

BEFORE THE
NORTH CAROLINA MEDICAL BOARD

In re:)
)
Rashid Ali Buttar, D.O.,) MOTION TO STAY PROCEEDINGS
) AND RESPONSE TO NOTICE OF
) CHARGES AND ALLEGATIONS
Respondent.)

NOW COMES the Respondent, Rashid Ali Buttar, D.O., and responds to the charges and allegations served on him on March 25, 2009, as follows:

MOTION TO STAY PROCEEDINGS

On February 18, 2009, the Respondent, Rashid Ali Buttar, filed a Petition for Judicial Review and Injunctive Relief with the Superior Court of Wake County. That Petition is currently pending for judicial review of prior rulings made by the past President of the Medical Board, Dr. Jannelle Rhyne, when she declared a mistrial of the hearing on Respondent's prior Notice of Charges filed in November of 2007. Dr. Buttar filed an Amended Petition for Judicial Review and Injunctive Relief with the Wake County Superior Court on March 13, 2009, a copy of that Amended Petition is attached hereto as Exhibit A. In that Petition, Dr. Buttar asks that the Court modify the January 30, 2009 ruling of Dr. Jannelle Rhyne such that any de novo hearing on any Notice of Charges issued by the Medical Board against Dr. Buttar be held before an Administrative Law Judge. The Petition also requests that this Court issue a stay preventing Respondent from issuing a new Notice of Hearing on Charges unless that hearing is to be conducted by an Administrative Law Judge.

**RESPONSE TO NOTICE
OF CHARGES AND ALLEGATIONS**

1. Paragraph 1 is an allegation of law and not of fact and is, therefore, denied.
- 2-4. Admitted.
5. Concerning the allegations of paragraph 5, it is admitted that Patient A presented to the Respondent with a diagnosis of cervical cancer which had metastasized to her liver and lungs at the time she started treatment with him.
6. Concerning the allegations of paragraph 6, it is admitted that Patient B was diagnosed with ovarian cancer in 2002 which, at the time of surgery, had spread throughout her abdomen and liver. In 2002 and 2003, she underwent chemotherapy which was unsuccessful and, in April 2004, was directed to the Respondent by her family doctor.
7. Concerning the allegations of paragraph 7, it is admitted that Patient C had a diagnosis of adrenal carcinoma which had metastasized to his lungs.

8. Concerning the allegations of paragraph 8, the Respondent states that, at the time of Patients A, B and C's deaths, he was not treating them and has no personal knowledge as to their causes of death. The Respondent is informed and believes that Patients A and B succumbed to their cancer, and that Patient C died of a pulmonary embolism.

9. Denied. With regard to Patient A, the Respondent's records do not reflect how she was referred to him for treatment. However, the Medical Board's investigation states that Patient A's daughter referred her mother to the Respondent for treatment of cervical cancer which had metastasized to the lung and liver, and for which conventional medical treatment had been discontinued due to lack of efficacy.

Patient A signed a consent to treatment (which was witnessed) that specifically admitted that no claim from the Respondent to cure cancer with therapies had been made.

With regard to Patient B, the Respondent's records reflect that this patient was referred to the Respondent by her family physician and, prior to beginning treatment with the Respondent, Patient B signed a consent to treatment that specifically admitted that no claim from the Respondent to cure cancer with therapies had been made.

With regard to Patient C, it appears that he was self-referred to the Respondent through a web search. He also signed a consent to treatment in which he specifically agreed that no claim to cure cancer with the Respondent's therapies had been made to him.

10. Denied. The Respondent will present scientific evidence before the Board of the efficacy of all treatments rendered in his practice to Patients A, B and C. Further, N.C.G.S. § 90-14(a)(6) specifically states that: "The Board shall not revoke the license of or deny a license to a person solely because of that person's practice of a therapy that is experimental, nontraditional, or that departs from acceptable and prevailing medical practices unless, by competent evidence, the Board can establish that the treatment has a safety risk greater than the prevailing treatment or that the treatment is generally not effective."

11. Concerning the allegations of paragraph 11, the first sentence is completely and totally denied. Concerning the allegations in the second sentence regarding the costs of treatment for individual patients, the billing statements for each of the patients vary and the total amount billed for each patient is reflected thereon. Concerning the third sentence of this allegation, it is specifically denied that the Respondent ordered therapies in an attempt to drive up billings. Rather, he ordered therapies as were necessary (in his judgment) to the treatment of the patients. In addition, it is specifically denied that he ordered tests and lab work with no rational medical relationship to the patients' cancer diagnoses. Rather, he ordered tests and lab work which were (in his professional opinion) necessary to the treatment of these patients. Finally, with regard to the allegations of the fourth sentence of paragraph 11, it is specifically denied that the tests and lab work ordered by the Respondent were never adequately justified or linked to the patients' diagnoses and clinical conditions or, in some cases, never interpreted. All tests and lab work were necessary in the judgment of the Respondent to the treatment of the patients, and all were used in connection with the treatment of these patients.

Furthermore, all rationale used to treat above-mentioned patients has been taught in an ACCME accredited, AMA Category 1 CME approved course and are within the standard of care for a physician practicing integrative medicine in North Carolina for the relevant time periods.

12. The allegations of all of the sentences of paragraph 12 are specifically denied. All testing and lab work was, in the opinion of the Respondent, necessary for the treatment of his patients.

