhaust all conservative treatments (such as, but not limited to, physical therapy and nonsteroidal anti-inflammatories) or document such attempts, prior to prescribing controlled substances for Patient D's pain complaints.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D) and (H);

- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104;
  - Section 164.053(a)(1) of the Act, Tex. Occ. Code Section 107.104.
- g. Respondent and/or his mid-level provider did not adequately monitor Patient D for abuse and/or diversion of the prescribed medication.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170; and
  - Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D);
  - Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104; and
  - Section 164.053(a)(1) of the Act, Tex. Occ. Code Section 107.104.
- h. Respondent and/or his mid-level provider did not perform and/or document adequate periodic reviews of Patient D's treatment:
- i. Respondent and/or his mid-level provider did not properly evaluate and monitor Patient D's progress or lack of progress towards reach treatment objectives.
  - ii. Respondent and/or his mid-level provider did not modify or adjust Patient D's treatment plan when indicated.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170; and
  - Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D).
- i. Respondent and/or his mid-level provider's continued treatment of Patient D with controlled substances was nontherapeutic, as it was not supported by reliable and objective evidence in the medical record.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D), (G), and (H), and Tex. Occ. Code Section 107.152;
- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104 and 107.152, Texas Health and Safety Code Section 481.129(c);
- Section 164.053(a)(1) of the Act, Texas Health and Safety Code Section 481.129(c) and Tex. Occ. Code Section 107.104;
- Section 164.053(a)(5); and
- Section 164.053(a)(6).

- j. Respondent and/or his mid-level provider did not maintain adequate medical records for Patient D.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D), (G), and (H);
- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104; and
- Section 164.053(a)(1) of the Act, Tex. Occ. Code Section 107.104.

- k. Respondent and/or his mid-level provider did not meet the standard of care in the treatment of Patient D.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D), (G), and (H), and Tex. Occ. Code Section 107.152;
- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104 and 107.152, Texas Health and Safety Code Section 481.129(c);
- Section 164.053(a)(1) of the Act, Texas Health and Safety Code Section 481.129(c) and Tex. Occ. Code Section 107.104;
- Section 164.053(a)(5); and
- Section 164.053(a)(6).

**5. Patient E:**

From April 2013 through February 2014, Respondent and/or his mid-level provider treated Patient E for various complaints, including lower back pain and hip pain. Respondent and/or his mid-level provider prescribed Patient E controlled substances, including opioids and carisoprodol, and/or dangerous drugs through the course of treatment. Respondent and/or his mid-level failed to meet the standard of care in the treatment of Patient E.

- a. Respondent and/or his mid-level provider did not request and/or obtain Patient E's prior medical records.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rule 170; and
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D).

- b. Respondent and/or his mid-level provider did not obtain and document an adequate medical history for Patient E.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170; and
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D).

- c. Respondent and/or his mid-level provider did not perform and/or document an adequate physical exam of Patient E.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170; and
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D).

- d. Respondent and/or his mid-level provider did not document an adequate treatment plan for Patient E.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D), (G), and (H);
- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104; and
- Section 164.053(a)(1) of the Act, Tex. Occ. Code Section 107.104.

- e. Respondent and/or his mid-level provider did not discuss and/or document a discussion with Patient E regarding the risks and benefits of the diagnosis and treatment.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D), (G), and (H);
- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104; and
- Section 164.053(a)(1) of the Act, Tex. Occ. Code Section 107.104.

