

IN THE MATTER OF  
THE LICENSE OF  
PETER ULRICH BERNDT, M.D.

BEFORE THE  
TEXAS MEDICAL BOARD

AGREED ORDER

On the 10 day of June, 2016, came on to be heard before the Texas Medical Board (the Board), duly in session, the matter of the license of Peter Ulrich Berndt, M.D. (Respondent).

On June 25, 2015, Respondent appeared in person with counsel, James McClendon at an Informal Show Compliance Proceeding and Settlement Conference in response to a letter of invitation from the staff of the Board. The Board's representatives were Paulette Southard, a member of the Board, and Todd Pollock, a member of a District Review Committee (Panel). Heather Detrixhe Barham represented Board Staff

BOARD CHARGES

Board Staff alleged that Respondent failed to follow established physician-patient boundaries in the care and treatment of one patient, thus violating the appropriate standard of care.

BOARD HISTORY

Respondent has previously been the subject of disciplinary action by the Board.

Respondent entered into an Agreed Order October 10, 2008, for failing to meet annual CME requirements during preceding reporting period. Respondent fulfilled the requirements of this Order without incident and was subsequently released as of February 19, 2009.

Upon the recommendation of the Board's representatives and with the consent of Respondent, the Board makes the following Findings and Conclusions of Law and enters this Agreed Order.

## FINDINGS

The Board finds the following:

1. General Findings:

- a. Respondent received all notice required by law. All jurisdictional requirements have been satisfied. Respondent waives any defect in notice and any further right to notice or hearing under the Medical Practice Act, Title 3, Subtitle B, Texas Occupations Code (the Act) or the Rules of the Board.
- b. Respondent currently holds Texas Medical License No. . F-3408. Respondent was originally issued this license to practice medicine in Texas on February 25, 1979. Respondent is also licensed to practice in Colorado.
- c. Respondent is primarily engaged in the practice of Psychiatry. Respondent is not board certified.
- d. Respondent is 79 years of age.

2. Specific Panel Findings:

- a. Respondent failed to follow established physician-patient boundaries.
  - b. Respondent employed unorthodox treatment methodologies that ultimately violated the standard of care.
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- c. The aforementioned standard of care and boundaries violations occurred when Respondent allowed a patient to contact him on nearly a daily basis via telephone, email and Skype, and included the patient in a small number of family dinners.

3. Mitigating Factors:

- a. In determining the appropriate sanctions in this matter, the Panel considered the following mitigating factors:
  - i. Respondent has no prior history with the Board.
  - ii. Respondent took responsibility for failing to maintain established physician-patient boundaries for care and for errors in his treatment of the patient.

- iii. The boundaries violation was not motivated by a desire to become more closely personally involved with the patient, but rather as a therapeutic means of treating the patient's complex condition.
  - iv. Respondent was driven by a genuine concern about the patient's wellbeing during a holiday period when he would be unavailable to provide in person treatment.
  - v. Respondent acted in good faith to treat a complex and difficult patient by implementing alternative treatment methods in good faith intention to help the patient.
  - vi. Respondent had a years-long physician relationship with the patient, who had exhibited frequent episodes of severe distress, including instances of self-harm and suicidal ideation in the past.
  - vii. The patient appeared before the Panel, stating that she had been helped by Respondent's treatment and that it has been a large factor in her recovery.
  - viii. Respondent self-reported to the Colorado Physician Health Program (CPHP), and on their advice, terminated his physician relationship with the patient in question.
  - ix. Respondent fully and timely complied with all recommendations of CPHP without incident.
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- x. The boundaries violations were isolated incidents, limited to a brief period of time and involving only one patient.
  - xi. Respondent has cooperated in the investigation of the allegations related to this Agreed Order. Respondent neither admits nor denies the information given above. To avoid further investigation, hearings, and the expense and inconvenience of litigation, Respondent agrees to the entry of this Agreed Order and to comply with its terms and conditions.

#### CONCLUSIONS OF LAW

Based on the above Findings, the Board concludes that:

1. The Board has jurisdiction over the subject matter and Respondent pursuant to the Act.

2. Section 164.051(a)(6) of the Act authorizes the Board to take action against Respondent for violations of the following Board Rule 190.8 (1)(A), failure to treat a patient according to the generally accepted standard of care and 190.8(1)(D), failure to safeguard against potential complications.

3. Section 164.001 of the Act authorizes the Board to impose a range of disciplinary actions against a person for violation of the Act or a Board rule.