13. The allegations of all sentences of paragraph 13 are specifically denied. Patients A, B and C all clinically showed efficacy of treatment and objective evidence of improvement.

14. Concerning the allegations of paragraph 14, the billing statements for Patient A have been submitted to the Medical Board and speak for themselves. Both as to the dates of treatment and amount of charges, it is admitted that Patient A received treatment for approximately one month, and that she came to the Respondent with advanced cancer after conventional treatments had failed. The Respondent's treatment of Patient A was not limited to the administration of hydrogen peroxide. A complete list of treatments administered by the Respondent is contained in the billing statements for this patient. It is admitted that Patient A paid \$360.00 by credit card for her initial office visit and made an advance payment of \$12,000 against which other tests and treatments were credited. The total number of office visits for this patient is documented in the billing records, as is additional billing amounts. It is admitted that, at the conclusion of her treatment, certain items were returned which resulted in a credit and refund. The Respondent saw Patient A on a number of occasions without charging her. Except as specifically admitted, the remainder of the allegations of paragraph 14 are denied.

15. Denied. The billing statements for Patient B have been submitted to the Medical Board and they speak for themselves. Respondent treated Patient B with clinical therapies that in his professional judgment and experience were effective. The Respondent personally examined this patient, and his notes reflect evidence of clinical improvement over the course of her treatments.

16. Concerning the allegations of paragraph 16, the billing statements for Patient B (which have been submitted to the Medical Board) speak for themselves. It is admitted that the Respondent's practice did seek collection from Patient B's estate for a balance outstanding at the time of her death; however, no amounts were ever collected from Patient B's estate. Except as specifically admitted, the remainder of the allegations of paragraph 16 are denied.

17. Concerning the allegations of paragraph 17, it is denied the Respondent charged Patient C for treatments he knew were ineffective. In fact, Respondent only used treatments that in his clinical judgment and experience were effective. With regard to the amounts of the charges for Patient C, the Respondent's billing records have been submitted to the Medical Board and speak for themselves. It is admitted that, prior to his death, Patient C attempted to pay a final bill by check, and it is admitted that Patient C's spouse stopped payment on that check. It is further admitted that the Respondent's staff witnessed numerous angry phone conversations between Patient C and his wife, who was not supportive of the Respondent's treatment. Patient C specifically related to the Respondent on two separate occasions that he was depressed over the fact that his wife cared more about her financial status than his life. It is admitted that, after Patient C's spouse stopped payment

on a check that Patient C had written to the Respondent, Patient C's account (after his death) was referred to a collection agency. Except as specifically admitted, the remainder of the allegations of the paragraph are denied.

18. The allegations of paragraph 18 are specifically denied. Under N.C.G.S. § 90-1.1(3), "integrative medicine is a diagnostic or therapeutic treatment that may not be considered a conventionally accepted medical treatment and that a licensed physician in the physician's professional opinion believes may be of potential benefit to the patient, so long as the treatment poses no greater risk of harm to the patient than the comparable conventional treatments." The Respondent is an integrative medicine physician. In addition, under N.C.G.S. § 90-14(a)(6), "the Board shall not revoke the license of or deny a license to a person solely because of that person's practice of a therapy that is experimental, nontraditional, or that departs from acceptable and prevailing medical practices unless, by competent evidence, the Board can establish that the treatment has a safety risk greater than the prevailing treatment or that the treatment is generally not effective." The allegations of the Board's complaint against the Respondent do not state that the Respondent's treatments posed a safety risk greater than the prevailing treatment, nor do they show that the Respondent's treatment was generally not effective. In fact, the Respondent's treatment was documented in some individual patient files as being more effective than the standard treatment of those individual patients and the Respondent will supply medical and scientific proof that the treatments used by him on patients are effective in treating various conditions.

19. The allegations of paragraph 19 are denied. Respondent's treatments do not pose a safety risk that is greater than prevailing treatment.

20. The allegations of paragraph 20 are denied. The Respondent did not directly solicit any of the patients cited in the Medical Board's charges. In fact, patients are routinely referred by other patients or their physicians to the Respondent. All patients, and particularly cancer patients, sign a statement recognizing that the Respondent does not make any specific representations about his treatments or their effect on cancer. All patients also sign clear financial policies which state that patients are directly responsible for all charges.

WHEREFORE, the Respondent respectfully requests:

- (1) That the hearing in this Notice of Charges be stayed until the Superior Court of Wake County has ruled on Respondent's Petition for Judicial and Injunctive Relief;
- (2) That the charges and allegations against him be dismissed;
- (3) That the Board take no disciplinary action against him after hearing the evidence on the charges presented.

Respectfully submitted, this the _____ day of _____, 2009.

H. Edward Knox

Lisa G. Godfrey
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CERTIFICATE OF SERVICE

I, Lisa G. Godfrey, Attorney for Respondent, certify that I have this day served a copy of the foregoing **MOTION TO STAY PROCEEDINGS AND RESPONSE TO NOTICE OF CHARGES AND ALLEGATIONS** on the following individual, a copy of same via e-mail, addressed as follows:

VIA E-MAIL *Marcus.Jimison@NCMEDBOARD.ORG*

Mr. Marcus B. Jimison
North Carolina Medical Board
Post Office Box 20007
Raleigh, NC 27619-0007

This the _____ day of March, 2009.

Lisa G. Godfrey
Attorney for Respondent