- f. Respondent and/or his mid-level provider did not first exhaust all conservative treatments (such as, but not limited to, physical therapy and nonsteroidal anti-inflammatories) or document such attempts, prior to prescribing controlled substances for Patient E's pain complaints.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;

- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D) and (H);
  - Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104;
  - Section 164.053(a)(1) of the Act, Tex. Occ. Code Section 107.104.
- g. Respondent and/or his mid-level provider did not adequately monitor Patient E for abuse and/or diversion of the prescribed medication.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170; and
  - Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D);
  - Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104; and
  - Section 164.053(a)(1) of the Act, Tex. Occ. Code Section 107.104.
- h. Respondent and/or his mid-level provider did not perform and/or document adequate periodic reviews of Patient E's treatment:
- i. Respondent and/or his mid-level provider did not properly evaluate and monitor Patient E's progress or lack of progress towards reach treatment objectives.
  - ii. Respondent and/or his mid-level provider did not modify or adjust Patient E's treatment plan when indicated.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170; and
  - Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D).
- i. Respondent and/or his mid-level provider's continued treatment of Patient E with controlled substances was nontherapeutic, as it was not supported by reliable and objective evidence in the medical record.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D), (G), and (H), and Tex. Occ. Code Section 107.152;
- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104 and 107.152, Texas Health and Safety Code Section 481.129(c);
- Section 164.053(a)(1) of the Act, Texas Health and Safety Code Section 481.129(c) and Tex. Occ. Code Section 107.104;

- Section 164.053(a)(5); and
  - Section 164.053(a)(6).
- j. Respondent and/or his mid-level provider did not maintain adequate medical records for Patient E.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;
  - Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D), (G), and (H);
  - Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104; and
  - Section 164.053(a)(1) of the Act, Tex. Occ. Code Section 107.104.
- k. Respondent and/or his mid-level provider did not meet the standard of care in the treatment of Patient E.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D), (G), and (H), and Tex. Occ. Code Section 107.152;
- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104 and 107.152, Texas Health and Safety Code Section 481.129(c);
- Section 164.053(a)(1) of the Act, Texas Health and Safety Code Section 481.129(c) and Tex. Occ. Code Section 107.104;
- Section 164.053(a)(5); and
- Section 164.053(a)(6).

**6. Patient F:**

From July 2013 through March 2014, Respondent and/or his mid-level provider treated Patient F for various complaints, including lower back pain and wrist pain. Respondent and/or his mid-level provider prescribed Patient F controlled substances, including opioids and carisoprodol, and/or dangerous drugs through the course of treatment. Respondent and/or his mid-level failed to meet the standard of care in the treatment of Patient F.

- a. Respondent and/or his mid-level provider did not request and/or obtain Patient F's prior medical records.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rule 170; and
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D).

- b. Respondent and/or his mid-level provider did not obtain and document an adequate medical history for Patient F.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170; and
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D).

- c. Respondent and/or his mid-level provider did not perform and/or document an adequate physical exam of Patient F.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170; and
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D).

- d. Respondent and/or his mid-level provider did not document an adequate treatment plan for Patient F.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D), (G), and (H);
- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104; and
- Section 164.053(a)(1) of the Act, Tex. Occ. Code Section 107.104.

- e. Respondent and/or his mid-level provider did not discuss and/or document a discussion with Patient F regarding the risks and benefits of the diagnosis and treatment.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D), (G), and (H);
- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104; and
- Section 164.053(a)(1) of the Act, Tex. Occ. Code Section 107.104.

- f. Respondent and/or his mid-level provider did not first exhaust all conservative treatments (such as, but not limited to, physical therapy and nonsteroidal anti-inflammatories) or document such attempts, prior to prescribing controlled substances for Patient F's pain complaints.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D) and (H);
- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104;
- Section 164.053(a)(1) of the Act, Tex. Occ. Code Section 107.104.

- g. Respondent and/or his mid-level provider did not adequately monitor Patient F for abuse and/or diversion of the prescribed medication.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170; and
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D);
- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104; and
- Section 164.053(a)(1) of the Act, Tex. Occ. Code Section 107.104.

- h. Respondent and/or his mid-level provider did not perform and/or document adequate periodic reviews of Patient F's treatment:

- i. Respondent and/or his mid-level provider did not properly evaluate and monitor Patient F's progress or lack of progress towards reach treatment objectives.
- ii. Respondent and/or his mid-level provider did not modify or adjust Patient F's treatment plan when indicated.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170; and
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D).

