

HEARING CONDUCTED BY THE
TEXAS STATE OFFICE OF ADMINISTRATIVE HEARINGS
SOAH DOCKET NO. 503-14- 1721 .MD
TEXAS MEDICAL LICENSE NO. H-1972

IN THE MATTER OF THE
COMPLAINT AGAINST
ANDREW JONES, M.D.

BEFORE THE

TEXAS MEDICAL BOARD

COMPLAINT

TO THE HONORABLE TEXAS MEDICAL BOARD AND THE HONORABLE
ADMINISTRATIVE LAW JUDGE TO BE ASSIGNED:

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

I. INTRODUCTION

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. PROCEDURAL BACKGROUND

1. Respondent is a Texas physician and holds Texas Medical License No. H-1972, which was originally issued by the Board on August 28, 1987. 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 (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.

III. 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:

1. Advertising

a. Section 151.002 of the Act defines the practice of medicine to include the offer to treat a mental or physical disease or disorder or a physical deformity or injury by any system or method by a person who publicly professes to be a physician.

b. At all times material to this complaint, Respondent maintained a website address, <http://www.anatabine4.com>, that promoted a product called Anatabine Citrate Plus 4. On this website, Respondent discussed, among other things, the condition of chronic inflammation and its relationship to diseases such as heart disease, auto-immune diseases, arthritis, inflammatory bowel disease, and Alzheimer's. The website made further representations that created an unjustified expectation about the results of using the promoted product, for instance, that the product would reverse the effects of the diseases described on the website.

c. At all times material to this complaint, Respondent maintained a website address, <http://www.1-thyroid.com>, that promoted a product called IodinePlus2. On this website, Respondent discussed, among other things, the thyroid gland, the signs and symptoms related to thyroid gland dysfunction, and the condition known as hypothyroidism. The website made further representations that created an unjustified expectation about the results of using the promoted product, for instance, that the product would return the thyroid gland to optimum activity and reverse the effects of hypothyroidism.

d. Both websites failed to include disclaimers that the promoted products have not obtained approval from the Food and Drug Administration to treat any of the conditions noted on the websites.

e. For both websites, Respondent identified himself as a physician with certification by the American Board of Internal Medicine and displayed photos of himself dressed in a white lab coat and wearing a stethoscope. Respondent was misleading the public by trading on his medical license and "white coat" to vouch for the efficacy of the products offered on the websites.

2. Board Order

a. On or about November 4, 2011, the Board entered a Mediated Agreed Order ("Order") that disciplined Respondent's license.

b. The Order required, among other things, that Respondent within 30 days of the entry of the Order, revise all forms of advertising, including those published via print, internet, telephone, radio, or television media, and in existence within the previous 30 days of the date of the Order's entry, so that all such advertising is in conformance with all applicable Board rules. Within 60 days from the date of the entry of this Order, Respondent must prepare and provide to the Compliance Division copies of all advertising revisions made.

c. Respondent failed to revise his advertising to be compliance with the Board's advertising rules within 30 days of the entry of the Order and failed to provide to the Compliance Division copies of the revised advertising within 60 days of the entry of the Order.

IV. STATUTORY VIOLATIONS

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

1. Section 164.051(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent committing an act prohibited under Section 164.052 of the Act.

2. Section 164.051(a)(3) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent violating a Board Rule, specifically, Board Rule 189.3, requiring compliance with all Board orders.

3. 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 further defined by Board Rules 190.8(2)(A), violation of a Board Order and 190.8(2)(I), using false, misleading, or deceptive advertising.

4. Section 164.052(a)(6) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent using an advertising statement that is false, misleading, or deceptive.

V. AGGRAVATING FACTORS

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:

1. violation of a Board order;
2. prior similar violations; and
3. previous disciplinary action by the Board, specifically:
 - a. On June 4, 2010, the Board entered a Ministerial Order imposing administrative penalty imposing an administrative fine of \$1,000 for failure to release medical and/or billing records regarding a patient in 2009.
 - b. On November 4, 2011, the Board entered a Mediated Agreed Order that publicly reprimanded Respondent and required Respondent to pass within one year and within three attempts the medical jurisprudence exam, complete eight hours of continuing medical education, pay an administrative penalty of \$10,000, revise his advertisements in accordance with Board Rules, and update his physician profile. The action was based on Respondent violating the rules that govern the use of the internet in medical practice, using false or misleading advertising, non-therapeutically prescribed drugs or treatment, and failing to practice medicine in an acceptable professional manner.

VI. APPLICABLE STATUTES, RULES, AND AGENCY POLICY

The following Statutes, Rules, and Agency Policy are applicable to the procedures for conduct of the hearing 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, CH.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, CH. 190 sets forth aggravating factors that warrant more severe or restrictive action by the Board.

4. 1 TEX. ADMIN. CODE, CH. 155 sets forth the rules of procedure adopted by SOAH for contested case proceeding.

5. 1 TEX. ADMIN. CODE, CH. 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 et. seq. and Board Rule 190 et. seq., provide 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. 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.

VIII. PRAYER

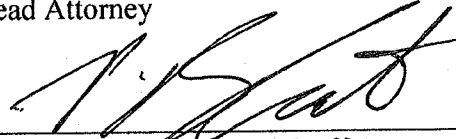
WHEREFORE, PREMISES CONSIDERED, Board Staff requests that an administrative law judge employed by the State Office of Administrative Hearings conduct a contested case hearing on the merits of the Complaint, and issue a Proposal for Decision containing Findings of Fact and Conclusions of Law necessary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

Respectfully submitted,

CHRISTOPHER PALAZOLA
Litigation Manager

SUSAN RODRIGUEZ
Lead Attorney

By:



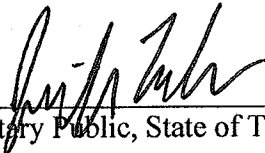
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THE STATE OF TEXAS

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COUNTY OF TRAVIS

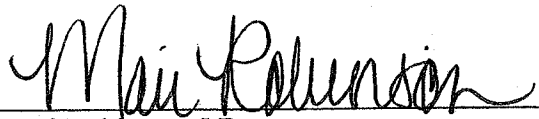
SUBSCRIBED AND SWORN to before me by the said Patrick Brian Coats, J.D., on
January 9th 2014.



Notary Public, State of Texas



Filed with the Texas Medical Board on Jan. 7, 201⁴.

A handwritten signature in cursive script, reading "Mari Robinson", written over a horizontal line.

Mari Robinson, J.D.
Executive Director
Texas Medical Board

CERTIFICATE OF SERVICE

I certify that on the 10th day of January, 2014, a true and correct copy of this Complaint was served on the following individuals at the locations and the manner indicated below.

VIA TELEFAX TRANSMISSION: 916-492-6039 and 713-626-9420

Richard Jaffe, Esq.
770 L Street, Suite 950
Sacramento, California, 95814

By CMRRR No. 7008 2810 0000 1411 9969 and First Class Mail to:

Andrew Jones, M.D.
707 West 10th Street
Austin, TX 78701

By Email to: docketing@soah.state.tx.us

Docket Clerk
State Office of Administrative Hearings
300 West 15th #504
Austin, Texas 78701

By Hand Delivery to:

Sonja Aurelius
Hearings Coordinator
Texas Medical Board
333 Guadalupe, Tower 3, Suite 610
Austin, Texas 78701



Patrick Brian Coats, Staff Attorney