

HEARING CONDUCTED BY THE  
TEXAS STATE OFFICE OF ADMINISTRATIVE HEARINGS  
SOAH DOCKET NO. 503-18-2634.MD  
TEXAS MEDICAL LICENSE NO. H-9000

IN THE MATTER OF THE

COMPLAINT AGAINST

RAYNALDO RIVERA ORTIZ, Jr., M.D.

BEFORE 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 (Board) files this Original Complaint against Raynaldo Rivera Ortiz, Jr., M.D. (Respondent), for alleged violations of the Medical Practice Act (the Act), Title 3, Subtitle B, Texas Occupations Code, and would show the following:

**I. SUMMARY OF FACTUAL ALLEGATIONS**

A Collin County, Texas, jury convicted Respondent of Cruelty to Non-Livestock Animals, a class A Misdemeanor and a crime of moral turpitude. Baylor Scott and White Medical Center–Garland subsequently disciplined Respondent for failing to report his criminal conviction.

**II. LEGAL AUTHORITY AND JURISDICTION**

1. Respondent is a Texas physician and holds Texas Medical License No. H-9000, which was originally issued by the Board on February 22, 1991. 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, as provided in Section 151.003 of the Act.

### III. APPLICABLE STATUTES AND STATUTORY VIOLATIONS

The following Statutes, Rules, and Agency Policy are applicable to the procedures for conduct of the hearing in 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, 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.

#### B. **Specific Violations Cited:**

Respondent has violated 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 for a felony or a misdemeanor involving a crime involving moral turpitude.<sup>1</sup>

---

<sup>1</sup> 22 Tex. Admin. Code § 190.8(6)(c) states that "misdemeanors involving moral turpitude, within the meaning of the Act, are those that involve dishonesty, fraud, deceit, misrepresentation, deliberate violence, or that reflect

3. Section 164.051(a)(4)(D) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's inability to practice medicine with reasonable skill and safety to patients as a result of any mental or physical condition.

4. Section 164.051(a)(7) of the Act authorizes the Board to take disciplinary action against Respondent based on disciplinary action taken by Respondent's peers, as further defined by Board Rule 190.8(4), disciplinary actions by peer groups.

5. 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)(R), violation of federal and state laws whether or not there is a complaint, indictment, or conviction: ii) any offense in which assault or battery, or the attempt of either is an essential element, v) any misdemeanor involving moral turpitude as defined by paragraph (6) of this section; and, 190.8(6), discipline based on criminal conviction of a felony or a misdemeanor crime involving moral turpitude.<sup>2</sup>

#### IV. FACTUAL ALLEGATIONS

Based on information and belief, Board Staff alleges:

1. On or about June 11, 1995, Respondent was arrested for Assault Causing Bodily Injury to a Spouse, a Class A Misdemeanor. The first female victim subsequently divorced Respondent and the two entered a settlement for an undisclosed amount of money.

2. On or about September 19, 2005, a second female partner filed for an emergency protective order against Respondent alleging that he assaulted her.

3. On or about December 30, 2014, Respondent was arrested for Assault Involving Domestic Violence, a Class C Misdemeanor involving a third female victim.

4. In or around January 2015, the third female victim filed for an emergency protective order. The third female victim subsequently entered a settlement with Respondent for an undisclosed amount of money.

5. On or about June 15, 2016, a Collin County jury found Respondent guilty of Cruelty to Non-Livestock Animals, a Class A Misdemeanor and a crime of moral turpitude.

---

adversely on a licensee's honesty, trustworthiness, or fitness to practice under the scope of the person's license."

<sup>2</sup> *Id.*

6. Respondent shot his female neighbor's pet dog in retaliation for helping the third female victim of domestic violence escape him and testifying against him at the protective order hearing.

7. Respondent was sentenced to 25 days confinement in the Collin County Jail, which was remanded to two years community service, assessed a \$4,000 fine, prohibited from engaging in harassing or threatening behavior, prohibited from owning or carrying weapons, including guns, prohibited from using marijuana, alcohol, and dangerous drugs and required to submit to random drug testing, participate in an Anger Management Program, and pay for all court costs and \$505 in restitution for veterinary bills.

8. On January 16, 2018, in *Ortiz v. State*, No. 05-16-00817-CR, 2018 Tex. App. LEXIS 464 (Tex. App. Dallas Jan. 16, 2018) (mem. op.), the court of appeals affirmed Appellant's conviction and sentence.

9. Respondent's conviction for Cruelty to Non-Livestock Animals, a Class A Misdemeanor and a crime of moral turpitude pursuant to 22 Tex. Admin. Code § 190.8(6)(c), and history of violence against women, violates the Act and Board Rules, specifically:

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.