- i. Respondent and/or his mid-level provider's continued treatment of Patient F with controlled substances was nontherapeutic, as it was not supported by reliable and objective evidence in the medical record.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D), (G), and (H), and Tex. Occ. Code Section 107.152;
- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104 and 107.152, Texas Health and Safety Code Section 481.129(c);



- Section 164.053(a)(1) of the Act, Texas Health and Safety Code Section 481.129(c) and Tex. Occ. Code Section 107.104;
- Section 164.053(a)(5); and
- Section 164.053(a)(6).

j. Respondent and/or his mid-level provider did not maintain adequate medical records for Patient F.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D), (G), and (H);
- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104; and
- Section 164.053(a)(1) of the Act, Tex. Occ. Code Section 107.104.

k. Respondent and/or his mid-level provider did not meet the standard of care in the treatment of Patient F.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D), (G), and (H), and Tex. Occ. Code Section 107.152;
- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104 and 107.152, Texas Health and Safety Code Section 481.129(c);
- Section 164.053(a)(1) of the Act, Texas Health and Safety Code Section 481.129(c) and Tex. Occ. Code Section 107.104;
- Section 164.053(a)(5); and
- Section 164.053(a)(6).

**7. Patient G:**

From January 2013 through February 2014, Respondent and/or his mid-level provider treated Patient G for various complaints, including lower back pain, spine pain, and neck pain. Respondent and/or his mid-level provider prescribed Patient G controlled substances, including opioids and carisoprodol, and/or dangerous drugs through the course of treatment. Respondent and/or his mid-level failed to meet the standard of care in the treatment of Patient G.

a. Respondent and/or his mid-level provider did not request and/or obtain Patient G's prior medical records.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rule 170; and

- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D).

b. Respondent and/or his mid-level provider did not obtain and document an adequate medical history for Patient G.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170; and
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D).

c. Respondent and/or his mid-level provider did not perform and/or document an adequate physical exam of Patient G.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170; and
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D).

d. Respondent and/or his mid-level provider did not document an adequate treatment plan for Patient G.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D), (G), and (H);
- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104; and
- Section 164.053(a)(1) of the Act, Tex. Occ. Code Section 107.104.

e. Respondent and/or his mid-level provider did not discuss and/or document a discussion with Patient G regarding the risks and benefits of the diagnosis and treatment.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D), (G), and (H);
- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104; and
- Section 164.053(a)(1) of the Act, Tex. Occ. Code Section 107.104.

- f. Respondent and/or his mid-level provider did not first exhaust all conservative treatments (such as, but not limited to, physical therapy and nonsteroidal anti-inflammatories) or document such attempts, prior to prescribing controlled substances for Patient G's pain complaints.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D) and (H);
- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104;
- Section 164.053(a)(1) of the Act, Tex. Occ. Code Section 107.104.

- g. Respondent and/or his mid-level provider did not adequately monitor Patient G for abuse and/or diversion of the prescribed medication.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170; and
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D);
- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104; and
- Section 164.053(a)(1) of the Act, Tex. Occ. Code Section 107.104.

- h. Respondent and/or his mid-level provider did not perform and/or document adequate periodic reviews of Patient G's treatment:

- i. Respondent and/or his mid-level provider did not properly evaluate and monitor Patient G's progress or lack of progress towards reach treatment objectives.
- ii. Respondent and/or his mid-level provider did not modify or adjust Patient G's treatment plan when indicated.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170; and
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D).

- i. Respondent and/or his mid-level provider's continued treatment of Patient G with controlled substances was nontherapeutic, as it was not supported by reliable and objective evidence in the medical record.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D), (G), and (H), and Tex. Occ. Code Section 107.152;
- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104 and 107.152, Texas Health and Safety Code Section 481.129(c);
- Section 164.053(a)(1) of the Act, Texas Health and Safety Code Section 481.129(c) and Tex. Occ. Code Section 107.104;
- Section 164.053(a)(5); and
- Section 164.053(a)(6).