4. Section 164.002(a) of the Act authorizes the Board to resolve and make a disposition of this matter through an Agreed Order.

### ORDER

Based on the above Findings and Conclusions of Law, the Board ORDERS that Respondent shall be subject to the following terms and conditions:

1. Within one year following the date of the entry of this Agreed Order, Respondent shall enroll in and successfully complete at least sixteen (16) hours of continuing medical education (CME), divided as follows: eight (8) in the topic of physician patient boundaries, if possible, in the area of physician patient boundaries in the psychiatric relationship; four (4) hours in dealing with non-compliant patients; and four (4) hours in the topic of maintaining physician patient confidentiality, if possible in the topic of maintaining patient confidentiality in telemedicine. The CME shall be approved for Category I credits by the American Medical Association and approved in writing in advance by the Executive Director or their designee. To obtain approval for the course, Respondent shall submit in writing to the Compliance Division of the Board information on the course, to include at least a reasonably detailed description of the course content and faculty, as well as the course location and dates of instruction. Respondent shall submit documentation of attendance and successful completion of this requirement to the Compliance Division of the Board on or before the expiration of the time limit set forth for completion of the course. The CME requirements set forth in this paragraph shall be in addition to all other CME required for licensure maintenance.

2. At all times while Respondent is under the terms of this Order, Respondent shall give a copy of this Order to all hospitals, nursing homes, treatment facilities, and other health

care entities where Respondent has privileges, has pending an application for privileges, applies for privileges, or otherwise practices. Within 30 days of being first contacted by the Compliance Division of the Board following entry of this Order, Respondent shall provide to the Compliance Division of the Board documentation, including proof of delivery that the Order was delivered to all such facilities.

3. Respondent shall comply with all the provisions of the Act and other statutes regulating the Respondent's practice.

4. Respondent shall fully cooperate with the Board and the Board staff, including Board attorneys, investigators, compliance officers, consultants, and other employees or agents of the Board in any way involved in investigation, review, or monitoring associated with Respondent's compliance with this Order. Failure to fully cooperate shall constitute a violation of this order and a basis for disciplinary action against Respondent pursuant to the Act.

5. Respondent shall inform the Board in writing of any change of Respondent's office or mailing address within 10 days of the address change. This information shall be submitted to the Registration Department and the Compliance Department of the Board. Failure to provide such information in a timely manner shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act. Respondent agrees that 10 days notice of a Probationer Show Compliance Proceeding to address any allegation of non-compliance of this Agreed Order is adequate and reasonable notice prior to the initiation of formal disciplinary action. Respondent waives the 30-day notice requirement provided by §164.003(b)(2) of the Medical Practice Act and agrees to 10 days notice, as provided in 22 Texas Administrative Code §187.44(4).

6. Any violation of the terms, conditions, or requirements of this Order by Respondent shall constitute unprofessional conduct likely to deceive or defraud the public, or to injure the public, and shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act.

7. Respondent shall be permitted to supervise and delegate prescriptive authority to physician assistants and advanced practice nurses and to supervise surgical assistants.

8. Order shall automatically terminate upon Respondent's submission of sufficient evidence to the Compliance Division of the Board that Respondent successfully completed the requirements ordered in Ordering Paragraph No. 1.

RESPONDENT WAIVES ANY FURTHER HEARINGS OR APPEALS TO THE BOARD OR TO ANY COURT IN REGARD TO ALL TERMS AND CONDITIONS OF THIS AGREED ORDER. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.

THIS ORDER IS A PUBLIC RECORD.

**(SIGNATURE PAGES FOLLOW)**

I, PETER ULRICH BERNDT, M.D. HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT BY SIGNING, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY. I UNDERSTAND THIS AGREED ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: 3/15/16, 2016.

Peter Ulrich Berndt, M.D.

PETER ULRICH BERNDT, M.D.  
Respondent

STATE OF Colorado

COUNTY OF Jefferson

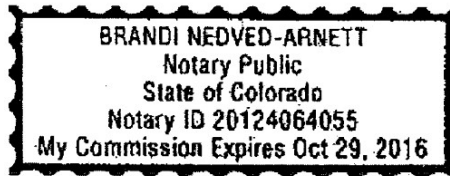
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SWORN TO AND ACKNOWLEDGED BEFORE ME, the undersigned Notary Public, on this 15<sup>th</sup> day of March, 2016.

Brandi Nedved-Arnett

Signature of Notary Public

(Notary Seal)



SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this  
10 day of June, 2016.



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Michael Arambula, M.D., Pharm.D., President  
Texas Medical Board