

HEARING CONDUCTED BY THE
TEXAS STATE OFFICE OF ADMINISTRATIVE HEARINGS
SOAH DOCKET NO. 503-13- 2351 .MD
TEXAS MEDICAL LICENSE NO. E-8140

IN THE MATTER OF THE
COMPLAINT AGAINST
FELICIANO RIOS, 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 Feliciano Rios, 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. E-8140, which was originally issued by the Board on June 14, 1977. 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:

On September 15, 2011, a Decision and Order adopted by the Medical Board of California, Department of Consumer Affairs, became effective. Respondent's California Physician's and Surgeon's Certificate was revoked, the revocation was stayed, and Respondent was placed on probation for five years, with terms including 60 days of active suspension from practice. The Respondent admitted the complete truth and accuracy of each and every charge and allegation listed below:

1. On or about July 9, 2009, Respondent pled guilty to felony perjury under oath and to felony insurance fraud in a court of law in San Diego County, California. As a result of such conviction, Respondent was sentenced to three years of formal probation on September 25, 2009.
2. On or about June 17, 2010, Respondent pled guilty to two counts of violation for possession of ammunition by a felon in San Diego County, California. Respondent was sentenced to two years in state prison; however, execution of the sentence was suspended, and Respondent was placed on probation, with terms and conditions including 17 days custody.
3. On or about July 19, 2007, Respondent gave false information under oath to the San Diego Grand Jury by testifying as true about material matter that he knew to be false, to wit, that he obtained ParaGard intrauterine devices from three named physicians when, in fact, he did not receive such devices from those physicians.
4. On or about December 16, 2004, Respondent committed insurance fraud in that he assisted, conspired with another to, and did, conceal and knowingly fail to disclose the occurrence of facts related to his health that would have affected his initial and continued right to an insurance benefit.
5. Based on the forgoing charges and allegations, Respondent violated or attempted to violate, directly or indirectly, assisted in or abetted the violation of, or conspired to violate provisions of the Medical Practice Act, California Business and Professions Code.

6. Based on the foregoing charges and allegations, Respondent engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming to a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine.

The disciplinary action taken by another state or the uniformed services of the United States were based on acts by Respondent that are prohibited under Section 164.052 or are similar to acts described in Section 164.051 of the Act.

IV. STATUTORY VIOLATIONS

The actions of Respondent 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's commission of an act prohibited under Section 164.052 of the Act.

2. Section 164.051(a)(2) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's conviction of a felony or a crime of a lesser degree that involves moral turpitude.

3. Section 164.051(a)(9) of the Act authorizes the Board to take disciplinary action against Respondent based on disciplinary action against Respondent by another state or the uniformed services of the United States.

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 further defined by Board Rule 190.8(2)(J), submitting a billing statement to a patient or a third party payer that the licensee knew or should have known was improper, and 190.8(2)(R), violation of federal and state laws.

5. Section 164.053(a)(7) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's violation of TEX. HEALTH & SAFETY CODE ANN. § 311.0025.

V. AGGRAVATING FACTORS

Under Texas Administrative Code, Title 22, Part 9, Board Rule 190.15(a), in any disciplinary action, the Board may consider aggravating factors that warrant more severe or restrictive action. This case includes the following aggravating factors: economic harm to any individual or entity and the severity of such harm; attempted concealment of the act constituting a violation; intentional, premeditated, knowing, or grossly negligent act constituting a violation; and previous disciplinary action by the Board, any government agency, peer review organization, or health care entity.

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 WITHING 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.

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,

TEXAS MEDICAL BOARD

By:



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Texas State Bar No. 24050842
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THE STATE OF TEXAS

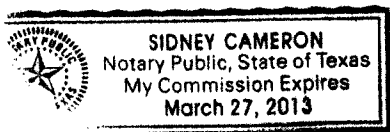
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COUNTY OF TRAVIS

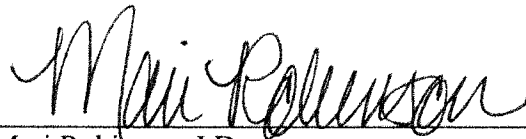
SUBSCRIBED AND SWORN to before me by the said Barbara Jordan, J.D., on
February 1, 2013.



Notary Public, State of Texas



Filed with the Texas Medical Board on Jan. 31, 2013.

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

On this 5th day of February, 2013, I certify that a true and correct copy of this Complaint has been served on the following individuals at the locations and the manner indicated below.

BY CERTIFIED MAIL RETURN RECEIPT REQUESTED

7008 2810 0000 1319 8194 and FIRST CLASS MAIL:

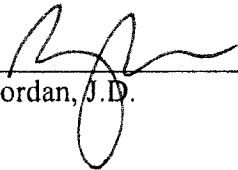
Feliciano Rios, M.D.
750 Medical Center Ct., Suite 8
Chula Vista, CA 91911-6634

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:

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



Barbara Jordan, J.D.