

ACCEPTED  
503-21-1856  
03/31/2021 11:05 AM  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Carol Hale, CLERK

503-21-1856

FILED  
503-21-1856  
3/31/2021 10:48 AM  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Carol Hale, CLERK

**HEARING CONDUCTED BY THE  
TEXAS STATE OFFICE OF ADMINISTRATIVE HEARINGS  
SOAH DOCKET NO. 503-21- 1856 .MD  
TEXAS MEDICAL LICENSE NO. P8166**

**IN THE MATTER OF THE**

**BEFORE THE**

**COMPLAINT AGAINST**

**TARA IRENE NETTER, M.D.**

**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 (the Board) files this Complaint against Tara Irene Netter, M.D. (Respondent), for alleged violations of the Medical Practice Act (the Act), Texas Occupations Code, Title 3, Subtitle B, Chapters 151 to 165, and the Board's rules, and would show the following:

**I. SUMMARY OF FACTUAL ALLEGATIONS**

Respondent was terminated from the Texas Physician Health Program (TXPHP) and emergently referred to the Board due to noncompliance with her TXPHP agreement. Specifically, Respondent missed several drug tests, and is non-compliant with Alcoholics Anonymous (AA) meetings for substance abuse issues.

**II. LEGAL AUTHORITY AND JURISDICTION**

1. Respondent is a Texas Physician and holds Texas Medical License No. P8166 that was originally issued on October 15, 2013. 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.

### **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 167.009 of the Act authorizes the Board to take disciplinary action against Respondent based on her failure to participate in the TXPHP program following her referral to the program in a contested proceeding.
2. Section 164.051(a)(4) of the Act authorizes the Board to take disciplinary action against Respondent for the inability to practice medicine with reasonable skill and safety to patients as a result of (C) excessive use of drugs, narcotics, chemicals, or another substance, or (D) any mental or physical condition.

3. Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against the Respondent for unprofessional or dishonorable conduct that is likely to deceive or defraud the public, as provided by Section 164.053, or injure the public, as further defined by Board Rule 190.8(2)(R), violation of state or federal law whether or not there is a complaint, indictment, or conviction, specifically (xii) substance abuse or substance diversion.

#### **IV. FACTUAL ALLEGATIONS**

Based on information and belief, Board Staff alleges:

1. In September 2019 Respondent was evaluated by TXPHP. It was determined that Respondent required monitoring based on psychiatric and substance abuse issues. Respondent signed a monitoring agreement with TXPHP in September 2019. Among other things, the agreement required her to be tested for drugs and alcohol and attend AA meetings weekly.

2. Respondent was noncompliant with her monitoring agreement starting in October 2019. Between October 2019 and December 2019, she failed to test on at least two occasions, failed to check in with the monitoring service on at least three occasions, and tested on the wrong day once. She also failed to provide logs of her AA attendance.

3. Respondent was placed by TXTHP on a zero-tolerance plan in December 2019 following these instances of non-compliance. In January 2020 Respondent was terminated from TXPHP for continued noncompliance and her case was returned to the Board for further action.

4. Respondent's actions, as described, are violations of the following sections of the Act and Board rules as follows:

- a. Section 167.009 of the Act authorizes the Board to take disciplinary action against Respondent based on her failure to participate in the TXPHP program following her referral to the program in a contested case proceeding.
- b. Section 164.051(a)(4) of the Act authorizes the Board to take disciplinary action against Respondent for the inability to practice medicine with reasonable skill and safety to patients as a result of (C) excessive use of drugs, narcotics, chemicals, or another substance, or (D) any mental or physical condition.
- c. Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against the Respondent for unprofessional or dishonorable conduct that is likely to deceive or defraud the public, as provided by Section 164.053, or injure the

public, as further defined by Board Rule 190.8(2)(R), violation of state or federal law whether or not there is a complaint, indictment, or conviction, specifically (xii) substance abuse or substance diversion.

#### **V. AGGRAVATING AND MITIGATING FACTORS**

Board Rule 190.14 provides that the Board may impose more restrictive sanction 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 seriousness of the misconduct.

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

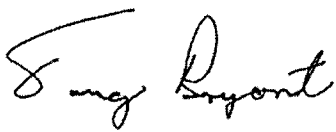
Board Staff requests that an administrative law judge employed by the State Office of Administrative Hearings conduct a contested case hearing on the merits of the Complaint, and issue a Proposal for Decision containing Findings of Fact and Conclusions of Law necessary to support a determination that Respondent violated the Act and Board Rules as set forth in this Complaint.

Respectfully submitted,

TEXAS MEDICAL BOARD

SUSAN RODRIGUEZ

Litigation Manager

By: 

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Filed with the Texas Medical Board on March 31<sup>st</sup>, 2021.

A handwritten signature in cursive script that reads "Stephen Brint Carlton".

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

**CERTIFICATE OF SERVICE**

I certify that on the 31st day of March 2021, a true and correct copy of the foregoing document has been served as follows:

**Via E-file:**

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

[Docketing@soah.texas.gov](mailto:Docketing@soah.texas.gov)

**Via CERTIFIED RETURNED MAIL/RRR NO. 7014 2870 0000 3057 2024  
AND FIRST CLASS MAIL**

Tara Irene Netter, M.D.  
4242 Medical Drive Suite 6300  
San Antonio, Texas 78229

**Via E-file:**

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



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Doug Bryant  
Staff Attorney