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

Section 164.051(a)(4)(D) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's inability to practice medicine with reasonable skill and safety to patients as a result of any mental or physical condition.

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)(R), violation of federal and state laws whether or not there is a complaint, indictment, or conviction: ii) any offense in which assault or batter, or the attempt of either is an essential element, v) any misdemeanor involving moral turpitude as defined by paragraph (6) of this section; and, 190.8(6), discipline based on criminal conviction of a misdemeanor crime involving moral turpitude.

10. On July 13, 2016, the Medical Executive Committee at Baylor Scott and White Medical Center-Garland administratively suspended Respondent's clinical privileges for 14 days for his failure to notify the hospital of the misdemeanor criminal charges.

11. The suspension of Respondent's clinical privileges for violating hospital policy violates the Act and Board Rules, specifically:

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.

Section 164.051(a)(7) of the Act authorizes the Board to take disciplinary action against Respondent based on disciplinary action taken by Respondent's peers, as further defined by Board Rule 190.8(4), disciplinary actions by peer groups.

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.

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

Board Rule 190.14(1) provides that the Board may impose more restrictive sanctions 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: (4) economic harm to any individual or entity and the severity of such harm; (5) increased potential for harm to the public; (6) attempted concealment of the act constituting a violation; (7) intentional, premeditated, knowing, or grossly negligent act constituting a violation; (8) prior similar violations; (9) previous disciplinary action by the Board, any government agency, peer review organization, or health care entity; and, (11) other relevant circumstances increasing the seriousness of the misconduct.

Board Staff is aware of no mitigating factors that apply and demand 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 as set forth in this Complaint.

Respectfully Submitted,

**TEXAS MEDICAL BOARD**

**CHRISTOPHER PALAZOLA**  
Litigation Manager

**SUSAN RODRIGUEZ**  
Supervising Attorney

  
**JOHNATHAN STONE**  
Senior Staff Attorney  
Lead Counsel  
State Bar No. 24071779

Texas Medical Board  
P.O. Box 2018, MC-264  
Austin, TX 78768-2018

Telephone: (512) 305-7079  
Facsimile: (512) 305-7007  
Johnathan.Stone@tmb.state.tx.us

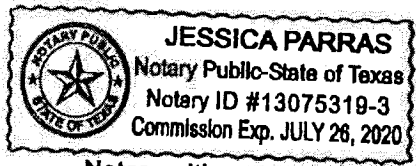
**ATTORNEYS FOR THE BOARD**

THE STATE OF TEXAS

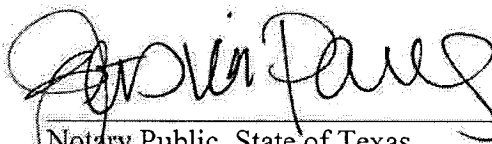
§  
§  
§

COUNTY OF TRAVIS

SUBSCRIBED AND SWORN to before me by the said Johnathan Stone on March 8,  
2018.

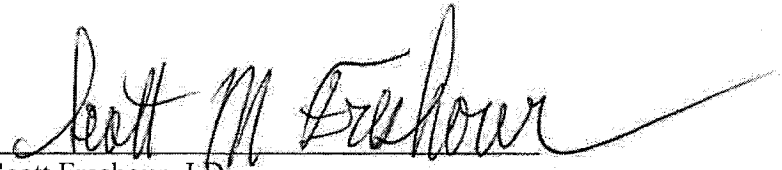


Notary without Bond

  
Notary Public, State of Texas



Filed with the Texas Medical Board on March 8<sup>th</sup>, 2018.

A handwritten signature in cursive script that reads "Scott M. Freshour". The signature is written in black ink and extends across the width of the page.

Scott Freshour, J.D.  
Interim Executive Director  
Texas Medical Board

**CERTIFICATE OF SERVICE**

I certify that on March 9, 2018, a true and correct copy of the foregoing document has been served as follows:

**By Email to [docketing@soah.texas.gov](mailto:docketing@soah.texas.gov):**

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

**By CMRRR No. 7014 2870 0000 3056 5446, and First Class Mail to:**

Raynaldo Rivera Ortiz, Jr., M.D.  
209 Lakeside Cir.  
Plano, TX 75094  
Telephone: (972)276-6100  
Facsimile: (972)276-1231  
*Respondent*

**By Fax No. 512-473-8525 to:**

Raynaldo Rivera Ortiz, Jr., M.D.  
c/o Michael R. Sharp  
Sharp & Cobos, PC  
4705 Spicewood Springs Rd., Ste 100  
Austin, Texas 78759  
Telephone: (512) 473-2265  
Facsimile: (512) 473-8525

**By Hand Delivery to:**

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

/s/ Johnathan Stone  
**JOHNATHAN STONE**  
Senior Staff Attorney  
Lead Counsel