- j. Respondent and/or his mid-level provider did not maintain adequate medical records for Patient G.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D), (G), and (H);
- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104; and
- Section 164.053(a)(1) of the Act, Tex. Occ. Code Section 107.104.

- k. Respondent and/or his mid-level provider did not meet the standard of care in the treatment of Patient G.

Violations:

- Section 164.051(a)(3) of the Act, specifically, Board Rules 165.1(a) and 170;
- Section 164.051(a)(6) of the Act, as further defined by Board Rules: 190.8(1)(A-D), (G), and (H), and Tex. Occ. Code Section 107.152;
- Section 164.052(a)(5) of the Act, as further defined by Board Rule 190.8(2)(R), Tex. Occ. Code Section 107.104 and 107.152, Texas Health and Safety Code Section 481.129(c);
- Section 164.053(a)(1) of the Act, Texas Health and Safety Code Section 481.129(c) and Tex. Occ. Code Section 107.104;
- Section 164.053(a)(5); and
- Section 164.053(a)(6).

## **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: harm to one or more patients; one or

more violations that involve more than one patient; increased potential for harm to the public; and intentional, premeditated, knowing, or grossly negligent act constituting a violation.

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

The following statutes, rules, and agency policy are applicable to the procedures for 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. 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 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.

## **VII. 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 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,

THE TEXAS MEDICAL BOARD

Christopher Palazola  
Litigation Manager  
Susan Rodriguez  
Lead Attorney



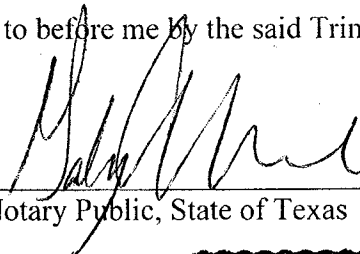
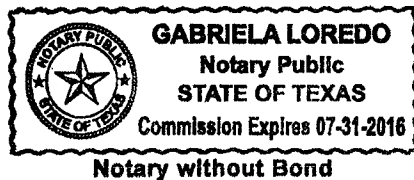
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Telephone: (512) 305-7015  
Fax: (512) 305-7007  
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THE STATE OF TEXAS

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§

COUNTY OF TRAVIS

SUBSCRIBED AND SWORN to before me by the said Trina Richardson on this \_\_\_ day  
of October 16<sup>th</sup>, 2015.

  
\_\_\_\_\_  
Notary Public, State of Texas

Filed with the Texas Medical Board on

October 15<sup>th</sup>, 2015.

Scott M. Evershow per

Mari Robinson, J.D.

Executive Director

Texas Medical Board

by permission

**CERTIFICATE OF SERVICE**

On this 16<sup>th</sup> day of October, 2015, I certify that a true and correct copy of this First Amended Complaint has been served on the following individuals at the locations and the manner indicated below.

**By SOAH Electronic Docketing Upload to:**

Docket Clerk  
State Office of Administrative Hearings  
300 W. 15th Street, Suite 504  
Austin, Texas 78701

**By First Class Mail, and**

**By Certified Mail Return Receipt Requested No. 7008 2810 0000 1409 4877 to:**

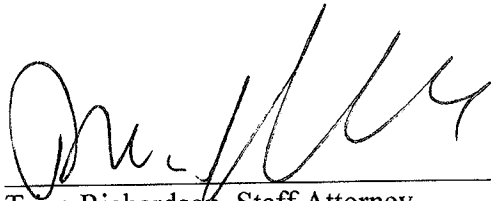
Soo Young Chong, M.D.  
16808 El Camino Rd  
Houston, TX 77058

**By Fax No. 713-622-0328 To:**

Don E. Lewis  
Don E. Lewis and Associates  
1717 St. James Place, Suite 625  
Houston, TX 77056

**By Hand Delivery:**

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

  
\_\_\_\_\_  
Trina Richardson, Staff Attorney